

Layered Safeguards: A Middle Path for Gig Workers' Rights Protection

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Abstract. This paper focuses on the rapid development of China's gig economy, centering on the issue of labor rights protection. The analysis indicates that the traditional "dichotomy" for determining labor relations struggles to accommodate the hybrid characteristics of gig employment, leading to inconsistent rulings in judicial practice and the hollowing out of workers' rights. Although the concept of an "incomplete labor relationship" has been proposed, its application remains hindered by conceptual ambiguity, lack of clear identification criteria, and platforms' use of algorithms to evade responsibilities. Employing methodologies such as literature analysis, case studies, and comparative research, this article proposes a reconstruction of the criteria for identifying labor relations: by establishing a "Third Category of Labor" beyond the traditional employee and civil subject frameworks, while deconstructing "Subordination" into a multi-dimensional and quantifiable evaluation system. The core innovation lies in constructing a rights configuration path characterized by a "modular deconstruction with scenario-based combination," achieving an institutional balance between flexible employment and labor protection through layered safeguards.

Keywords: Gig Economy; subordination; Incomplete Labor Relationship; rights configuration.

1. Introduction

The "Gig Economy" is the product of multiple forces, including technological advancement, economic shifts, and socio-cultural changes. This new form of employment now involves approximately 200 million people in China and contributes about RMB 31 trillion to the economy [1]. Further research on this phenomenon aligns with the national objectives of "promoting the healthy development of flexible employment and new employment forms" and "strengthening the protection of workers' rights and interests to create a fair and orderly employment environment." [2]

It is worth noting that the gig economy is not an entirely new product of the digital age; its prototypes have existed throughout history. For instance, China's Two-Tax System implemented during the Tang and Song dynasties gave rise to nongovernmental hired labor, while the dissolution of European Serfdom also led to the emergence of a free labor force. These historical forms of short-term employment share certain similarities with today's "gig economy." However, integrated with internet platform technology, it has achieved a qualitative leap—enabling large-scale, efficient, and cross-regional matching of supply and demand through digital platforms, thus unleashing new vitality.

Alongside the vigorous growth of the gig economy, related challenges have emerged in succession. The new employment patterns have introduced novel forms of labor relations, rendering the traditional labor law framework—based on the Dichotomy and rooted in the subordination of personality, economy and organization—increasingly ineffective. Accurately identifying the legal relationship between platforms and workers in judicial practice has become a core challenge in safeguarding workers' rights. This highlights the severe test the current system faces: how to construct a new legal pathway that effectively protects emerging forms of labor relations in the context of the traditional labor law framework's inadequate adaptability. This paper focuses on exploring this central issue.

2. Practical Dilemmas in Protecting the Rights and Interests of Gig Economy Workers

The platform economy, powered by network effects and data-driven operations, provides a commercial vehicle for the gig economy, fostering a thriving market for task-based labor transactions. Sectors such as instant delivery, ride-hailing, and road freight have attracted a large number of new employment groups, enabling a more immediate and flexible deployment of human capital. Yet, this new form of labor also faces multiple challenges due to lagging rights protection mechanisms, leaving workers in a relatively vulnerable position.

2.1. Dual Attributes of the Coexisting Dilemma between Employment Vitality and Rights Risks

The shift from the industrial era's structured employment to the digital age's gig-based labor marks a profound transformation in China's labor market structure, signaling the need for institutional renewal and improved alignment with laws and regulations. The gig economy represents a new economic paradigm emerging alongside the platform economy—a form characterized by internet platforms as its main vehicle, data as a key factor of production, new-generation information technologies as its core driver, and network infrastructure as its critical support. It reflects a fundamental change in production modes driven by the widespread application of digital technologies. This model aligns with China's policy direction of supporting and regulating new forms of employment, serving as a stabilizer and catalyst amid labor market fluctuations.

However, while this new economic model demonstrates advantages in employment promotion and efficiency gains, its inherent characteristics have also generated corresponding risks to workers' rights. In terms of employment stimulation, although the low entry barrier alleviates some employment pressure, an increase in job numbers does not equate to an improvement in job quality. Gig workers generally hold a pessimistic outlook on career development, find limited value in their work experience, and face widespread income instability. Many join the gig economy under employment pressure, reflecting underlying quality concerns associated with Siphon Effects[3]. Regarding flexibility, while the gig economy breaks the temporal and spatial constraints of traditional work, it also turns workers into "invisible individuals" in the labor market, wrapped in a state of de-labor relations. Behind the apparent autonomy lies stricter labor control—digital capital subjects workers to constant monitoring and implements more profound forms of exploitation. The platform has become an algorithmic and non-negotiable employer[4]. Through the "platform + algorithm" model, gig workers experience increased cognitive load and emotional exhaustion, which adversely affects their work engagement[5]. Additionally, a significant number of gig economy laborers perform tasks that lack explicit documentation, a phenomenon scholars refer to as "ghost work"[6]. Coupled with lagging legal regulations, the protection of labor rights and interests faces substantial obstacles.

2.2. Source of Rights Hollowing Out: Operational Failure of the Dichotomy

The employment model within the gig economy exhibits characteristics of both traditional labor relations and civil collaboration, making it difficult to apply an either-or Dichotomy framework. This hybrid nature has repeatedly led to inconsistent rulings in judicial practice regarding similar cases.

2.1.1. Practical Contradictions in the Application of the Dichotomy in Labor Relation Determination

Taking the case of *Guo v. A Food Delivery Platform* as an example,[7]the court denied the existence of a labor relationship based on reasons such as the rider's ability to freely accept orders, absence of mandatory working hours, and compensation settled on a per-order basis. In contrast, in the case of *Sheng v. A Platform Management Company*, [8]the court emphasized that even if the worker was registered as an individual industrial and commercial household, a labor relationship could still be recognized when elements of labor subordination were present. Similar divergences are observed in the labor contract dispute between *An Information Technology Co., Ltd.* and *Zhou*[9]:

the first-instance court affirmed the existence of a labor relationship from the perspectives of organizational integration and economic benefits, while the second-instance court denied it, emphasizing the worker's autonomy in employment.

In practice, platform companies have repeatedly evaded employer responsibilities by compelling workers to register as "Individual Businesses," signing service contracts that stipulate "no labor relationship exists," and denying the working hours and workplaces of gig workers. These recurring practical challenges and subsequent judicial corrections repeatedly demonstrate that the traditional binary framework is inadequate for addressing the flexible and complex employment relationships of the platform economy, leaving a significant number of workers in a legal protection vacuum.

2.2.2. An Analysis of the Nature of the Dichotomy Dilemma

The gig economy, characterized by fragmented temporal-spatial conditions, fragmented labor processes, and atomized labor relations [10] thereby places workers in a structurally passive position. Research indicates that employees with a clear and accurate understanding of algorithmic systems demonstrate a stronger sense of autonomy and competence.[11] however, existing literature examining the "black box" of perceived algorithmic control has overlooked the dynamic changes in the psychological resources of gig workers.[12]

In the gig economy, online platforms have flattened labor relations within the traditional economic structure, transforming each worker into an independent node that collaborates under demand-oriented conditions. Supported by technologically neutral algorithmic tools, platform enterprises issue commands and evaluate outcomes during laborers' work processes, forming a new type of "employer algorithmic power" that achieves substantive control over labor.[13] However, the protection of workers' rights should not be compromised by the growing complexities of the realities.

A deeper exploration reveals that these dilemmas in workers' rights protection stem from the new dynamic demand-matching relationships under the Gig Economy. Practice has shown that mechanically applying the binary identification model based on personal, economic, and organizational subordination has proven inadequate, necessitating a theoretical shift. Consequently, the subordination theory must be fundamentally reexamined to address this imperative.

Under the traditional employment model, labor agreements are established between employing units and workers, who rely on the production tools and means of the employing unit to perform their work. Within this framework, the determination of labor relations is structured around the core dimensions of subordination—personal, economic, and organizational—supported and refined through a set of auxiliary factors.[14]When platforms control the essential means of production, they acquire the power of capital production—a power that manifests itself in multiple ways to act upon workers[15]and consequently reshape labor relations. The relationship between online platforms and workers has become highly ambiguous, thereby creating a dilemma in the determination of labor relations between internet platforms and workers[16]. Attempts to fully subsume this new dynamic under traditional frameworks have proven inadequate. This difficulty is reflected in judicial practice, where the Labor Contract Law of the People's Republic of China is functionally overloaded and ill-equipped to address current realities: on one hand, individual labor disputes are increasing rapidly, overburdening judicial authorities; on the other hand, conflicts between individual workers and capital are intensifying, with frequent disordered collective disputes that undermine the construction of harmonious labor relations[17].The established system, under the impact of the new economic form, has resulted in the exclusion of a vast number of Gig Economy workers from labor protection coverage. In the context of these challenges to workers' rights protection within the Gig Economy, various new perspectives on the determination of labor relations have consequently emerged.

3. Obstacles on the Middle Path: Theoretical Myths and Practical Dilemmas of the "Incomplete Labor Relationship"

In response to the challenges in determining labor relations for gig economy workers, academic and practical circles have proposed various solutions. These include expanding the traditional

connotation of subordination to incorporate considerations of technological subordination and algorithmic affiliation[18]; creating a "third category of labor" and endowing it with limited labor rights through specialized legislation[19]; and designing industry-specific criteria for determining labor relations across different sectors[20]. Against this backdrop, the proposition of the "incomplete labor relationship" has established preliminary protections for gig economy workers. However, its theoretical framework still requires systematic refinement, while its judicial application continues to face operational ambiguities and systemic obstacles that demand further examination and resolution.

3.1. Theoretical Dilemma: Conceptual Ambiguity and Absence of Criteria

The primary theoretical dilemma of the "incomplete labor relationship" stems from its inherent conceptual ambiguity and the absence of definitive legal requirements. Originating as a policy expedient to address urgent practical needs, the concept emerged from the phrase "circumstances that do not fully meet the criteria for establishing a labor relationship" in policy documents, referring specifically to intermediate situations between standard labor relationships and civil service relationships. However, its transplantation into the legal framework has encountered significant operational challenges. The core of its theoretical difficulty lies in the structural defect caused by its negative definition approach. According to fundamental rights theory, "definition entails protection" serves as the logical premise for rights realization, while justifications for state restrictions on rights should be more rigorous than those for affirming general rights. Yet the introduction of the incomplete labor relationship at the policy level has effectively delineated an "area of exception" for workers' rights protection. Within this zone, both the specific rights entitled to workers and the extent of protection remain substantially ambiguous and open-ended, requiring case-by-case advocacy and cumbersome justification for nearly every entitlement. This creates an inherently difficult rights realization process in both theoretical and practical terms, starkly contrasting with the comprehensive protection automatically afforded to workers in traditional labor relationships under the Labor Law, thereby placing gig workers in a structurally disadvantaged position in rights assertion.

In the work-related injury compensation case of Zhou v., a Technology Company[21], rider Zhou, after becoming a "core rider," sustained an injury and faced formidable obstacles in seeking remedies. Specifically, the incomplete labor relationship did not automatically include work-related injury insurance benefits, plunging him into a protracted struggle for his rights. This case reveals how workers' core rights remain in a state of suspended animation under this concept, with protection mechanisms heavily reliant on ex post facto case-specific determinations rather than ex ante institutional arrangements. This identification path, characterized by an exclusionary approach, not only exacerbates legal uncertainty but also causes the development of labor protection systems to lag behind the evolution of employment forms, making it difficult to systematically and preventively safeguard workers' fundamental rights.

Due to the abstract nature of the concept itself, corresponding identification criteria are similarly lacking. At the legal level, the incomplete labor relationship suffers from unclear constituent elements, an undefined system of corresponding rights and obligations, and ambiguous liability attribution rules. This creates deep-seated risks for judicial practice and rights protection, and explains why its theoretical foundation—the subordination theory—faces inadequate explanatory power in new employment scenarios. Confronted with novel control and collaboration forms such as "algorithmic management" and "flexible work," judicial practitioners are forced to undertake onerous and complex judgment tasks: they must determine whether platform rules represent technologically neutral tools with weak binding force or constitute substantive control disguised as "platform recommendations"; assess whether platforms genuinely provide workers with diversified income sources or whether worker income remains heavily dependent on a single platform amid homogenized competition; and distinguish whether the relationship between platforms and workers constitutes equal cooperation or whether, despite contractual formalities placing workers outside the organization, they remain subject

to unified rules and uniforms. The root of these judicial dilemmas can be traced to the theoretical disorder caused by ill-defined concepts and chaotic identification standards.

3.2. Practical Dilemmas: Divergent Judicial Discretion and Evasion of Platform Algorithms

In current judicial practice, courts face significant challenges in analyzing the specific constitutive elements of the "incomplete labor relationship." Although various policy documents and guiding cases have been successively introduced, their primary role remains providing methodological references for judicial practice, rather than establishing clear, uniform, and directly applicable identification standards. Under the "subordination + multi-factor" assessment approach, courts are theoretically expected to conduct sequential examinations based on personal, economic, and organizational subordination. However, practical application reveals that this multi-factor balancing test relies heavily on judges' discretionary power rather than being grounded in objective normative criteria. The consequence is not only increased complexity in judicial determination but also a corresponding rise in the practical difficulty of protecting gig workers' rights. From a policy perspective, while relevant authorities have proposed the "subordination + multi-factor" identification framework through documents and guiding cases, it essentially remains methodological guidance rather than a clear-boundary judgment standard. Regarding the "multi-factor" analysis, although theoretical efforts have been made to categorize subordination into tiers and classify different levels based on actors and nature of conduct, practical application lacks clear demarcation criteria. The distinctions between "strong," "relatively strong," "relatively weak," and "weak" subordination remain ambiguous, with specific categorization and its rationale depending on judges' case-by-case experimentation. Consequently, consensus on the accuracy of final determinations remains elusive. Faced with such refined differentiation requirements, judges with varying professional backgrounds inevitably reach divergent conclusions, making inconsistent rulings for similar cases currently unavoidable.

Further analysis of the four guiding cases on new employment form labor disputes released by the Supreme People's Court, particularly comparing the contradictory conclusions in Case No. 238 and Case No. 239, more profoundly demonstrates that current judicial outcomes heavily depend on judges' micro-level assessment of subordination degrees in specific contexts. This multi-dimensional, multi-balancing, and multi-tiered analytical framework represents both a structural challenge posed by gig economy development to judicial practice and a critical issue requiring collaborative resolution by academia and practitioners.

Concurrently, platform companies systematically evade statutory employer responsibilities through technological means and institutional design. In discussions about algorithmic impacts on workers, a core issue revolves around whether algorithms serve as empowering tools or implicit burdens. Although platforms often portray algorithms as transparent, objective, and equitable technical mechanisms, the undeniable reality is that algorithmic control permeates every aspect, with the "algorithmic black box" posing profound threats to gig workers' rights. Workers entering platforms often find themselves in a passive state—being analyzed and identified by algorithmic systems while remaining unaware of their own digital traces. Labor activities become concealed within the complex technical logic of algorithmic architectures, creating an impenetrable cognitive and practical barrier between input data and output results.

Furthermore, due to platforms' intentional information shielding, algorithm operational logic, key backend data, and compensation calculation rules—all crucial to workers' rights—typically remain beyond workers' comprehension. This algorithmic control increases gig workers' cognitive load and insecurity, leading to counterintuitive overwork phenomena[22], and causing negative effects including sleep deprivation and work-related anxiety[23]. Workers lacking specialized technical capabilities struggle to penetrate the "technological veil" of algorithms, making it difficult to secure effective protection for their rights. Additionally, platforms frequently employ complex contractual designs involving multiple legal entities to obscure true legal relationships and blur actual accountability, thereby evading employer responsibilities. Simultaneously, platforms repackage

highly controlling management rules as "civil agreements" to dilute their essentially dominant nature within a "de-laborization" discourse. Such practices essentially constitute "regulatory arbitrage" exploiting legal ambiguities, leaving workers vulnerable to standardized terms and implicit control.

This dual predicament of cognition and institution extends into the judicial domain, creating systematic obstacles to workers' rights protection. During initial evidence presentation, workers often face difficulties due to information asymmetry; even under reversed burden of proof rules, platforms maintain initiative through information advantage, consequently influencing judges' fact-finding and discretion. When assessing subordination elements in labor relationships, judges struggle to reconstruct the true nature of work processes due to algorithmic obfuscation, ultimately undermining substantive protection for workers.

In summary, the obscuring effect of algorithms not only diminishes the degree of personal subordination that should inherently exist in actual work processes but also outwardly presents as a service provision form appearing virtually devoid of personal subordination. This technologically-induced attribute ambiguity severely restricts workers' access to fair legal protection, reflecting the structural challenges facing labor relationship identification and rights protection in the context of algorithmic governance.

4. Path Exploration: Constructing a New Framework for Rights Configuration

As outlined above, the Dichotomy framework, with its limited categories of civil and labor relations, fails to accommodate the need for categorical adjustment and differentiated treatment of labor relationships. Consequently, a new identification path is required to address the rights protection needs of gig economy workers.

4.1. Reconstructing the Criteria for Identifying Labor Relations

Given the ambiguity in the definition and standards of the "incomplete labor relationship," the establishment of clearly defined criteria for identification is essential to ensure effective protection of gig economy workers in practice.

4.1.1. International Lessons: A Critical Examination of Extraterritorial Experiences

Against the backdrop of the impact of new employment forms on the labor law system, the precise definition and systematic interpretation of the "incomplete labor relationship" through a legal lens constitutes both the starting point and core of constructing an effective protection mechanism. This involves not only the confirmation of workers' legal status but also extends to a series of key issues, including delineating the scope of protection, selecting protection pathways, and setting appropriate levels of protection. From a comparative law perspective, numerous countries have undertaken valuable explorations at both legislative and judicial levels, whose experiences hold significant reference value for China in building a categorized protection system.

Regarding worker classification, Germany's 1926 Labor Courts Act first legally recognized a category of persons working for others without being in a standard employment relationship—the "employee-like persons." Its current law adopts a tripartite classification, distinguishing among: self-employed individuals with both economic and personal independence; employee-like persons who maintain personal autonomy but exhibit economic dependence; and employees characterized by personal dependence[24], establishing a protection framework resembling what is now termed the tripartite labor relationship model. In the UK Uber case, drivers were categorized as "workers"—an intermediate classification between formal employees and independent contractors—creating a transitional category with specific labor rights. Spain, through specialized legislation known as the "Riders' Law," directly recognized the labor relationship between delivery riders and platforms, granting them corresponding labor rights, demonstrating legislative proactivity in responding to platform employment. Belgium, Ireland, and Finland have also engaged in discussions and initiatives regarding this issue[25]. These national legislative approaches predominantly favor the tripartite model, guiding the creation of a third category of workers beyond the traditional labor relationship

framework with tailored rights protection. In contrast, the U.S. legislative trajectory—from California's AB-5 bill attempting to expand the scope of employee classification, to Proposition 22 excluding gig economy workers from employee status while granting partial benefits, and subsequent refinements in the AB-2287 bill—reveals a succession of policy reversals that underscore the inherent limitations of seeking institutional breakthroughs within the confines of the traditional "employee–independent contractor" Dichotomy. The strategy of raising thresholds at one end while lowering them at the other, in an attempt to bring the incomplete labor relationship under protection, ultimately constitutes a discussion of worker protection that remains fundamentally constrained by the binary framework.

Regarding specific protection mechanisms, international practices similarly demonstrate multidimensional and systematic institutional innovations. Firstly, identification criteria are shifting from formal requirements towards substantive assessment. Many countries' legislative and judicial practices increasingly emphasize the element of "substantive control," incorporating various new forms of control into their systems, thereby forming composite criteria encompassing supervision of work processes, assessment of economic dependence, and degree of operational integration. Given the high threshold required for economic dependence in classifying such workers, rather specific criteria have been established across different industries. For instance, Uber in the UK required drivers to maintain an 80% order acceptance rate, with three consecutive rejections within 10 seconds resulting in forced app logout[26].

Furthermore, the optimization of procedural safeguards has become a critical component. Malaysia, for example, established specialized tribunals for gig workers exclusively handling platform employment disputes, enhancing rights realization efficiency by reducing litigation costs and simplifying procedures. The United States, through legislation like the Algorithmic Accountability Act, mandates companies using algorithms to conduct evaluation reports covering development, testing, and decision-making processes, thereby providing procedural empowerment for workers within the context of technological asymmetry. These international governance experiences overall demonstrate a trend from "form" to "substance," and from "singular" to "composite," offering valuable insights for protecting gig workers' rights through legislative, judicial, administrative, and social dialogue channels.

4.1.2. The Chinese Approach: Institutional Breakthroughs and System Construction

Based on a critical assimilation of international experiences, China should commit to constructing legal solutions compatible with the scale and developmental stage of its gig economy. Regarding the nature of the "incomplete labor relationship," scholarly opinions diverge: some scholars argue it possesses elements of subordination[27] and should be categorized under the existing labor relationship framework rather than constituting an independent legal category[28]; others advocate for its classification within civil relationships[29]; while yet another group, drawing on the "third category of workers" theory, proposes reconstructing the labor law system[30], contending that China's current flexible employment policies have already created institutional space for this "third category of workers"[31].

In terms of its nature, the incomplete labor relationship is distinct from typical service relationships and also significantly different from standard labor relationships and even other atypical employment forms. Its corresponding needs for rights protection are equally unique. Attempting to encompass this relationship by expanding labor law's coverage immediately raises a fundamental question: which rights should be retained within labor law, and which traditional protections should be relinquished? Given the essential differences between third-category workers and traditional employees regarding subordination and autonomy, fully incorporating them into the labor law system would inevitably lead to partial reductions in the original rights framework. Determining specifically which elements to reduce and which rights to preserve would inevitably provoke new debates. Furthermore, this approach remains essentially reactive and does not proactively design a rights and obligations system tailored to the actual circumstances of third-category workers.

On the other hand, attempting to accommodate this relationship by expanding civil law's protective scope faces inherent logical conflicts with civil law's fundamental principles of autonomy of will and equality of subjects. Simultaneously, the civil law system would need further clarification regarding which labor rights protections should be added, raising challenges of systemic coordination and value alignment. The tortuous process of repeated revisions witnessed in California's relevant legislative process fully expose the limitations and practical inadequacies of both aforementioned paths.

Consequently, breaking free from the constraints of the existing labor law-civil law binary structure, establishing an independent legal status for third-category workers, and formulating specialized legal safeguard mechanisms emerge as a more reasonable and feasible path for addressing the incomplete labor relationship. This article therefore advocates for a legislative breakthrough through the tripartite classification—creating an independent third category of subjects beyond traditional workers and civil subjects, deconstructing "subordination" from a holistic concept into a multi-dimensional, quantifiable evaluation system, and configuring specialized legal protection mechanisms.

This theoretical consensus is gradually manifesting and deepening in China's institutional practice: from the 2005 Notice on Matters Concerning the Determination of Labor Relationships[32] laying the foundation for factual determination, to the 2021 Ministry of Human Resources and Social Security Document No. 56 acknowledging the incomplete labor relationship at the policy level; followed by the 2022 Supreme People's Court refining the factors for determining subordination[33], and further to the 2023 third batch of typical personnel dispute cases establishing the "subordination + multi-factor" identification method, forming a "qualitative examination model based on industry-typologized subordination weight prioritization"[34]. At the local level, Anhui Province, the Greater Khingan Range region, Shanxi Province, and others have issued regulations governing the incomplete labor relationship, further promoting a legal consensus centered on facts and using subordination elements as the judgment benchmark—gradually moving away from simplistic determination paths relying solely on written contracts or other formalities.

Considering China's national context, where judgment standards based primarily on contractual consensus are increasingly inadequate for platform employment scenarios, a vast number of gig economy workers not only lack the legal literacy to discern contract nature but are also often compelled, due to livelihood pressures, to accept roles unilaterally defined by platforms. The protection approach should shift from case-by-case judicial remedies towards institutionalized system construction, introducing mechanism innovation starting from the ex ante review stage. Specifically, platforms could be required to have professional bodies review rules and standard contracts concerning workers before their implementation. Utilizing the "subordination + multi-factor" identification rules would help detect disguised employment relationships where form diverges from substance. Through the accumulation of similar cases, industry-specific typological standards should gradually be developed.

According to social policy theory, labor-capital conflicts can be resolved through democratic supervision and consultation mechanisms[35]. Therefore, corresponding supervision mechanisms should also be established for during and after employment processes, providing workers with accessible, low-cost channels for complaints and reporting to prevent platforms from exploiting algorithmic and technological advantages for disguised exploitation or control. Within this institutional framework, evaluation standards should comprehensively cover substantive dimensions such as algorithmic management intensity, degree of economic dependence, and depth of operational integration, gradually formulate industry-specific typological standards, and ultimately construct a scientific, precise, and China-appropriate system for labor relationship determination and rights protection.

4.2. Innovation in Rights Configuration: Modular Deconstruction and Scenario-based Combination

Following breakthroughs in subject determination and institutional innovation, the central issue that follows is how to configure corresponding rights for this new category. This demands a shift from the traditional "all-or-nothing" model of rights allocation towards a more adaptable and precisely calibrated pathway for the realization of rights.

4.2.1. Modular Deconstruction of Workers' Rights

While previous sections have primarily explored pathways for protecting gig economy workers' rights from legislative and institutional perspectives, without delving deeply into specific protection mechanisms and considerations, the following discussion introduces a modular deconstruction approach to rights configuration. This approach breaks down the labor rights system into several independently configurable modules, enabling a systematic examination of differentiated protection strategies for various types of gig workers.

First, a "core module" for worker rights protection must be established, comprising baseline guarantees applicable to all gig workers, regardless of their degree of subordination to the platform. This level should focus on the most fundamental rights to subsistence and occupational safety, systematically addressing common risks across the industry. Key components of this module include protection against occupational injuries, wage payment guarantees, and anti-discrimination treatment, aiming to respond to the "greatest common denominator" issues faced by the vast majority of gig workers. Taking occupational injury insurance as an example, many EU countries have commonly established independent insurance schemes for "third-category workers," and Singapore has also legislated to mandatorily require platforms to provide work injury compensation for freelancers. The "occupational injury protection mechanism for workers in new employment forms" piloted in some regions of China, which adopts a per-order contribution model, also confirms the dual technical and institutional feasibility of such protections.

Secondly, a "baseline protection module" targeting workers in "incomplete labor relationships" should be constructed, building upon the baseline guarantees to provide more precise interventions addressing vulnerabilities arising from their economic dependence. For instance, under UK law, protections for non-employee workers include the right to form trade unions and engage in collective bargaining, although the right to industrial action is restricted[36]. Within this module, an adapted "minimum hourly remuneration" system could be introduced. Given the highly flexible and fragmented nature of gig work, traditional monthly minimum wage systems are often ineffective. Establishing a statutory minimum hourly pay standard would help curb the transfer of platform operational risks and provide basic subsistence support for workers. Concurrently, a "limited right to rest" should be developed as a key component of this module, granting workers the right to refuse consecutive order acceptance without penalty and to reasonable breaks between tasks, alleviating the systemic physical and mental health pressures caused by algorithmic control.

Furthermore, more advanced rights that are difficult for individuals to secure independently can be incorporated into a "negotiable upgrade module" facilitated through collective bargaining mechanisms. A prime example is the issue of algorithmic transparency and fairness. Since algorithmic decisions directly affect work allocation and remuneration, and workers are often disadvantaged by information and capability asymmetries under algorithmic management, platforms could be mandated with a statutory duty of algorithmic explanation, implemented through negotiation mechanisms. Similarly, within this modular framework, workers could negotiate for advanced rights such as skills training and specialized incentive funds, thereby institutionally building a bridge for labor-capital dialogue and injecting sustainable momentum into the high-quality development of the gig economy.

4.2.2. Scenario-based Combination of Workers' Rights

On the basis of achieving a modular structure for various labor rights, it is essential to differentiate the combination of these modules according to specific work scenarios and the core risk characteristics of different types of jobs, thereby constructing mandatory and highly targeted "rights packages" to achieve precise empowerment for gig economy workers. This approach helps enhance the accuracy and effectiveness of rights protection, preventing both labor risks arising from insufficient safeguards and stifling market vitality and innovation through excessive intervention.

Specifically, for jobs characterized by high risk and strong control, a safety-oriented protection model should be implemented. Building on the core protection module, this model prioritizes strengthening key rights within the baseline protection module related to workers' rest periods and occupational safety. Typical sectors include ride-hailing and instant delivery, which involve high accident risks, significant physical exertion, and real-time on-the-job characteristics. For these workers, the focus should be on safeguarding their personal safety and occupational health, establishing specialized relief mechanisms for accidental injuries such as traffic accidents, thereby systematically addressing their core safety risks.

For emerging industries highly reliant on algorithmic decision-making and professional expertise, a fairness-centered protection pathway should be promoted. Beyond the core protection module, it is crucial to build robust remuneration guarantees within the baseline protection module and strengthen algorithmic fairness safeguards in the negotiable upgrade module. Specifically, regarding key areas such as task allocation, performance evaluation, and pay calculation, platforms should be explicitly required to provide adequate transparency and reasonable explanations for relevant algorithmic rules, alongside establishing effective channels for appeal and relief. Such industries include online consulting and technical development, where workers often face significant income volatility and hidden algorithmic manipulation, necessitating institutional safeguards to enhance their bargaining power and risk resilience.

For low-intensity, highly flexible work types, such as simple data entry and data annotation—characterized by monotonous tasks, high autonomy, and low risk levels—a basic rights protection strategy can be adopted. This strategy focuses primarily on the core protection module to ensure fundamental labor rights are met, while content from other modules may serve as advisory or guiding norms. This ensures basic protections while fully respecting the flexible nature of such work, avoiding undermining market efficiency through over-protection.

This pathway—from the modular deconstruction of rights types to the scenario-based recombination of rights content—is grounded in the specific risk structures of different labor forms, aiming to achieve precise alignment between the supply of rights and the actual needs of workers. This approach not only theoretically responds to the institutional demand for typified protection under the "tripartite classification" of labor relations but also provides a practical, operable implementation framework for gig economy governance. By endowing labor rights with the flexible characteristics of being decomposable and recombining, it enhances the adaptability and inclusiveness of the existing protection system. This supports the construction of a new gig economy governance ecology that upholds the baseline of fairness and justice while fully stimulating market vitality, thereby promoting the regulated development and innovative protection of the gig economy.

5. Summary

This article addresses the challenges in protecting the rights of gig economy workers by systematically analyzing the operational failure of the traditional labor relationship "dichotomy" and the resulting "hollowing out" of rights. It further points out that the emerging concept of the "incomplete labor relationship," due to its conceptual ambiguity and lack of standards, faces obstacles in judicial practice such as discretionary imbalances and evasion of responsibility by platforms through algorithmic means. To overcome these challenges, the article proposes constructing a middle path of layered safeguards: at the institutional level, it advocates breaking through the "dichotomy"

by creating a "third category of workers" and deconstructing "subordination" into a multi-dimensional, quantifiable identification standard; regarding rights configuration, the core innovation lies in proposing a "modular deconstruction" and "scenario-based combination" approach. This involves breaking down labor rights into core, baseline, and negotiable upgrade modules, and precisely combining them based on the risks and intensity of control characteristic of different types of work, thereby achieving a paradigm shift from an "all-or-nothing" model to "on-demand empowerment." This pathway aims to effectively balance employment flexibility with rights protection, offering a solution for constructing a gig economy governance system that integrates theoretical innovation with practical operability.

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