

# Research on Labor Rights and Interests of Flexible Employment Personnel

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**Abstract:** With the diversification of employment methods, flexible employment has become the choice of more and more employment groups. Flexible employment plays an indispensable role in ensuring employment and common prosperity. Through questionnaire survey, this paper finds that flexible employment personnel have problems such as low labor income, long working hours, low social security level, low skill level, and difficulties in safeguarding their rights. On this basis, the paper puts forward countermeasures and suggestions.

**Keywords:** labor rights and interests, flexible employment personnel, new business form, labor relation

## 1. Introduction

Employment is the foundation of people's livelihood. In 2001, the original labor and social security department defined flexible employment in the Research on Flexible and Diversified Employment Forms as a general term different from traditional employment forms in terms of workplace, working hours, income levels, etc. The main characteristics of flexible employment are temporary, flexible and flexible. China's large-scale flexible employment began in the 1990s. Shenzhen witnessed large-scale labor migration, which was also the early form of flexible employment at that time. In the early days, it was also called "informal employment", mainly referring to those employment groups whose labor relations were not standardized and who did not participate in social insurance. In 1998, the reform of state-owned enterprises was accelerated, and many laid-off workers appeared. In order to alleviate the employment pressure, the State encourages laid-off workers to achieve reemployment through self-employed businesses, family handicrafts or private enterprises, and has begun to allow flexible employment through self-employment. Premier Li Keqiang once pointed out that flexible employment is the engine of stable employment. Some scholars also believe that flexible employment has great potential in increasing employment opportunities. In recent years, with the expansion of platform economy in the field of life services, the application scope of flexible employment has further expanded. In recent years, the coverage of flexible employment in China has been expanding. In 2021, the proportion of enterprises with flexible employment will reach 61.14%, a year-on-year increase of 5.46%. More and more enterprises tend to expand rather than reduce the scale of flexible employment. According to the data of the All China Federation of Trade Unions, the number of flexible employees in China will reach 200 million in 2021, accounting for about 26% of the total employed population. According to China Flexible Employment Development Report (2022), flexible employment is mainly distributed in manufacturing industry (70%), traditional service industry (62.97%) and modern service industry (56.09%)<sup>[1]</sup>. However, there is a huge difference between the rapid development of flexible employment groups and the protection of their labor rights and interests. Such as frequent occupational injuries, long working hours, poor employment stability, lack of social security and other issues seriously affect the high-quality employment of flexible employment groups. In order to better understand the current situation of the labor rights and interests of the flexible employment group, the research team conducted a questionnaire survey on the flexible employment group from July to August 2022, analyzed the problems in the protection of the labor rights and interests of the flexible employment group, and proposed targeted countermeasures to promote the high-quality development of flexible employment.

## 2. Research on flexible employment

In recent years, with the rapid development of flexible employment, related research is also

increasing. As an alternative concept of "informal employment", flexible employment has been widely recognized, accepted and used by the government and society<sup>[2]</sup>. Flexible employment can not only play the role of transmitting signals in the labor market, increase the probability of employment, but also significantly improve work efficiency. The Internet use behavior of workers has a significant positive impact on wages (DiMaggio, Bonikowski, 2008) <sup>[3]</sup>. Flexible employment groups have some problems in their work, such as blurred boundaries of work and life, uncertain workplaces, and difficult social integration. Flexible employment personnel are generally satisfied with their work, but they are faced with problems such as low education background, low wage level, long working hours, inadequate rights and interests protection, and blocked promotion channels (Li Chang'an et al., 2022)<sup>[4]</sup>. With the development of platform economy, the number of new flexible employees has increased dramatically. Since the new flexible employment personnel are different from the traditional employment form and labor relations, we should strengthen the protection of the workers' rights and interests of the new flexible employment personnel, formulate non-standard labor relations laws, and implement a layered labor security system to achieve the flexibility and safety of the new labor relations (Du Renhuai et al., 2018)<sup>[5]</sup>.

### **3. Survey results on the protection of labor rights and interests of flexible employment personnel**

#### **3.1. Questionnaire survey design**

The subjects of this survey are those who are at least 16 years old, have the ability to work, and are employed in flexible employment for various reasons. A total of 300 questionnaires were sent out, 256 were actually received and 256 were valid, with a recovery rate of 85.3% and an effective rate of 85.3%. The flexible workers surveyed include: first, self-employed workers, mainly including self-employed businesses; Second, labor service employment, such as domestic nanny engaged in service industry, construction, cleaning and so on; Third, a new type of flexible employment, such as food delivery workers, online taxi drivers and so on. The content of the questionnaire includes two parts: personal basic information investigation and labor rights and interests protection.

#### **3.2. Basic information of the respondents**

There were 91 males, accounting for 35.55%, and 165 females, accounting for 64.45%. In terms of age, 166 persons are under 25 years old, accounting for 64.84%; 29 persons are between 26 and 35 years old, accounting for 11.33%; 44 persons are between 36 and 45 years old, accounting for 17.19%; and 17 persons are above 46 years old, accounting for 6.64%. It can be seen that most of the respondents in this survey are young persons. From the perspective of education level, there are 245 junior college students, accounting for 95.7%, and 11 undergraduate students, accounting for 4.3%. The education level is generally not high. From the nature of household registration, 123 persons registered in rural areas, accounting for 48.05%, and 133 persons registered in urban areas, accounting for 51.95%. From the nature of work, there are 151 full-time workers, accounting for 58.98%, and 105 part-time workers, accounting for 41.02%. Among them, the number of new types of flexible employment was 153 and the number of traditional flexible employment was 113.

#### **3.3. The protection of labor rights and interests of the respondents**

For the protection of labor rights and interests, this topic mainly from the income, working hours, social security, skills training, labor protection, rights protection and other aspects of the investigation. The above content will be analyzed next.

##### **3.3.1. The labor income is low and the income source is relatively single**

As table 1 shown, 120 of the respondents had an income less than 3000 yuan, accounting for 46.88%; There were 48 persons with 3,000-4,000 yuan, accounting for 18.75%; There were 35 persons with 4,000-6,000 yuan, accounting for 13.67%; There were 20 persons with 6,000-8,000 yuan, accounting for 7.81%; 33 persons had more than 8000 yuan, accounting for 12.89%. It can be seen that 65.63 persons whose income is less than 4000 yuan. In 2021, the per capita monthly disposable income of urban residents in Tianjin was 4,515.5 yuan. On the whole, the income of flexible employment workers was lower than the average level of urban residents, and the overall income was low. In addition, for most flexible employment personnel the income obtained from flexible employment is the only source of income, and there is no other income.

*Table 1: Income distribution of flexible employees*

Average monthly income	frequency	proportion
Less than 3000 yuan	120	46.88%
3000—4000 yuan	48	18.75%
4000—6000 yuan	35	13.67%
6000—8000 yuan	20	7.81%
8,000—10,000 yuan	13	5.08%
More than 10,000 yuan	20	7.81%
Total	256	100%

**3.3.2. Flexible employment personnel have Long working hours and no guaranteed rest time**

As shown table 2, data shows that 47 persons work within 3 days, accounting for 18.36%.112 persons work for 4-5 days, accounting for 43.75%;97 persons worked more than 6 days, accounting for 37.89 percent. Table 3 shows that 125 persons work less than 8 hours a day, accounting for 48.83%.79 persons worked 8-12 hours, accounting for 30.86%;There were 52 persons working more than 12 hours, accounting for 21.32%.According to China's Labor Law, the working hours of workers should not exceed 40 hours per week, 8 hours per day, and overtime should not exceed 1 hour per day. If there are special reasons, the working hours should not exceed 3 hours per day, and the working hours should not exceed 36 hours per month. Take at least one day off each week. But the survey results showed that there were still more flexible workers working longer hours. The working week and the average working day exceed the labor law. There are also many online hailing drivers among the respondents, who work free hours but often have long working hours due to the restrictions imposed by the platform's rules.More importantly, even if they work long hours, because of their flexibility, there is no overtime and no overtime pay.

*Table 2: Weekly working hours distribution of flexible employment groups*

Working hours per week	frequency	proportion
Within 3 days	47	18.36%
4 ~ 5 days	112	43.75%
6 days	55	21.48%
7 days	42	16.41%
Total	256	100%

*Table 3: Daily working hours distribution of flexible employees*

Working hours per day	frequency	proportion
Less than 4 hours	40	15.63%
4 to 8 hours	85	33.2%
8 to 12 hours	79	30.86%
More than 12 hours	52	21.32%
Total	256	100%

**3.3.3. Social insurance contribution rate is low, and the flexible personnel are lack of protection**

Social security is a stabilizer to promote the coordinated development of society, as well as a regulator of the national macro-economy and a stabilizer of the overall social welfare level. As table 4 shown, 98 of the respondents have paid social insurance, accounting for 38.28%, while 118 of them have not, accounting for 61.72%. Thus, the vast majority of flexible workers do not pay social insurance.

According to table 5, among the respondents who have paid the corresponding insurance, 12 have paid the basic endowment insurance for urban workers, accounting for 4.69%.46 persons, accounting for 17.97%, paid pension insurance for urban residents; Forty-eight persons, or 18.75 percent, paid basic medical insurance for urban residents. Forty-seven workers and 43 workers paid work-related injury insurance and unemployment insurance, accounting for 18.40 percent and 16.80 percent, respectively. In addition, some persons have purchased the new rural cooperative medical insurance and the serious illness insurance for urban and rural residents, but the number is relatively small. On the whole, the proportion of persons who pay insurance in flexible employment group is low, and the awareness of social security is not strong. This may be due to the fact that most of the respondents are young, so they don't think they need to pay for insurance. They want to make more money while they

are young. In addition, because the flexible employment group to pay the social security fee is also a large expense, so the proportion of payment is low.

*Table 4: Distribution of social insurance contributions of flexible employees*

Payment of social insurance	frequency	proportion
Paid	98	38.28%
No pay	158	61.72%
Total	256	100%

*Table 5: Distribution of social insurance types of flexible employees*

Payment of insurance	frequency	proportion
Basic old-age insurance for urban workers	12	4.69%
Old-age insurance for urban residents	46	17.97%
Basic medical insurance for non-working urban residents	48	18.75%
Work-related injury insurance	47	18.40%
Unemployment insurance	43	16.80%
Maternity insurance	0	0%
New Rural Cooperative Medical Insurance (NRCMS)	11	4.30%
Business insurance, such as personal accident insurance	19	7.42
Serious disease insurance for urban and rural residents	12	4.48

### **3.3.4. Flexible employment personnel have few vocational training opportunities, and are lack of skills**

Training is an important channel to improve workers' human capital. Workers can improve their skills through training, so that they can obtain higher incomes and achieve higher quality employment. However, according to the survey results, the flexible employment group has few opportunities to participate in vocational training. According to table 6, 140 persons have not participated in vocational training, accounting for 54.69%. The reason is that some of the respondents are self-employed, construction workers and family nannies, who have no access to training. Even those who have participated in the training, the training content is relatively simple, lack of systematic and targeted skills training. Such training will hardly help to upgrade the skills of those in flexible employment.

*Table 6: Distribution of flexible employees' participation in vocational training*

Have you participated in vocational training	frequency	Proportion
Yes	116	45.31%
No	140	54.69%
Total	256	100%

### **3.3.5. The proportion of participating in rights protection organizations is low, and there is no way to protect rights**

*Table 7: Distribution of flexible workers participating in rights protection organizations*

Whether to join the trade union or other rights and interests organization	Frequency	Proportion
Yes	105	41.02%
No	151	58.98%
Persons of valid answer offers for this question	256	100%

In traditional labor relations, workers who encounter labor disputes can seek the help of trade unions or other rights and interests protection organizations to fight for their rights and interests through collective negotiation. However, flexible employment groups are less likely to join trade unions and other rights groups. According to table 7, the data shows that 58.98% of the respondents did not join any rights protection organizations. Most of the flexible workers have low education level, weak awareness of rights protection, and no guidance from labor unions or rights protection organizations. Even if they have the intention to protect their rights, they can't find the direction to

protect their rights, and may even commit acts that disturb public order.

#### **4. Measures to improve the labor rights and interests of flexible employment groups**

In order to safeguard the labor rights and interests of flexible employment personnel adhere to the worker-centered orientation and promote the high-quality development of flexible employment, this topic puts forward the following countermeasures to improve the protection and maintenance of the labor rights and interests of flexible employment groups.

##### ***4.1. A Improve labor laws and regulations for flexible employment groups so that their rights and interests can be protected by law***

At present, there are few laws and regulations aimed at flexible employment groups in Chinese labor laws. In the existing laws, mainly aimed at part-time employment and labor dispatch, but the laws of other forms of flexible employment are in a blank state, which also causes the labor rights and interests of flexible employment groups cannot be relied on. For the new type of flexible employment personnel it is urgent to introduce relevant laws to protect the legitimate rights and interests of these workers. However, considering the particularity of flexible employment personnel direct inclusion in the adjustment scope of labor law is not conducive to the development of gig economy. Therefore, it is suggested that this group can be classified into the third type of labor subject (there is no personality attribute, but there is complete economic attribute). For the third group of workers, the relevant Ministries and commissions of the State Council have formulated corresponding labor laws and regulations according to the characteristics of the work, such as provisions on the payment of wages, working hours, social insurance, labor supervision and other provisions, so as to protect the rights and interests of these workers.

##### ***4.2. Formulate a strict rest and vacation system to protect workers' right to rest***

Every worker should have the right to take time off, even those who work flexibly. For the self-employed, they can freely control their working hours and rest time, but for the flexible workers under the new business model, the right to rest is difficult to protect. It is suggested that the government should supervise enterprises and implement a mandatory rest and vacation system. For example, if you work for four hours in a row, you must take a break for a certain period of time. At the same time, at least one day of rest should be guaranteed every week. For platform enterprises, these workers are important human resources, and their use should be "balanced" and pay attention to "flexibility and redundancy". In addition, the regulatory authorities should also strengthen the supervision, including platform enterprises in the scope of supervision, use big data and cloud computing to collect information reported or complained by practitioners, intelligently monitor the illegal phenomena of Internet platforms and employment units, and strengthen the punishment of trust-breaking behaviors of the new business economy.

##### ***4.3. F Innovate the social insurance system to attract more flexible workers***

First, we should gradually lift the restrictions on household registration for participating in various insurances, explore ways to decouple the payment base from the regional average salary, and transfer the benefits from the place of residence to the place of participation or free choice of the place of residence. Using the "nominal personal account system" as a reference, the actual payment of flexible employment personnel into the social pooling account. The state should set up a new type of social security insurance - mobile labor pension insurance, which is similar to the insurance of freelancers, only by the individual responsible for paying (employers can subsidize premiums in other ways), so as to avoid today's labor enterprises and workers in the salary negotiations in the game and after the dispute. In terms of medical insurance, they are allowed to participate in the serious illness medical insurance of the pooled account<sup>[6]</sup>. It is suggested that flexible employees be allowed to make monthly, quarterly and annual payments based on their actual conditions, and that a one-off payment and a supplementary payment policy be established after suspension.

Second, the coverage of new occupational injury insurance will be expanded for riders and drivers of online ride-hailing services who are employed flexibly in new forms of business, so as to ensure that they can be effectively protected when accidents occur.

Third, relevant departments should increase publicity and effectively improve the awareness of flexible employment groups to participate in insurance. During the survey, it is also found that many flexible employment groups think it is not necessary to participate in the insurance. In fact, the main reason is that they lack this knowledge and fail to truly realize the importance and benefits of social insurance for them.

#### **4.4. The Government should provide diversified and systematic training to enhance the vocational skills of flexible employment groups**

Due to their low education, lack of professional labor skills and low overall employment quality, flexible workers urgently need to improve their labor skills, vocational education, safe work and cultural knowledge. The training needs of flexible workers can be developed from the following aspects.

First, for the traditional flexible employment group, information can be collected to understand the current skills. For the workers who do not have the skills, the relevant departments of local governments can carry out some primary skills training, so that they can be better at one thing.

Second, for flexible employment groups in new business forms, government and enterprise training can be combined. Strengthen the platform enterprises' sense of responsibility, urge them to assume the responsibility of training, and the government provides training subsidies. At the same time, as a platform enterprise, it should timely grasp the training needs of workers, customize personalized and practical training programs for workers, and organize workers to participate in skills training or entrepreneurship training in time.

#### **4.5. Innovate trade union model to become a strong support for flexible employment groups**

First, lower barriers to union membership. It is suggested to lower the threshold of membership, and all workers who meet the characteristics of flexible employment groups can join. We can apply for membership online and localize the management of membership identity.

Second, innovate the way trade unions work. Collective bargaining is an important right of workers and an important part of the work of trade unions, but it is more difficult to organize collective labor relations in flexible employment, and trade unions must innovate their working methods and strengthen their ties with flexible workers. Since there is no labor unit problem for self-employed flexible employment personnel we will focus on the trade union of flexible workers under the platform economy. Local trade unions may select negotiation representatives for flexible employment in different industries and categories of new formats, take the initiative to submit offers involving important contents such as labor remuneration, welfare benefits, labor conditions, and labor protection to platform enterprises in the same industry, carry out industry collective negotiations, and sign industry collective contracts. When a platform enterprise formulates, amends or decides on rules and regulations and major matters that directly involve the vital interests of employees, local trade unions may organize flexible employees of new business formats under the platform to discuss, put forward plans and opinions, and exercise the right to democratic participation.

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