Research on Labor and Social Security of Chinese New Flexible Employees under the Background of New Business

Yuhang Cao, Dantong Zhao, Yawen Huang *
School of Management, Hebei University, Baoding, 071002, China
* Corresponding author: Yawen Huang (Email: 961515191@qq.com)

Abstract
In recent years, relying on the development of digital economy, a large number of new flexible employees have been born. This paper studies and analyzes the employment situation and social security participation status of new flexible employees under the new format. The study finds that there are a series of problems in the current employment situation, such as non-standard employment of platform enterprises, low participation and level of social security of new flexible employees, and low rate of signing labor contracts. Put forward targeted recommendations: the government to establish or update the relevant policies and regulations, strengthen the protection of the rights and interests of workers, increase the awareness of responsibility and obligation of platform enterprises, give practitioners a sense of security, enhance the ability of new flexible employees to participate in insurance, improve their enthusiasm to participate in insurance and a series of solutions. The government, enterprises and individual workers should cooperate to solve the labor and social security problems of the new flexible employees.

Keywords
New format; common prosperity; new flexible employees; social security.

1. Introduction
As China has built a well-off society in an all-round way, people's living standards have been greatly improved, and the construction of common prosperity has been steadily promoted, but there are still some problems of unbalanced and inadequate development that need to be solved urgently at this stage. This requires us to solve the above problems from two aspects, one is to promote high-quality development, the other is to adjust income distribution and promote social equity. In recent years, the level of social security in China has been continuously improved, which has become an important means and tool to promote high-quality economic development and narrow the income gap between urban and rural areas.

In recent years, with the continuous adjustment of China's economic structure, the employment structure has begun to diversify. Flexible employment is an important trend of employment in today's society, which has made important contributions to economic development and social progress. Among them, relying on the development of digital economy and platform economy, a large number of new flexible employees have been born. New flexible employment positions include platform e-commerce, life distribution, life services, platform micro-business, knowledge services, self-media, platform live broadcasting, shared travel drivers and so on. Compared with the traditional employees, the new flexible employees have the following characteristics: flexible and diverse employment forms, generally lower requirements for employment education and work experience, obvious younger trend, relatively high wages but low welfare level, high mobility and so on. This form of employment enhances the flexibility of the labor market to a certain extent, but also brings challenges to the social security of flexible
employees. Flexible employees are an important part of China's social security, and solving the labor and social security problems of new flexible employees has become one of the key tasks of the state to solve people's livelihood problems, and is also a key step to improve the level and quality of social security work and achieve full coverage. Necessary social security for new flexible employees is conducive to improving the income level and welfare level of new flexible employees, reducing their probability of encountering social risks, and then narrowing the income gap, which is conducive to achieving common prosperity.


2.1. Overview of the basic situation of flexible employees in new formats

According to the National Bureau of Statistics, by the end of 2021, the number of flexible employees in China had reached about 200 million. The 2023 China New Flexible Employment Report, jointly released by Zhaopin and the Institute of Economics and Society of Jinan University, shows that the number of flexible employees has reached one fifth of the total number of employees. According to the forecast of Ali Research Institute, the number of new flexible employees in China is expected to reach 400 million in 2036. As mentioned in the previous report, unlike traditional flexible employment, new flexible employment is mainly concentrated in various industries closely integrated with the digital economy. China’s digital economy is developing vigorously, and the ranks of new flexible employees will continue to grow.

Strictly speaking, the new flexible employees under the new format are mainly divided into two categories. One is the stable employees, who sign labor contracts with platform enterprises or affiliated enterprises and adopt traditional management methods; the other is the flexible employees, whose working hours are flexible, whose management relationship with platform enterprises is loose and whose labor relationship is relatively vague. They use the platform to provide services or goods to consumers. This paper studies the second kind of personnel. Such flexible professionals in real life are mainly through a flexible, adjustable or self-employment mode of work, which they only rely on the platform company to provide. Business platforms get paid by third parties, not directly from platform companies. According to the way of employment, it can be divided into self-employed flexible employees and employed flexible employees. Self-employed flexible employees refer to flexible employees who are employers themselves and bear business risks, such as Taobao shop owners, micro-merchants and so on. Employed flexible employees means that there is an employer to employ flexible employees and pay wages. Such as online shop customer service, online taxi drivers, takeaway riders and so on.

2.2. China's relevant policy support on labor security for new flexible employees

In recent years, the state and local governments have paid more and more attention to the protection of flexible employees, and the state and local governments have introduced relevant security policies for flexible employees to strengthen the standardized management of new digital economy enterprises and the welfare security for new flexible employees. For example, in 2021, the Ministry of Transport and other seven departments issued the Opinions on the Protection of the Legitimate Rights and Interests of Couriers, which proposed that the wage income of couriers should be guaranteed, the multi-level social security construction of couriers should be promoted, and enterprises should be urged to pay unemployment and industrial injury insurance for couriers. At the same time, the state has also set up a flexible employment subsidy, which is a social security benefit provided by the state
for people with employment difficulties, ranging from several thousand a year to more than 10000 a year.

In 2022, the Ministry of Human Resources and Social Security and other eight departments jointly issued the Guiding Opinions on Safeguarding the Rights and Interests of Labor Security in New Forms of Employment, which put forward requirements for the wage security of flexible employment groups under the digital background, and included some flexible employees in the minimum wage security system who did not fully conform to the labor relations. It is proposed that we should actively promote the participation of new flexible employees in social insurance. The household registration restrictions on participating in basic old-age insurance and basic medical insurance have been relaxed. It also puts forward opinions and norms on labor safety, fair employment, platform algorithm and occupational injury protection of flexible employees in new formats.

2.3. Social Security Payment Status of New Flexible Employees in China

In terms of basic old-age insurance, according to the current national policy, flexible employees can participate in the old-age insurance for urban workers, or in the old-age insurance for urban and rural residents in the place of household registration. Flexible employees participate in the basic old-age insurance for employees, and all the contributions are borne by individuals. They can pay monthly, quarterly, half-yearly and annual contributions. According to the average wage of 60% -300% of the employees in urban units of the province, they can choose the appropriate base of contributions, and the proportion of contributions is 20% (12% of them enter the overall fund and 8% enter the individual account). In the case of the same payment base, payment years and other factors, the pension benefits enjoyed by flexible employees are the same as those enjoyed by employees in the unit, and the level of treatment will not be discounted.

In terms of basic medical insurance, flexible employees can choose to participate in employee medical insurance or resident medical insurance according to their personal needs. Flexible employees with relatively stable income level and certain economic conditions can choose employee medical insurance.

In terms of industrial injury insurance, compared with choosing long-term and stable social insurance, most platform enterprises choose to purchase commercial accident insurance for platform employees for the sake of social responsibility and reducing operational risks. Commercial accident insurance has the advantages of flexibility and high efficiency, but accident insurance is difficult to really replace the role of industrial injury insurance, there are a series of problems such as difficult claims, low protection, narrow scope, especially the lack of long-term treatment. And many employees choose to bear their own after the accident, enterprises mostly ignore, even if there is commercial insurance, it is difficult to get compensation. In the identification of work-related injuries, for the vast majority of industries, the existence of labor relations is the premise of the identification of work-related injuries, in the current context, most of the new flexible employees and platforms, employers'labor relations are vague, the platform has not paid social insurance for workers, signed labor contracts, provided labor security, etc. If they can not be identified as work-related injuries, in most cases, it is difficult for new flexible employees to get compensation. Even if the court ultimately believes that compensation should be paid, the amount of compensation will usually be greatly reduced compared with industrial injury compensation.
3. Problems in Labor and Social Security of New Flexible Employees

3.1. The employment of platform enterprises is not standardized

The non-standard employment of platform enterprises is mainly manifested in the illegal setting of working hours, the inadequate implementation of labor safety and security, and the large gap with the welfare of full-time employees. The workload of the new flexible employees is heavy and the labor intensity is high, and the working hours of most employees far exceed the legal working hours of 8 hours in China. In addition, the lack of pre-job training and safety education training for new flexible employees has led to the frequent occurrence of safety accidents. The gap between the welfare benefits of new flexible employees and ordinary employees is obvious, and many ordinary employees enjoy vacation benefits and other welfare systems that new flexible employees can not enjoy.

3.2. Low social security participation and low payment level of new flexible employees

Flexible employees in the platform economy, represented by takeaway riders, couriers, online car drivers and network anchors, have the characteristics of no fixed workplace, no fixed working hours and weakening subordination, as well as the responsibility among the three definite stakeholders of government departments, platform enterprises and flexible employees on the platform. As a result, the purchase and participation rate of social insurance for flexible employees in the platform economy is generally insufficient.

According to the 2023 China New Flexible Employment Report, it is found that most of the new flexible employees pay medical insurance for urban and rural residents and old-age insurance for urban and rural residents, and the payment fees are mostly at a low level. According to the survey, the participation rate of basic social insurance for flexible employees in the new format is low, the number of people who pay urban workers' pension insurance and urban workers' medical insurance accounts for less than 10% respectively, and the contribution of urban and rural residents' pension insurance for flexible employees in the new format is mostly at the lowest level of 200 yuan, accounting for 65.51%. Another 28.1% of the new flexible employees did not participate in any pension insurance. In terms of basic medical insurance, most of the flexible employees choose to participate in residents' medical insurance, while the number of employees participating in medical insurance only accounts for a small proportion. In terms of industrial injury insurance, compared with basic industrial injury insurance, most enterprises or employees choose cheaper accident insurance instead.

3.3. Low rate of signing labor contracts between platform enterprises and new flexible employees

Because the employment mode of new format enterprises is different from the traditional formal employment, there are differences in the way of obtaining labor remuneration, working place, working hours and so on, so they can not fully meet the requirements of labor relations confirmation in China's labor law, and the proportion of signing formal labor contracts is relatively small. In the current form, when the flexible employees of the new format conclude the agreement through the platform APP, the relevant enterprises of the new format will indicate in the agreement that the labor contract law is not applicable between the enterprises of the new format and the flexible employees of the new format, and that they do not have labor relations, mostly labor relations or cooperative relations. The two parties do not apply the Labor Contract Law and the Social Insurance Law, but apply the Contract Law and other civil laws and regulations. This is not conducive to safeguarding the rights and interests of flexible employees in new formats when their rights and interests are damaged, and will put workers in a disadvantageous position when labor disputes arise.
4. The Problems and Causes of Labor and Social Security of the New Type of Flexible Employees

4.1. Institutional level: lack of labor security policies and regulations for new flexible employees

First of all, the relevant laws applicable to flexible employees have not been updated and amended in time. At present, in many cases of labor arbitration, there is a big controversy about whether there is a clear labor relationship between the new flexible employees and the platform and employers. The "grey zone" of labor relations between the platform and practitioners provides convenience for the platform to evade responsibility after the event, and the protection of the rights of practitioners is more solved through judicial proceedings. In the case of labor and social security disputes and disputes, China's current Labor Law applies relatively little to flexible employees, and according to the law, it is impossible to confirm that there is a clear labor relationship and employment relationship between them, so it is impossible to confirm the labor security obligations of enterprises and employers, and flexible employees lack effective channels to protect their rights and interests. In this case, the new flexible employees can only safeguard their rights through the Civil Code, and the court can only deal with the case according to the individual case or the previous case, which results in the damage of the rights and interests of the new employees and the lack of due compensation.

Secondly, the social security system applicable to new flexible employees has not yet been established and improved. As shown in Figure 1, there is still a big gap between the social security coverage of new flexible employees and that of traditional employees. In terms of social insurance, there is a lack of preferential policies and institutional guarantees for new flexible employees. Although flexible employees can also participate in basic old-age insurance and basic medical insurance, the insurance premium should be fully borne by individuals. Compared with the general employees who have enterprises to pay insurance premiums together, the burden of new flexible employees in paying insurance premiums far exceeds that of traditional employees. In most areas, industrial injury insurance, unemployment insurance and maternity insurance do not include new flexible employees. In terms of social welfare, as a legitimate welfare right, the new flexible employment group is a luxury for the flexible employment group in the new industry because it has not signed a clear labor relationship with the unit or organization. Occupational benefits, entitlements, facilities, and services for workers are missing. Platform enterprises do not provide practitioners with physical examination benefits, high or low temperature allowances, overtime allowances, and even the most basic right to rest and vacation are not guaranteed. At present, on the new business platform, there is a relative lack of training to improve the labor ability of new flexible personnel, especially in safety skills training and standardized workflow settings, which leads to some safety accidents.

Figure 1. Comparison of the Change Trend of Social Security Coverage of New Flexible Employment Positions and Traditional Employment Positions
With regard to occupational injuries and diseases, there is a lack of labour protection. New flexible employees who have been engaged in related work for a long time are more likely to suffer from some diseases because of their unique working mode, working hours and other reasons. Although they are not occupational diseases in the legal sense, they have become a "chronic disease" in the industry, which has troubled many workers in this field. For example, takeaway workers are vulnerable to traffic accidents, because they are exposed to the wind and the sun every day and their eating time is not standardized. They are also prone to stomach diseases, arthritis and other diseases. Although some platforms will distribute some labor protection supplies, such as basic windbreaker, helmet, etc., the labor protection measures taken are very simple, and the source of these labor protection measures mainly depends on the employees themselves. For example, kneepads, masks and other warm or cold-proof supplies or cooling oil and other high-temperature heat-proof supplies mostly need to be equipped by employees themselves. Most of these employees will bring their own electric vehicles to work, these electric vehicles are important production tools, but only a few people said that they will carry out regular maintenance of electric vehicles, the platform or the company will basically not arrange maintenance, magnifying the occupational risk of these employees. Because today's network is very developed, the network environment is very worrying, the state lacks constraints on network public opinion, network anchors often face some network violence, they have psychological problems, the risk of mental illness, depression is far higher than ordinary employees.

4.2. Platform enterprise level: lack of awareness of responsibility subject
Platform enterprises are driven by interest values and pursue maximization, regarding the social insurance premium of new flexible employees as an important labor cost, and the new employees are relatively free, such as online taxi drivers, most of them are part-time employees who use their leisure time, compared with the traditional formal employees. They have not yet signed a labor contract with clear rights and responsibilities, so in their eyes. It is unnecessary to pay social insurance for such people, so many platform enterprises choose to evade the obligation to buy insurance for workers. On the other hand, platform enterprises use their strong position to transfer labor risks, and workers are in a relatively weak position, unable to negotiate or confront with the enterprise platform on an equal footing. In the face of the "giant" platform enterprises with certain monopoly, they try to evade the insurance responsibility of the new flexible employees by taking advantage of the weakness of the lack of labor law knowledge of the workers. The platform enterprises often do not sign formal labor contracts with the practitioners, but replace them with other forms of contracts such as labor contracts and contracts for work. Compared with formal labor relations, such contracts do not have clear labor relations between the two sides, which gives platform enterprises the opportunity to escape responsibility, resulting in new flexible employees to face labor risks alone, they are excluded from the social security system.

4.3. Individual level: lack of right awareness, insurance awareness and ability
On the one hand, the new flexible employees lack the awareness of participating in social insurance and rights. Most of the new flexible employees have insufficient understanding of the importance of social security, lack of awareness of risk prevention, do not realize that participating in social insurance is their due rights and interests, lack of awareness that participating in social insurance is a necessary investment in future life, can resolve the necessary labor risks, and produce long-term benefits. On the other hand, compared with the long-term stable ordinary employees, flexible employees still have a certain gap in their income level. Due to the lack of stable income sources, limited savings, high demand for personal or family expenses, and the high burden of social insurance premiums alone, their income level is difficult to support them to pay social insurance premiums. Although some flexible employees
want to participate in insurance, they may also withdraw because of the financial burden; because it is difficult to see the return of social security in the short term, some flexible employees believe that after paying the premium, they will have a corresponding reduction in liquidity. They think it is better to keep the money in their own hands so that it can be used at any time, rather than giving it to others.

5. Suggestions on the above problems

The causes of labor security problems of flexible employees in new industries can not only be attributed to a single welfare provider, but should be analyzed from the overall perspective. Based on the study of the current social security policy and the above practical problems, this paper holds that to solve the social security problems of flexible employees under the new format, the government, platform enterprises, employers and workers need to cooperate, as shown in Figure 2 below. On the one hand, the government should establish and improve relevant laws and regulations, and effectively fulfill its regulatory responsibilities. It is also necessary to strengthen the legal sense of responsibility of the platform, and constantly increase the awareness and ability of flexible employees to participate in insurance. Through the above ways to solve the social security problems of new flexible employees.

![Figure 2. Coordination of Social Security for New Flexible Employees](image_url)

5.1. The public sector establishes or updates relevant policies and regulations to strengthen the protection of workers’ rights and interests.

First of all, the government should strengthen the top-level design of the labor legal system from the national legislative level, and make up for the shortcomings of the labor legislation under the current system. Promote the improvement of legislation for new flexible employees under the background of new formats, clarify the responsibilities and obligations of platform enterprises for employees’ labor and social security, establish a unified labor and social security system with unified working hours standards, unified social security standards and unified social welfare standards, establish a bottom line of minimum treatment levels, and safeguard the rights of new flexible employees. Broaden the way to safeguard their rights, so that there are laws to abide by and act in accordance with the law.

Secondly, we should incorporate new flexible employees into the social security system and speed up the improvement of the social security system covering all members of society. To ensure the legitimate rights and interests of new flexible employees, to ensure that new flexible employees can participate in basic old-age insurance and medical insurance at an appropriate level according to their own conditions, and at the same time, unemployment insurance, industrial injury insurance and maternity insurance should also cover such personnel. In terms
of unemployment insurance, if a flexible employee fails to get a job for one month in a row, he or she can go to the relevant department to receive unemployment relief, which is subsidized by the government department. The relief is lower than the unemployment insurance, but higher than the minimum living allowance. Because the flexible employee has not paid the unemployment insurance, but the post is relatively easy to get, the relief period is shortened appropriately. In terms of industrial injury insurance, it is stipulated that flexible employees should participate in industrial injury insurance according to the project, and the corresponding project of the employing unit should be insured for flexible employees. Enterprises should be required to replace commercial accident insurance with narrow coverage and low level of protection with social insurance with strong accumulation and good security. In terms of maternity insurance, we should speed up the work of incorporating the maternity insurance of flexible employees into medical insurance, so as to ensure that they can reimburse the corresponding maternity expenses from medical insurance and reduce their burden.

Finally, according to the level of economic and social development, the government should investigate and study the salary level of new flexible employees under the current new format, and the government should establish multi-level contribution rates according to different income levels. According to the different wage levels of the new flexible employees, different payment bases are set, and different payment rates are applied according to the wage level, so as to improve the scientificity of the policy, reduce the threshold for the new flexible employees to participate in social insurance, and increase their initiative and enthusiasm to participate in insurance. For new flexible employees who take the initiative to participate in social insurance, certain preferential policies can be given to reduce their burden and expand the participation rate of flexible employees. For platform enterprises, certain preferential tax policies can be given to reduce their production and operation costs and enhance their ability to perform their duties.

5.2. Increase the sense of responsibility and obligation of platform enterprises and give practitioners a sense of security

Platform enterprises are the creators of occupational risks of new flexible employees under the new format, and they enjoy a lot of benefits brought by such workers. At the same time, as one of the subjects with the strongest risk control ability, they should also be responsible platform enterprises and actively fulfill their legal obligations to provide necessary labor and social security for new flexible employees.

On the one hand, enterprises should consciously abide by the relevant laws and regulations of national labor and social security. As the "first responsible person" to protect the rights and interests of workers, platform enterprises should change their thinking of "de-labor relations", realize that providing protection for new flexible employees is inseparable from the sustainable development of enterprises, and earnestly fulfill the responsibility and obligation of employing units to provide reasonable protection for workers. When formulating labor contracts, according to the relevant legal provisions of the state, the necessary provisions such as income, working hours, social security payment and treatment of work-related injuries should be clearly defined, so as to participate in and perform their duties in accordance with the law.

On the other hand, platform enterprises should establish a wide range of insurance plans for employees, so as to select suitable insurance types for employees according to the actual situation of the company. On the one hand, platform enterprises realize that commercial insurance is a necessary supplement to the shortage of social insurance, and insist on purchasing certain commercial accident insurance for employees. On the other hand, platform enterprises should abandon "short-term thinking", fulfill their responsibilities according to law, and realize that participating in the necessary social insurance for employees is not only the
requirement of law, but also the only way for enterprises to develop sustainably and increase employees' sense of identity and belonging. At the same time, platform enterprises pay social insurance for employees, which can not only reduce the risk of production and operation, but also overcome the problem of insufficient commercial accident insurance.

Finally, enterprises should set up certain welfare policies for new flexible employees and strengthen their labor security. Firstly, platform enterprises should establish appropriate working hours system according to the relevant provisions of the Labor Law, reduce overtime and overwork, give employees enough rest time, and enjoy statutory annual leave and paid vacation. Secondly, platform enterprises should provide training and career development, provide various training and development opportunities for employees, and help them improve their skills and career development. In particular, we should strengthen pre-job training and production training on safety, and provide workers with production and work equipment that meet national standards in accordance with national standards, so as to reduce the probability of new flexible personnel encountering unexpected risks. Finally, platform enterprises should provide flexible employees with holiday benefits, catering benefits, housing benefits and other welfare policies to reduce the income gap between them and ordinary employees and increase their "sense of belonging" to platform enterprises.

5.3. Enhance the ability of flexible employees to participate in insurance, and improve their initiative and enthusiasm to participate in insurance.

First of all, we should increase the awareness of the rights and interests of new employees, make them realize that it is their legitimate right to participate in the necessary social insurance, and encourage them to use legal weapons to safeguard their legitimate rights and interests. Secondly, we should improve the income level of new flexible employees. The state should effectively adjust the income structure, reduce the living pressure of new flexible employees through tax reform and transfer payments, and constantly improve their income and consumption levels, so as to enhance their ability to participate in insurance. According to the current employment form under the new format, local governments can keep abreast of the job requirements of each platform for new flexible employees, provide necessary and specialized pre-job training services for new flexible employees, improve their vocational skills, meet the requirements of platform enterprises, and constantly improve their knowledge reserves and skills. In order to improve their income level, improve their economic conditions, enhance the ability of individual payment, in order to continuously improve the initiative and enthusiasm of flexible employees to participate in insurance.

Finally, we should increase the publicity of social security related information. Enriching the channels of propaganda, using television, radio, newspapers, Internet news and other media to publicize social security policies, personnel of relevant departments of labor rights and interests protection can regularly go to the community for propaganda and education, imparting the latest social security policies to the vast number of workers through plain and easy-to-understand language, and deepening workers' understanding of social security. Make workers really realize the important value of participating in social insurance.

6. Conclusion

In the new format, digital platform provides a large number of jobs, in recent years, more and more people choose flexible employment, this paper studies and analyzes the employment situation of new flexible employees and the status quo of labor and social security under the new format. It is found that there are a series of problems, such as non-standard employment of platform enterprises, low participation of new flexible employees in social security, low level, low rate of signing labor contracts, and so on. These problems need to be solved from the three
levels of system, platform enterprises and individual workers. Providing certain social security for new flexible employees is the key link to achieve full coverage of social insurance and improve the quality and level of social security. In addition, with the increasing proportion of new flexible personnel in the working population, it is of great significance to improve their income level to achieve social equity and gradually achieve common prosperity. In the future, the government, platform enterprises and individual workers should work together. The government should legislate scientifically, encourage and guide them well, platform enterprises should fulfill their legal responsibilities, and individual workers should increase their awareness of safeguarding their rights and participating in insurance. In this way, the new flexible employees will be covered in the "dense net" of social security in our country, and the labor and social security system in our country will be improved, so as to provide a "protective umbrella" for the new flexible employees.

References