Impact of labour laws on the performance of gig work platforms: a legal review of three countries' experiences

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Table of Contents

List of Tables

List of Figures

Attestation of Authorship

I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person (except where explicitly defined in the acknowledgements), nor material which to a substantial extent has been submitted for the award of any other degree or diploma of a university or other institution of higher learning."

Signature:

29th January 2022

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Gratitude for the encounter. Best wishes!

Abstract

Gig work, where individuals are matched to short-term jobs on online platforms, has grown tremendously over the last decade. While there is some evidence that workers benefit from gig work, there have also been labour disputes in the gig work industry, especially around the legal relationship between gig work platforms and their workers. The practices of these platforms often run counter to well-established employment norms in aspects such as the division of labour, employee evaluation, and supervision structures. Countries have had different regulatory responses to these changes. This study examines the legal solutions to these disagreements in different countries and whether differences in labour laws affect the performance of gig platforms. We have systematically reviewed 99 articles on the law relating to the gig economy in the USA, the UK and China and combined the approach of comparative law to explore and collate the problems, legal solutions, and future trends in these three countries. At the same time, we analyse and compare the performance of platforms under different legal solutions through the available material, providing some ideas for future research directions.

Chapter 1 Introduction

The “gig work” economy has thrived in the past decade and helped many countries maintain or improve their economic performance(Ding, 2018; Andreeva et al., 2019). The term “gig” in the gig economy was traditionally associated with itinerant professional musicians who regularly switch their performance locations to take advantage of job opportunities and have variable remuneration packages. As online platforms developed to match individuals with short-term work opportunities, such work became called “gig work”. Initially, gig work represented a one-off task fulfilment request without a predictable work schedule and income (Abraham et al., 2017). Today, the gig economy can be defined as an online market for temporary workers that uses online platforms as intermediaries to match supply and demand for casual labour (Donovan et al., 2016). These online platforms connect independent workers with fragmented tasks to efficiently match supply and demand.

The most important operating aspect of gig work is the reliance on rapid matching through digital platforms. Most previous legal research on the gig economy has used platforms as the starting point, analysing the unequal and imbalanced relationship between platforms, users (task requesters), and workers (task fulfillers) to recommend existing laws. For example, algorithmic management systems and rating and reviewing mechanisms on gig work platforms exemplify how traditional organisational human resource functions are outsourced to customers, reducing transaction costs and platform management costs (De Stefano 2016). However, platforms and workers rely on feedback from non-professional reviewers (customers), and often, gig workers cannot conduct reverse evaluations of their customers. This affects the overall quality and reliability of the platform management mechanism to a certain extent, and workers bear the consequences of these situations.

However, besides the role of platforms in managing gig workers, another legal aspect of the gig economy is how gig work practices meet the labour regulations in the countries where they operate. In some countries, gig workers have been defined by law as being not “self-employed” and thus eligible for benefits such as minimum wages and paid holidays (Russon, 2020; Win, 2020). However, other countries lack clear rules to protect gig workers’ rights in terms of wages, social insurance, vacations, and other employment-related issues. Malik et al. (2021) use the phrase “institutional vacancies” to describe digital platform workers’ unstable and fragile working conditions.

A study of the role of Australian union organisations in resolving labour standards for gig workers found that such workers have limited bargaining power over the contract terms and wages provided by gig work platforms (Minter, 2017). The platforms unilaterally determine rates and payments and ultimately control the workers. Thus, such workers are not protected by the labour standards in an economy, and their participation may lead to competitive pressures that will significantly undermine labour standards across the economy. Moreover, there are no clear contractual constraints between gig workers and platform users (their customers), with workers bearing most or all of the risk associated with providing the necessary equipment and tools, any interruptions in service by the platform, irregularity in income flows and so on, which enhances the vulnerability and instability of gig workers (Stewart & Stanford, 2017).

The multi-faceted nature of the platform means that the traditional binary classification scheme (that is, judging whether a worker is an employee, who is within the scope of employment law, or an independent contractor or a self-employed individual beyond the scope of protective employment rights) can no longer be used to judge the complex situation faced by workers in the gig economy. Most platforms are in a legal grey area, and many gig workers are thus not protected by labour standards (Adams et al., 2018; Minter, 2017).

Some scholars believe that gig workers are not treated equally because labour laws have not adapted to new business models. However, labour laws are as applicable for gig workers as they are for traditional workers, as they deal with market failure, welfare distribution issues, and imbalances in workers' bargaining power (Todolí-Signes, 2017a). There have been calls for governments to develop new laws for new types of workers or to formulate special labour laws for gig workers (Stewart & Stanford, 2017; Todolí-Signes, 2017b). However, adding categories to labour laws should be avoided because the new categories will lead to employment and tax law-related issues, not just policy issues (Adams et al., 2018).

Most studies on this issue start from exploring the vulnerability of gig workers and call on governments to improve the relevant laws. However, the solution to labour disputes caused by this new work model is not as simple as imagined because laws for protecting the rights of gig workers may make gig work platforms unviable. In 2019, the AB-5 Bill (Assembly Bill No. 5 2019) passed by the California State Assembly extended the classification status of "employees" to gig workers. However, gig work platforms campaigned to revoke the bill through continuous appeals to the public and threats to withdraw from the service, eventually succeeding (Win, 2020). These platforms

engaged in such behaviour because AB-5 threatened them. In February 2021, the United Kingdom Supreme Court judged that Uber drivers had the right to labour rights, such as minimum wage and paid vacation for drivers on its platform (Russon, 2020). Subsequently, Uber UK adjusted the new rate and provided benefits such as a paid vacation base and pension (Davies, 2021). Some experts predict that Uber's costs will increase by 30%, and this ruling will cause the platform to exit certain loss-making areas (Browne, 2021).

In other countries, where labour laws and regulations are less well-defined, such as China, gig work platforms are developing very quickly. Meituan is a Chinese food delivery platform, and in the third-quarter of 2020, it earned CNY 35.4 billion in revenue, a year-on-year increase of 28.8%. Its net profit was CNY 6.7 billion, a year-on-year increase of 374% (Liu, 2020). Most online platforms in China do not pay social insurance charges for workers to reduce their operating costs. In January 2021, the Chinese food delivery platform Ele.me faced a backlash on social media because the platform agreed to pay only 2,000 yuan (US$309) in compensation to the family of a courier who collapsed on the job (Pan & Hu, 2021). Such gig work platforms may likely be unable to afford to pay for the labour rights of their gig workers. For example, Meituan recognised that if it had to pay the social security payments for its 9.5 million registered riders, it would not survive (PR Newswire, 2021). Likewise, the Chinese ride-sharing company Didi revealed a $1.6 billion net loss for 2020 (Tse et al., 2021), indicating the difficulty it would face if it had to offer its workers mandated employee benefits.

Therefore, before developing policies on gig work, governments need to balance the economic development that gig work platforms bring to their country and protect gig workers on these platforms. These platforms have created many job opportunities because of their flexible operating models, and stricter laws will inevitably affect their operating model, profitability, growth, and other issues. Besides market conditions, governments should understand that employment relationships are affected by institutional practices, which differ across countries, industries, and types of firms (e.g. multi-nationals vs. small/micro enterprises) (Wright et al., 2017). This means that any laws they make for gig workers will have to accommodate the interests of a diverse range of stakeholders. This study looks at how governments make these trade-offs by looking at gig work regulation and gig platform performance in different countries.

Chapter 2 Literature Review

Online platforms have enabled the rise of the gig economy, which has brought shocks and challenges to current labour laws around the world. On the one hand, if the relationship between workers and the online platform is defined as a labour relationship, gig companies will face burdens they did not foresee. On the other hand, if the relationship between workers and online platforms is regarded as a non-labour relationship, some workers' rights will not be protected. The root of the challenge of the gig work economy is that labour laws have not laid out clear criteria and boundaries for this type of work. This chapter provides background information on platform companies, gig jobs, labour laws, and the performance of gig work companies.

2.1 Platform companies

Online platforms have begun to play an essential role as an intermediary between supply and demand in many markets. Essentially, platforms are intermediaries between two groups of individuals or organisations: one group has some needs that they want to be fulfilled, such as food, recreation, and education, while the other group has the ability, assets, or knowledge to fulfil such needs. In addition to matching supply and demand, platforms regulate interaction between the service/asset providers and consumers.

Platforms that coordinate work can be classified into "crowd work" and "work-on-demand". The former is a crowdsourcing activity where a series of tasks are completed through platforms, enabling organisations and individuals to establish contact and provide remote services globally through the Internet. "Work on demand" refers to individuals taking on traditional forms of work, including physical tasks, on platforms that digitally connect workers and consumers locally (De Stefano, 2015). Algorithms efficiently and rapidly match consumer demand with the suppliers engaged in the scattered projects.

Table 1 below describes the main types of platform economy ventures. Platforms that provide asset-sharing services help asset owners share idle resources and charge a commission for providing the service. Such platforms form the "sharing economy" because they consume almost zero labour costs and the asset owners do not need to hire workers to complete transactions. Such platforms are thus unlikely to be affected by changes in labour laws. In contrast, transportation-based service platforms are vulnerable to changes in labour legislation. Such platforms occupy the largest share of the platform economy. The best-known example is Uber, which has 103 million monthly

users, has spread to 900 cities in 93 countries worldwide, and has more than 5 million registered drivers (Gunawardena & Jayasena, 2020). The Chinese counterpart to Uber is Didi, China's largest ride-hailing platform. in 2018, more than 10 million ride-hailing drivers were working on Didi, driving more than 10 billion passengers 48.8 billion kilometres (Guo et al., 2020).

Table 1: Types of Platform Economy Ventures

Sector	Description	Example	Revenue (Billions USD)	Percentage of platform economy market
Asset-Sharing Services	Facilitate short-term P2P rentals of one owner's (or "freelancer") property to another individual	Airbnb, HomeAway	$61.8	30.3%
Transportation -Based Services	Require a freelance driver or rider to complete the requested transport service	Uber, Doordash, Uber Eats, Meituan	$117.8	57.8%
Professional Services	Connect freelancers directly with businesses to complete projects	Upwork, Catalant	$7.7	3.8%
Handmade Goods, Household & Miscellaneous Services (HGHM)	For freelancers to sell homemade crafts or offer on-demand services for household-related tasks	Airtasker, Fiverr, Etsy, Felt	$16.7	8.2%

(Source: Mastercard & Kaiser, 2019)

On platforms which provide access to professional services and HGHM, participants offer their effort and time to consumers for a fee by choosing tasks that match their professional knowledge, skills, relevant experience, or hobbies, based on the information listed on the platform. To participate on such platforms, people need certain requirements and/or be from particular backgrounds, and the tasks are clearly marked. Workers on these two types of platforms are more like contract workers, and often need to bring or use their own service tools or vehicles. Thus, the risks in the service process are higher than those of other platform workers (including travel risks such as traffic accidents and weather conditions). Such platforms are greatly affected by labour laws, and this research will focus on such platforms.

2.2 Gig work model

The term “gig” originates from the experiences of itinerant music artists who constantly switch performance locations, job opportunities, and remuneration sources. Thus, “gig work” indicates a series of one-time jobs without a predictable work schedule and income for some time (Abraham et al., 2017). However, with the development of information technology (IT), especially the Internet and mobile devices, such work experiences have diffused beyond the music industry. The gig economy is today defined as a market for temporary workers that uses online platforms as intermediaries to match workers to jobs, and gig work generally refers to all unstructured work arrangements that are different from traditional work; that is, it can represent a collection of flexible jobs mediated by various online platforms (Abraham et al., 2017). Gig work does not require a fixed workplace and is not restricted by “standard” working hours (such as “9 to 5”).

The most prominent feature of the gig economy is its ability to use digital platforms to achieve a high level of matching between supply and demand (Donovan et al., 2016) in various markets, such as personal transportation, food delivery, and after-school tuition classes. Instant matching reduces the cost of information acquisition and accelerates the development of this new work model (Kroft & Pope, 2014). Algorithmic control has been determined as the core function of the gig platform (Wood, 2019). In addition to enabling a fast-matching mechanism, algorithmic control also enables workers to experience significant autonomy. This is because workers have flexibility over different aspects of their work, such as which tasks they choose to perform, how they accomplish those tasks, which clients they work with, as well as what rates they charge those clients (Wood et al., 2019). Thus, algorithms provide some level of autonomy to workers.

In 2017, approximately 70 million people worldwide registered to work on online labour platforms (Heeks, 2017). According to Edison Research (2018), nearly a quarter of American adults make money through the gig economy by, for example, providing travel services through Uber or Lyft, selling products online, or engaging in some freelance work. According to Mastercard and Kaiser Associates (2019), in 2018, the digital gig economy generated $204 billion in gross revenue, and this was expected to grow at a 17.4% compound annual growth rate till the end of 2023. As more and more people use gig platforms, the number of registered gig workers increases.

According to Zhao (2015), there are three reasons why the gig economy has grown so fast. First, after the international financial crisis (2008 to 2010), global economic growth

was weak and unemployment remained high. The part-time work model enabled by the gig economy helped reduce unemployment and has become a form of employment that many countries have vigorously promoted. Second, the digital revolution is an essential factor in the rapid rise of the gig economy. Although the form of on-demand work has existed for a long time, with the popularity of smartphones and the rapid growth of online talent platforms in the past two years, the threshold for obtaining employment has been dramatically reduced. Finally, the definition of a “good job” has changed. More and more people believe that balancing work and life is critical and have started preferring to take on the different forms of flexible work available on gig platforms, instead of having a traditional career, because they value flexibility.

In addition, under the Covid-19 pandemic, the gig economy has not suffered revenue losses like other industries. For example, since the onset of Covid-19, the average number of daily tasks or jobs posted on many platforms has increased (Umar et al., 2021). One-third of gig workers in the United Kingdom (UK) reported working more than usual during the pandemic (Blundell et al., 2020). The pandemic’s impact has caused consumer activities in in-demand areas such as medical care, education, and food delivery to migrate online, creating many employment opportunities. Therefore, the gig economy has played an active role in ensuring employment at this time.

However, the increase in job opportunities and the optimistic economic outlook does not mean that the pandemic has not affected gig jobs. Many individuals who became unemployed during the pandemic became gig workers, intensifying competition in the gig job market and thereby lowering wages. For example, drivers on the Uber and Lyft platforms during the pandemic reported a 65% decline in income (Fairwork, 2020). In addition, the epidemic also exposed the reality that gig workers face many risks during their work, such as health, travel accidents, medical security (Fairwork, 2020; LaFaro, 2020; Lobel, 2020). Unemployment and financial needs have forced some people to take gig jobs during the outbreak, increasing the risk of exposure to the virus and infection (Lobel, 2020). Despite this, many people still choose gig jobs for the flexible working mode and low entry barriers (Qiu et al., 2020).

2.2.1 Algorithmic control

An algorithm is a finite sequence of clearly defined instructions that a computer can execute to transform input data into output results. It is a well-defined calculation process that takes one or a set of values as input and produces one or a set of values as output to solve a specific type of problem or perform computation (Ahmed, 2021).

Nowadays, the development of information technology makes the amount of information that needs to be processed continuously increase. The information flow of the Internet is growing explosively, and the amount of data has reached an unprecedented level, requiring better algorithms to deal with these challenges. Internet platform-based firms, such as China's "ATM" (Alibaba, Tencent, and Meituan) and US "FLAG" (Facebook, LinkedIn, Amazon, and Google) (Chen, 2020), rely heavily on algorithms for their businesses. They monitor and mine the information left by individuals when using their platforms so as to offer advertisers the ability to more accurately target their advertisements (Levy, 2009). Such "personalised customisation" increases the click-through rate on advertisements (Chen, 2020).

Gig platforms use a similar model. For example, Uber quantifies the work habits of drivers by recording all the details of their drivers, from the vibration of their mobile phones to the passengers' ratings of each trip. Meituan continuously adjusts and shortens the allocable delivery time of riders by recording and comparing the delivery time under the same route to improve and push the riders' efficiency. Although working on a gig platform ostensibly gives drivers or riders freedom and autonomy, the algorithms in use allow a higher level of monitoring at the same time, recording a many of the driver's personal details, including rating, order acceptance rate, rejection rate, online duration, and performance comparison with other drivers. (Rosenblat, 2018; Chen, 2020).

Thus, digital platforms use algorithms to provide flexible work arrangements characteristic of a high-performance approach, while depriving workers of their rights through strict algorithm control and surveillance (Waldkirch et al., 2021). Some overly harsh supervision aspects and limited protection have led to the vulnerability and instability of the nature of gig workers' jobs (Stewart & Stanford, 2017). Algorithmic control forces workers to complete high-intensity work in a limited time, leading to problems such as overwork, insufficient sleep, and low wages (Wood et al., 2019). Algorithmic management usually guides workers by restricting and recommending behaviours, evaluating workers by recording and rating behaviours, and punishing or motivating workers by threatening replacement or promising rewards (Kellogg et al., 2020; Waldkirch et al., 2021).

Platforms have an unprecedented level of control over gig workers. For example, they use a "gamified" approach to improve their performance (Edgell & Granter, 2019). Workers with high customer ratings can continue working, while those with low scores may be removed from the platform or asked to leave. In other words, platforms and

their algorithmic management mechanism give workers a certain degree of flexibility and autonomy, but also introduce a degree of instability and vulnerability (Stewart & Stanford, 2017). This is different from traditional workplaces where workers' working hours, work content, working methods, and working conditions are set in advance following legal requirements without disputes over flexibility and instability. These differences in the working conditions for gig jobs versus traditional jobs have led to calls for gig work platforms to abide by existing labour laws (Atmore, 2017; Myhill et al. 2020).

2.3 Labour legislation

Labour legislation refers to "the body of rules either deviating from or supplementary to, the general rules of law, which regulate the rights and duties of persons performing or accepting the work of a subordinate" (Mankiewicz, 1950, p. 83). It can be considered a general term for the legal norms that adjust labour relations and other social relations closely related to labour relations. Although there are many different understandings of labour law, the main function of labour law is to regulate the individual employment relationship between a worker and an employer, as well as the relationship between unions and employers or employers' associations (Davies, 2012). The common objective of labour law is to secure 'justice' for employees or workers in their formal working lives (Mitchell, 2011). Therefore, labour laws can be understood as entrusting and protecting workers' rights by regulating the relationship between individual and collective employment. The systems for labour law, including labour dispute handling institutions, procedures, and rules, are different from country to country. These differences in labour justice systems are closely related to factors such as the political and political structure of each country, the stage of economic development, and the power of the working class (Trebilcock, 2011).

The primary purpose of labour law is to correct the power imbalance between workers and employers. Some scholars believe that the bargaining power between employees and employers is not equal (employees always suffer from inequality of bargaining power and are often seen as "the weaker party"), so regulatory provisions are needed to ensure that both parties can freely agree on mutually beneficial terms. The intervention of the law ensures the reciprocity of the two parties in the relationship and provides relative fairness (Davidov, 2007). Kahn-Freund (2020) likened labour law to a countervailing force to counteract the inequality of bargaining power. Moreover, he believes that this inequality is inherent in employment relationships. Mitchell (2011) views labour laws as correcting the disadvantaged position of workers in their capacity to obtain a fair share of their labour, with the inferior status of workers as an

assumption and premise. In this way, some scholars have placed workers on the "fragile" side as having limited rights and think it is the role of labour laws to enforce equality.

However, there is some controversy about the claim that the labour law is to achieve equality in labour relations because there is no empirical basis for "inequality of power". Del Punta (2015) believes that "inequality of power" stems from the ambiguity between the empirical and normative dimensions. From the general reality observation of the labour market, people have concluded that laws and collective protection are needed to compensate for the inequality of bargaining power, which is partly empirical and partly normative. But this may permanently place workers in a disadvantaged position that does not needs to be verified. In other words, when power inequality is regarded as the permanent focus of employment relations, the performance of labour law will be defined as a paternalistic concept.

Labour laws do not mean pure protectionism (Hepple, 2005). The default inequality of power between the two parties in an employment relationship also gives rise to the question: "equality of what?". Therefore, another explanation for the existence of labour laws is recognised by the public as being its ability to prevent working conditions from being pushed down below the level deemed acceptable by society; that is, the law limits the extent to which the stronger party can deprive the weaker (Blackburn, 2006). This provides protection for workers and is not a tool that acknowledges that workers are treated "unequally" and given power.

Labour laws regulate the labour market, and can intervene to maximise economic development and social welfare (Blackburn, 2006; Ewing, 2000). As an idea related to the protection of working people, labour laws are developed to eliminate wage competition. However, the inapplicability of traditional labour laws to the gig work labour model has reduced the social and economic relevance of labour laws. Thus, current labour laws need to evolve so that they are consistent with modern, industrialised, and capitalist-ordered states. Subordinate working relationships, fixed wages, and other joint-related obligations should no longer be the focus of labour laws (Mitchell, 2011). Labour laws have become part of the political economy. Policymakers need to consider issues such as trade and investment, employment growth, social and labour standards and keep a balance among these considerations when planning labour laws (Hepple, 2005). In other words, in addition to seeking fairness and protecting employees, labour laws also need to achieve the policy goals of improving business efficiency, flexibility and productivity.

In summary, previously, labour law aimed at promoting a balance between labour and employers, thereby alleviating labour conflicts and reducing labour disputes. Now, much of labour law is becoming more oriented towards policy goals such as increasing the employment rate, maintaining stable, reasonable and sustainable national economic growth, and stabilising prices. The pattern of labour law is changing. It needs to evaluate labour relations and strive for harmony in labour relations when protecting workers' rights. These changes are significant for the flexibility of the labour market and the development of national economies.

2.3.1 Organisational justice- Distributive justice vs procedural justice

The changes related above have meant that considerations in labour law have returned to the starting point: how to view "justice" in labour relations. Justice is considered a morally correct behaviour or decision based on ethics, religion, fairness, equity, or the law (Pekurinen et al., 2017). Organisational justice refers to employees' perception of fairness within the organisation (Asadullah et al., 2017). Organisational justice is the crucial cause for many factors that affect employees' attitudes and behaviours, such as job satisfaction, organisational commitment, innovative work behaviour, and job performance (Pan et al., 2018). Employees' perception of justice determines the quality of exchange relationships with the organisation (Swalhi et al., 2017). In other words, when employees feel "fair" treatment, they will have a sense of obligation to create good behaviour in return (Ghosh et al., 2017).

Two theoretical ideas are crucial when exploring organisational justice, namely, distributive justice and procedural justice. Distributive justice is related to the distribution of resources; that is, the sense of fairness depends on how resources are shared and fully replenished. However, it is a result-oriented view. People often judge and predict fairness based on results (such as salary, promotion, status, etc.) (Campbell et al., 2013; McFarlin & Sweeney, 1992). For example, we may think that an algorithm controlling the takeaway driver is harsh, and that the income received by the driver is not proportional to the effort, concluding that the driver is the one who is being treated "unfairly".

Procedural justice refers to "the individual's perception of fairness of procedural elements within a social system (that) regulates the allocation of resources" (Swalhi et al., 2017, p. 545); it is concerned with appropriate treatment methods, mechanisms and processes, instead of outcomes (Leventhal, 1980; Swalhi et al., 2017). Procedural justice exists "when procedures embody certain types of normatively accepted

principles" (Pan et al., 2018, p. 3). Procedural justice is a kind of process justice, formal justice, abstract justice and universal justice. It focuses on what procedures, forms and rules are used to distribute social benefits (Tang, 2001). Its fairness should satisfy these conditions: restrain the degree of prejudice, create a consistent distribution, rely on accurate information, represent the concerns of all recipients, and be based on universal moral and ethical standards (Leventhal, 1980). In the gig work context, most freelance workers for hire, such as Uber drivers, lose some benefits such as paid annual leave, sick leave, and a minimum wage. They choose to work autonomously while giving up rights that cannot be given under the mechanism of the gig economy model but traditional work. In other words, gig workers may be considered as treated "fairly" to some degree because they enjoy something that traditional work does not give them. They also lose something that only traditional work can give to them.

According to Tang (2001), justice concerns how social benefits or values are distributed among members of a society or a group. Because different groups in each society have different interests, they have other judgments and choices on the standard of distributive justice and the related institutional structure. Therefore, the value proposition for "justice" has always been divergent. For example, an individual's criterion for justice may be to compare his gains in the gig economy (autonomy, rewards, money, etc.) with his contributions (risks, efforts invested, work pressure, etc.). The platform may have other considerations, including its profitability (customer satisfaction, platform commission value setting, part-time worker efficiency, etc.), operating model (algorithm setting, communication mode with workers and customers, etc.), and the its value (reputation, its protection to workers, the services for customers, etc.). Labour law is more extensive. As mentioned earlier, it needs to consider employers and employees' rights and involve issues such as the job market and economic development. The justice it represents must be universally recognised.

There are many different views on "justice" or "equity" in gig employment, and labour law has been unable to fully safeguard this issue in a short period. Some scholars believe that the true function of justice is manifested in the establishment of general rules and the arbitration of disputes over these rules, rather than determining the results of people's respective activities (Friedman, 1987; Tang, 2010). Tang (2010) argues that the pursuit of fairness in results will cause the state to intervene in individual freedoms too much, thus demonstrating a passion for procedural justice. This may be why some countries want to avoid the extreme emphasis on procedural justice under the premise of the market system and choose to allow the "institutional vacancy" (a lack of domestic oversight of invisible, mobile, and cross-border work processes, as

well as a lack of support in collective bargaining, collective wage agreements, and labour unions or the lack of a system that supports both the structural and joint power of workers) in the gig job market (Graham & Anwar, 2019; Malik et al., 2021). Each country needs to consider many different issues before developing laws relevant for gig employment. It is both a legal issue and a standard of social judgment. It is also related to the development of the job market and represents a part of the national economy.

2.4 Prior research on the relationship between labour laws and gig work

Most prior legal studies related to the gig economy use platforms as the starting point, analysing the unequal and imbalanced relationship between platforms and workers to recommend existing laws.

When De Stefano (2016) talked about the algorithmic management systems and rating and reviewing mechanisms in platforms, he believed that the rating mechanism outsourced human resource functions to customers, thus reducing transaction costs and platform management costs. However, platforms and workers rely on feedback from non-professional reviewers (customers), and workers cannot conduct reverse evaluations. This affects the overall quality and reliability of the platform management mechanism to a certain extent, and workers bear the consequences of these situations.

Gig work can be seen as poorly paid and exploitative (Edgell & Granter, 2019). Workers bear most or all of the risk when participating in gig platforms because they provide the equipment and tools needed for the work, manage interruptions in service by platforms, deal with irregular income flows and so on, all of which enhance the vulnerability and instability faced by gig workers (Stewart & Stanford, 2017). Minter (2017) deems that workers have limited bargaining power over the contract terms and wages provided by platforms. Each platform unilaterally determines the wage rates and payment terms, ultimately controlling its workers. When platforms hire workers who are not protected by labour standards, competitive pressures will be unleashed in industries that will significantly undermine labour standards across the economy.

Some scholars believe that gig workers are not treated equally because outdated labour laws have not adapted to the new business model. However, the goals of labour law that apply to traditional workers can be applicable to gig workers, such as dealing with market failure, welfare distribution issues, and imbalances in workers' bargaining power (Todolí-Signes, 2017a). Some researchers think that governments need to define new laws for different types of workers or formulate a set of special labour laws for gig workers (Stewart & Stanford, 2017; Todolí-Signes, 2017b). However, Adams et al. (2018) believe that this should be avoided because the new classes of workers will lead to employment and tax law-related issues, not just policy issues. For example, in the UK, self-employed individuals (a category most gig workers fall within) pay £3 billion in National Insurance Contributions (NIC) each year. If they are treated the same as employees, they will have to pay £8 billion per year (Adam et al., 2017). However, self-employed individuals are beyond the scope of the employment law, and regulations, such as the minimum wages, acceptable working hours, and dismissal

legislation, do not apply to this group (Prassl, 2017). It is also impossible for platforms to help gig workers pay a portion of the increased NIC under any unchanged conditions. In other words, if the policy is changed, the subsequent taxation of gig employment and other related legal provisions will need to be changed before it can be applied to all the new regulations.

In fact, changing the law is not easy. Behind labour laws lie considerations about developing national job markets and their impact on national economies. The social and political environment is also closely related to it. As mentioned earlier, some scholars regard balancing the “unequal” relationship as the purpose of labour laws and regard “workers” as the inherently “weak” party by default. This kind of thinking may also be applied to gig workers because they lack certain protection conditions. The risks that some gig workers bear may not be proportional to their rewards. Many academics have noted that gig workers are not treated the same as workers in more traditional roles/careers. However, this conclusion is difficult to verify because there is no standard way of defining “equality of what” or to compare the flexible and autonomous nature of gig work with the vulnerability and instability experienced by gig workers.

2.4.1 Reasons for the inapplicability of traditional labour law under the “complex” gig (neoliberal) industrial relations

The new model of gig work has impacted systems of industrial relations and social institutions in the economic field. The traditional labour laws that balance employers’ and employees’ interests are no longer applicable. A neoliberal model of work with a strong market orientation has become more common over the last few decades and the gig economy is the latest manifestation of this model (Mitchell, 2011; Zwick, 2018). Neoliberalism can be described as a collection of ideals related to laissez-faire economic liberalism, which includes "extensive economic liberalisation policies such as privatisation, fiscal austerity, deregulation, free trade, and reductions in government spending to increase the role of the private sector in the economy and society" (Sanders, 2017, p. 1). The operating mode of the gig economy is to deal with the externalities of the incomplete market to the greatest extent possible with digital technology, trying to re-commercialise the means of production, assets, and capabilities (labourers) to repair the "stagflation" problem faced in the development of capitalism (Qiu et al., 2020). The welfare state system weakens the "freedom of choice" of workers, thereby hurting "labour morality", and the emphasis of the neoliberal gig work model is to expand and deepen the "freedom of choice" of participants in the market (Friedman & Friedman, 1990; Qiu et al., 2020). Suppose the

gig economy was born out of the neoliberal wave's ongoing assault on government regulation (Zhu, 2019).In that case, the gig workers as the "precariat" (Standing, 2014) cannot protect their rights through labour laws formulated by the state. For neoliberalism advocates the freedom of capital, that is, the unrestricted movement of capital in order to exploit workers to a greater extent and to increase value. To achieve this freedom, capital will restrict and combat the organisation and power of workers in all political, economic and cultural aspects (Zhu, 2019). Although workers get their "freedom of choice", they correspondingly lose social protection (Standing, 2014).

On the other hand, labour laws are complicated to apply to the gig employment relationship. The identification of employment relations under the gig model is a major problem. The first reason is the ambiguous relationship between workers and "employers." Unlike traditional labour relations, gig jobs include a triangular relationship (Figure 1 below), including workers who produce or perform services, end-users of services (consumers), and digital intermediaries (platforms) that facilitate the entire process. The platform signs agreements with workers and consumers, respectively. However, there is no direct agreement between the worker and the consumer, so their relationship is vague (Stewart & Stanford, 2017). In other words, the customer is in effect hiring a worker, and the platform charges a certain percentage of commission, but there is no legally valid contract between the customer and the worker. Although there is a contractual relationship between the worker and the platform, platforms always tend to simplify their duties to pure technical support, believing they create a virtual reality that can connect users and online hires to reach free transactions. The market, therefore, advocates that the profits and risks that occur during the transaction should be independently borne by all parties (Garden & Slater, 2017).

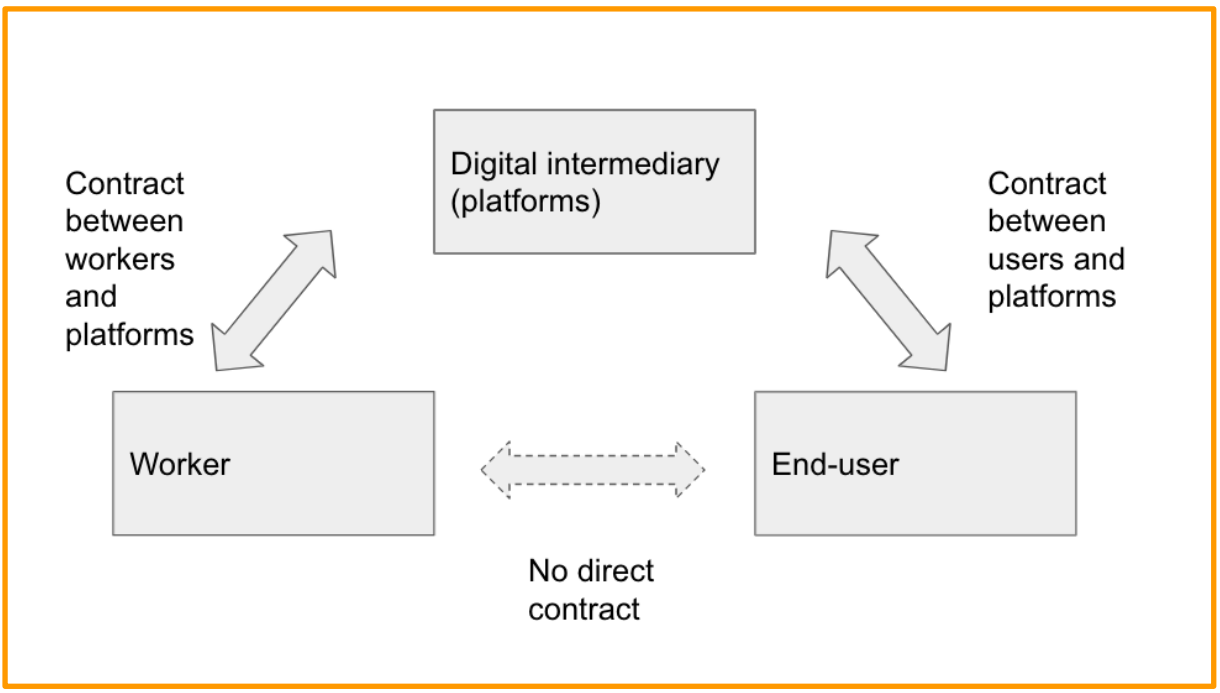

Figure 1: Triangular Relationship of Gig Jobs (Source: Stewart & Stanford, 2017)

Besides, the basis for the identification of workers is vague. This basis mainly refers to the legal invocations related to the identification of labour relations, including labour law, tax law, employment law, etc. Because of the multi-faceted phenomenon of the platform, the traditional binary classification scheme (that is, judging whether the worker is an employee, who is within the scope of employment law; or an independent contractor or self-employed who is beyond the scope of protective employment rights) can no longer be used to judge the complex situation faced by relying on workers in the gig economy (Adams et al., 2018; Minter, 2017). On the one hand, like independent contractors, gig workers have similar rights to freely control working hours and locations and freely choose service content and platform companies that provide services. On the other hand, they are like employees of a platform company. They must abide by the platform's various rules and regulations regarding security and service quality. The final earning share is also related to the scores completed by users through the platform. The relationship to the platform meets the requirements of "employees" to a certain extent because the platform does control the works (Lao, 2017). Therefore, gig workers have the dual attributes of independent contractors and employees, and their legal status is difficult to define clearly.

The laws related to gig workers in various countries are not perfect at this stage (Todolí-Signes, 2017a), and a unified judgment standard has not yet been formed. In fact, these issues were mentioned and discussed at the Fourth Conference of the International Labor Organization (a specialised agency of the United Nations that aims to promote social justice and internationally recognised human rights and labour rights)

in 2015 on the regulation of decent work. Although the gig economy has brought new job opportunities, many important labour protection issues still need to be resolved urgently. ILO believes that labour protection and technological innovation are not incompatible but need to be adjusted and applied (ILO,2015). However, there are no relevant employment standards and policy guidance for the gig market so far. One obstacle to developing labour laws for the gig market is the impact of the regulations on platform performance. Platform performance and other impacts from labour laws on platforms will be explained in the next part.

2.4.2 Platform (company) performance and potential effects labour law

The conceptual definition of company performance is very broad, which raises many questions concerning the most accurate or the best method of reporting the performance at the company level (Nicu, 2012). According to Siminică (2008), some scholars define performance as reflecting the accomplishment of organisational objectives; some consider that performance should depend upon a company's capacity to create value for its clients; some state that performance represents a contribution to optimising the value-cost couple, not only what contributes to diminishing costs or increasing value. Performance is thus a contested and continuously evolving concept. Most of the time, entities' goals are often vague, constantly changing, controversial, and sometimes even contradictory. In this case, performance is a subjective and multifaceted phenomenon, so it is difficult to measure it by a agreed standards (Nicu, 2012).

Generally speaking, the traditional approach to assess a company's performance is to use financial performance to quantify its profitability from a financial perspective (Tangen, 2004). However, financial measures are fragmented, with cost, quality, and output treated separately. The long-term survival of a company depends on measuring customer factors such as quality, cycle time, employee skills, and productivity. Therefore, the measurement of performance needs to be transformed according to the unique requirements of different companies (Bond, 1999; Tangen, 2004). Nowadays, performance is usually set as a combination of financial and non-financial indicators to support the decision-making process of an organisation by collecting, processing, and analysing quantified data of performance information (Lebas & Euske, 2002; Nicu, 2012; Gimbert et al., 2010). Financial performance measurement indicators usually include accounting results and derivative indicators (financial report results, such as productivity, business profits, etc.), traditional productivity indicators (based on the value of investment assets to evaluate the company's financial attractiveness, such as return on investment), and some new financial indicators (e.g. economic growth value,

which is an indicator for evaluating a company's real profitability, its stock market flows and how effectively it is performing) (Naser et al., 2004; Nicu, 2012). The complex information background behind financial statements can assess the potential changes in a company's economic resources and can predict the volatility of its future performance (Nicu, 2012).

Unlike financial performance parameters, non-financial performance indicators are parameters used to evaluate the non-financial performance of an organisation, and they are descriptive (Scanlon, 2009). Unlike financial indicators, non-financial indicators do not directly convey a company's financial goals as indicators based on results or turnover (Nicu, 2012). Non-financial indicators need to be linked to strategic priorities because they are vital variables that can add value to the company in the foreseeable future, such as market share and technological leadership. From the perspective of strategy makers, these variables are what corporate strategists are looking for (Yi-ming, 2001). Non-financial performance indicators include three aspects: customers (customer satisfaction, market share, customer retention rate, etc.), internal business processes (process improvement and reengineering, new product introduction, etc.) and learning and growth (employee satisfaction, employee health, safety, development and training, etc.) (Kotane & Kuzmina-Merlino, 2011). Harvard University professors Robert Kaplan and David Norton put forward the "balanced scorecard" concept in the early 1990s, a set of scorecards with four perspectives: finance, customers, internal business processes, and innovation, learning, and growth. This set of corporate performance evaluation systems considers financial indicators while considering the other three aspects: a comprehensive evaluation system. This broader focus brings a longer-term strategic dimension to the business, focusing not only on short-term financial performance but also on how the organisation delivers results and checking the organisation's overall "strategic health" (Brown, 2000; Chavan, 2009; Hagood & Friedman, 2002). The following is a brief description of the content of the balanced scorecard:

Table 2: Aspects of the Balanced Scorecard

Four aspects	Financial perspective	Customer perspective	Internal business processes	Learning and growth perspective
Details	How to satisfy the owner's interests	How do customers view the company, and to what extent does the company provide products and services that satisfy customers	In which processes can companies perform well in order to achieve their strategic goals	What are the key capabilities that companies must possess or improve in order to improve internal processes and achieve customer and financial goals
Target	● Return on capital; ● improved shareholder value; and ● asset utilisation.	● Product/service attributes; ● Customer relationships; and ● Image and reputation.	● develop products and services; ● deliver products and services; and ● "post-sales" services.	● employee capabilities; ● information system capabilities; ● motivation; and ● empowerment and alignment.
Index	● Operating income ● Return on investment ● Unit production cost ● Management costs	● Customer retention rate ● New customer growth rate ● Customer satisfaction (survey score)	● Average time required to launch each new product ● Qualified product rate ● Leading time for production and sales ● After-sales service leading time	● Training times ● Improve the reward and punishment system ● leadership ● Employee satisfaction

(Chavan, 2009)

A gig platform is different from traditional companies in that its primary function is to build a bridge of transactions and services for customers and gig workers. What labour laws want to change is to protect gig workers who have not received their due rights. Suppose that financial indicators refer to the relative indicators for companies to summarise and evaluate their financial status and operating results. In that case, non-financial indicators can help managers control the organisation's future performance and use "corporate value" (a set of guiding beliefs established by the company, integrated into all company decisions, processes and business strategies, as the foundation of the company, supporting and helping people to operate together and shaping the behaviour of employees) as the final evaluation tool (Wang et al., 2015; Yi-ming, 2001; Nakamura, 2017). In this way, labour laws may increase the protection of workers on the gig platform, which workers and society will favour. The non-financial

indicators of the gig platform will increase, which may improve its performance in the future.

However, the facts may not be as simple as thought. First, as mentioned earlier, most people believe that the purpose of labour laws is to protect parties who are “not treated equally.” The law may cause some companies to deviate from their optimal path under political pressure and become a tool to protect the interests of specific groups (Hu & Tan, 2013). If this is the case, changes in labour laws may increase the responsibilities of gig platforms, which in turn will have an impact on the gig economy and labour markets. The rise of the gig economy has reduced transaction costs in labour markets, making labour allocation more effective (Ding, 2018). Changes in labour laws may break this unique business model and pull it back into the cage of the traditional work model (Lao, 2017).

This is because the increase in the value of non-financial performance is not without cost. It is usually related to substantial material investments, so it will directly affect a company’s financial performance (Milost, 2013). Investment in customers or employees will lead to a decline in financial performance. Some scholars have found that the beneficial value of non-financial performance has no direct or only a weak relationship with the company’s financial performance (Aaker & Jacobson, 1994; Bowbrick, 2014). In other words, while the platform invests in the protection and safety of workers, it will also cause a decline in performance due to the increase in its investment costs. The results of this decline in performance may be unbearable by the platform.

However, some platforms are doing their best to improve workers’ working conditions. A report on South African gig platforms (Fairwork, 2021) found that half of the twelve surveyed platforms have guaranteed that the wages of gig workers are equal to or higher than the local minimum wage. Two-thirds of the platforms are taking actions to protect workers from injury at work, including providing protective equipment during the epidemic, providing compensation for loss of income, or providing free education and purchasing affordable insurance. Most platforms have also begun to recognise collective actions initiated by workers and accept the collective voice of workers (Fairwork, 2021).

However, even so, most workers do not enjoy the dividends of platform technology. In other words, even if a platform begins to pay attention to the needs of workers, its profits are primarily captured by shareholders. This means that the rights and interests that the platform can give to workers are limited. Therefore, a movement called

“platform cooperativism” has arisen. The core content of platform cooperativism is to create online platforms based on cooperative structures (Scholz, 2014). It lies in the idea that democratically owned and governed organisations can replace corporate platforms that use the labour of the majority for the benefit of the minority (Johnston, 2017). Platform cooperatives derived from platform cooperativism are very different from a business company model that shareholders control, distributes surplus according to the number of shares, and employees only receive salaries and do not participate in decision-making. Their core value is not the accumulation of personal wealth but to achieve common well-being through mutually beneficial cooperation (Sandoval, 2020). For example, Loconomics, founded in San Francisco, USA, is a software application that connects demand and supply for local services. All service providers on it are called “owners.” The surplus generated by the cooperative is distributed according to the contribution of the “owner”, which genuinely eliminates brokers and realises benefit-sharing (Sandoval, 2020). However, developing a system that can absorb a massive amount of unstable labour and enable as many workers as possible to obtain such benefits is a problem that the cooperative needs to face. The problems non-profit-oriented platforms face when they expand often lead them to failure because must be rooted in grassroots communities to be viable so that the group’s reproductive power is strong (Hakim, 2017). In many countries that lack practical history and connected networks, such platforms have not yet developed into a mainstream business model.

Therefore, in a sense, it is not that gig platforms are unwilling to take on more responsibilities. Still, this particular business model cannot afford the duties of the traditional employment relationship. Labour laws involve political economy considerations and plays a vital role in governing the form of the job market. Different countries have different national conditions and regulations, which will impact local gig platforms. Therefore, a deeper understanding of different countries is needed to explain how labour laws will affect the performance of gig platforms. This study will explore the impact of gig employment-related laws in three countries on different platforms.

Chapter 3 Methodology

Before offering any policy suggestions about labour legislation relating to gig employment, it is necessary to understand the experiences of various nations alongside the practices they put in place. Because the impact of employment conditions are related to local market conditions and national regulations and institutions (Wright et al., 2017). This study will use a narrative review and comparative law, a method for studying legislation in different countries or regions (Zweigert et al., 1998), to explore how labour laws in different countries affect the gig platforms. The narrative review method used here is more general than other articles because comparative law is the primary methodology of this research. The main steps for completing a narrative review are: define topic and audience; search the literature; summarise the literature critically; and find a logical structure (Gregory & Denniss, 2018). This chapter describes in detail the role and steps of comparative law and the narrative review, and the plan for how this research will be realised.

3.1 Comparative law

Comparative law is a comparative study of the legal systems of different countries (or specific regions) (Shen, 2004; Zweigert et al., 1998). Comparative law presupposes the existence of numerous legal rules and specific legal systems, and it studies the degree to which these rules and procedures are identical or different (Sacco, 1991). Frankenberg compares comparative law to travel (1985). Legal scholars use "travel" to learn about their own country and culture and other countries and cultures, and by paying close attention to details (diversity and heterogeneity), they understand and think about different cultures and laws (Frankenberg, 1985).

There are many opinions on the purpose of comparative law, and the main two functions are for academic studies and legislation and law reform (Kamba, 1974). Firstly, by comparing the laws of different countries, legal knowledge can be obtained. David & Brierley (1978) believe that people can draw certain conclusions through the experience of other countries so that jurists can have a clear understanding of the role and significance of law. Comparative law provides insights on their own legal order compared with other legal systems (Demleitner, 1999). According to Frankenberg (1985, p. 412), comparative law offers an opportunity "for learning, for organising and allowing people intimacy with the world", as well as "inviting the comparatist to study other people's normative practices and ideas, their visions of a well-ordered community and the instruments and institutions they have designed to establish and sustain each other". The second is to improve the country's laws, including amendments, additions and deletions to existing laws, as well as drawing on the experience of other countries

to determine new legislative directions or make legislative choices. According to Kamba (1974), one of the most important principal functions of comparative law is to assist the legislative process and carry out legal reform through legislation. Its practical value can dispel the distrust of legal practitioners that are considered theoretical and purely "academic" exercises. The ultimate goal of comparative law is to reform and improve the law. Jurists thoroughly review the existing legal system, culture and traditions in order to promote justice and to better the lot of humankind (Frankenberg, 1985).

Comparative law theory refers to the systematic, rational knowledge in the field of comparative law, which is the sum of the concepts and principles in this system. This kind of sound knowledge is formed in the repeated practise of comparative law to guide practice and test the correctness of this theory in practice. Therefore, the role of comparative law in theory and practice is separable but inseparable (Shen, 2008).

The comparative law method can be divided into these steps:

- **Step 1:** find out the problems encountered by two or more countries (the common starting point). The starting point here is to determine the "common social problem or social need" to be solved by the comparative country, which is meaningless for countries that do not have such environmental problems. Therefore, for this study, three typical countries (all facing the problem of how to balance the relationship between gig workers and platforms in labour laws) will be selected to compare their adoption of different laws to deal with gig labour relationships under different national conditions;
- **Step 2**: study the legal solutions adopted by those countries to such social problems or social needs, that is, relevant legal norms, procedures and systems;
- **Step 3:** study the reasons for the similarities and differences of the legal solutions adopted by different countries.
- **Step 4:** further study the similarities and differences and the possible trends of their causes;
- **Step 5:** evaluate these solutions. However, this kind of evaluation cannot rely on abstract and absolute standards such as good or bad, right and wrong, but should be based on objective standards of evaluation on the effectiveness of specific solutions that meet the needs of society; and
- **Step 6**: predict future development trends. Future developments can be reasonably predicted based on established social needs, and the actual impact

of the established solutions and the development trends in specific fields (Cappelletti, 1979; Shen, 2004).

For steps 4 and 5, this study will evaluate the performance of labour laws under different definitions of platforms through the financial situation of the same type of gig platforms in various countries. As mentioned earlier, although non-financial indicators (including product quality, customer satisfaction, employee satisfaction, etc.) can better reveal a company's future economic status and growth opportunities, financial indicators are relative indicators for summarising and evaluating a company's financial status and operating results. They reflect the current operating conditions of an enterprise. In other words, in a short period, financial indicators may be more suitable to reflect the operating conditions of an enterprise. Therefore, this research will explore the impact of labour law on its performance through the financial reports of related companies and related industry reports and use the comparative law approach to compare the actual impact of the relevant labour laws of three different countries on the gig platform to provide new thinking for the law under the new model of gig work.

3.2 Narrative review

To provide more structure to the comparative law process, a narrative review will be used. The steps in carrying this out and the process are described in detail below.

1) Define topic and audience

The topic has been defined in Chapter 2. The audience includes researchers in related fields, gig workers, stakeholders involved in platforms, policy makers, and so on. In terms of the selected platform, this study will focus on several popular local gig platforms for transportation-based services because these types of platforms account form the largest proportion of the gig economy job market. Below is a list of selected countries and platforms (Table 3).

Table 3: Countries and platforms studied

Country	Platform	Related law
United Kingdom	Uber Deliveroo Just Eat	In 2021, UK Supreme Court rules Uber drivers are entitled to workers' rights from the case of Uber BV v Aslam (see Appendix A: Case E).
United States-California State	Uber Lyft Doordash	In 2019, the AB-5 bill passed by the California State Assembly extended the classification status of "employees" to gig workers.
China	Didi Meituan	There is currently no special law to deal with cases related to gig platforms. Currently, different issues are

		handled differently according to the nature of the case.

2) Search the literature

An established method for searching the literature is to use the PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) process with the comparative law approach. PRISMA is used in most systematic literature reviews (Moher et al., 2009). The steps of PRISMA for literature search are: identify the results of the search exercise, screen the results (remove duplicate records or exclude articles that do not meet the inclusion criteria), and generate the required report (Moher et al., 2009). Thus, this study will use the PRISMA process for Steps 1, 2, 3 and 4 of the comparative law approach:

Step 1: find out the problems encountered by the laws of two or more countries;
Step 2: study the legal solutions adopted by those countries to such social problems or social needs, that is, relevant legal norms, procedures and systems;
Step 3: study the reasons for the similarities and differences of the legal solutions adopted by different countries; and
Step 4: further study the similarities and differences and the possible trends of their causes;

The articles to be reviewed will be found using keyword searches of various databases to achieve wide coverage. Since the topic being studied is related to the laws of different countries and corporate performance, this study will also consult government documents, corporate documents of different countries and other grey literature.

The set of keywords can be used are:
Step 1:
gig OR “gig economy” OR “gig work” OR “gig worker*” AND “challenge*” OR “difficulty*” OR “problem*” AND “labour law*” OR “labor law*”

Step 2 and 3:
gig OR “gig economy” OR “gig work” OR “gig worker*” AND “legal solution*” OR “legal system*” AND “labour law*” OR “labor law*”

Step 4:
gig OR “gig economy” OR “gig work” OR “gig worker*” AND “future trend*” OR development* AND “labour law*” OR “labor law*”

and then filter for China, UK, and US articles. These results will be used for Step 1 (problem), Step 2 (solutions- but references to law texts or government reports are needed), Step 3 (similarities and differences- but law texts or government reports may need to be referred to), and Step 4 (trends).

The databases that were searched include: Sage Publications, HeinOnline, Springer, JSTOR, and CNKI (China National Knowledge Infrastructure). The search period is for documents published between 2010 and 2021. After obtaining the search results, a backward search and a forward search were used to identify other sources based on the publications found in the results. The titles and abstracts of the articles will be examined to exclude records that do not meet the inclusion criteria.

3) Summarise the literature and find a logical structure

"Reviewing the literature is not stamp collecting" (Pautasso, 2013, p. 3): a literature review is not only about summarising the relevant literature but also about analysing the literature, conducting critical discussions, and identifying methodological issues in the reviewed research or knowledge gaps (Gregory & Denniss, 2018). The analysis process and resulting output will be analysed using comparative law. In addition to comparing and analysing the relevant legal provisions of various countries, the environmental issues, such as economic globalisation and political diversification, will be evaluated and summarised. This will help find appropriate answers for the challenges facing the gig economy.

Table 4: Details of the Literature Search Process

Keywords	Step 1: gig OR "gig economy" OR "gig work" OR "gig worker*" AND "challenge*" OR "difficulty*" OR "problem*" AND "labour law*" OR "labor law*" Step 2 and 3: gig OR "gig economy" OR "gig work" OR "gig worker*" AND "legal solution*" OR "legal system*" AND "labour law*" OR "labor law*" Step 4: gig OR "gig economy" OR "gig work" OR "gig worker*" AND "future trend*" OR development* AND "labour law*" OR "labor law*" (to identify related "problems", "solutions", and "trends")
Database	Ebsco, ACM Digital Library, AIS e-library, Proquest, JSTOR, IEEE, Science Direct, Sage, HeinOnline, Springer and CNKI

Time period	2010-2021
Analysis	Comparative law approach: 1) Find out problems 2) Study the legal solutions, and then study the similarities and differences of the legal solutions 3) Study the possible trends of their causes 4) Evaluate these solutions through the financial reports and industry report of related companies (this step of analysis will not be included in the PRISMA process) 5) Predict future development trend Analysis for each step (except for the third step, which requires referring to each company's financial statements or website content): articles were first coded by keywords (problem, solution, and trend). Although different keywords were used to find the articles, many articles covered all the topics. Thus, content from the articles that were found would be recorded under different aspects of the topic. In the analysis process, some articles that were not excluded in the first round of review but were irrelevant to the topic were excluded. After reading all of them, relevant excerpts from the different articles would be used to look for the similarities and differences and establish logical relationships. The various sections or viewpoints were then refined logically and organised into a coherent, internally consistent narrative. The narrative was combined with the comparative method: the description of related content from the aspects of problems, solutions, and trends. Finally, these analytical narratives were described, and these findings were presented in the next chapter. Figure 2 below provides an overview of the literature search process.

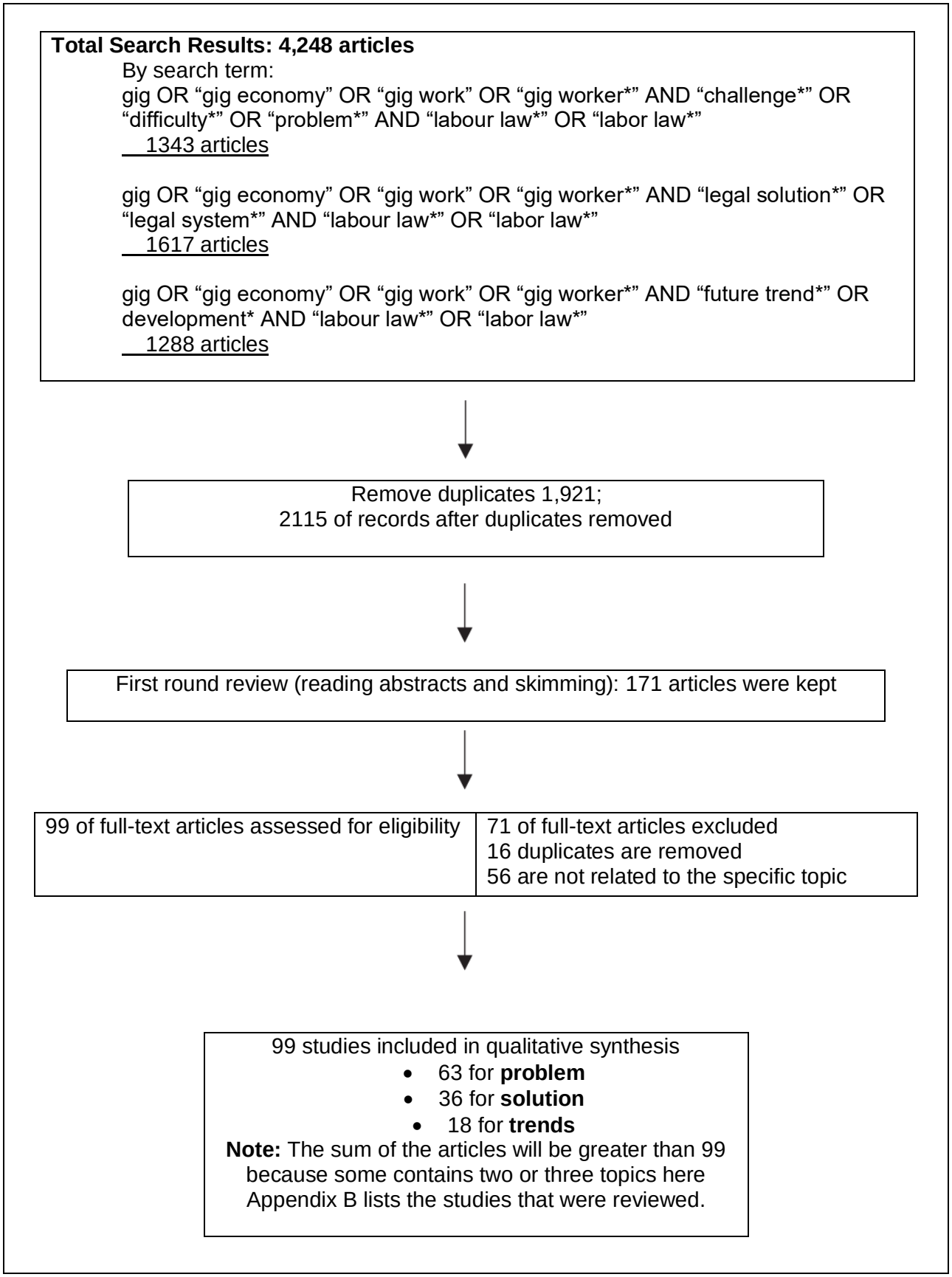

Figure 2: Overview of the Literature Search Process

Chapter 4 Findings

This chapter describes the issues, legal solutions and potential trends in the United States, Britain and China around the gig economy based on the comparative law process. The chapter continues by using the financial disclosures from the relevant platforms to observe the impact of labour laws on these companies and predicting future developments in these countries.

4.1 Common starting point - the current problems

The emergence of digital technologies contributes to sustainable economic growth (Andreeva et al., 2019). The concept of technological change supports the discussion around the advantages of platform work; that is, in creating the so-called "network economy", technological change is liberating and empowering. Businesses can obtain many benefits from cooperation with freelancers, such as "a fluid workforce adaptive to change, wider access to hyper-specialised talent, cost savings and an increase in productivity" (De Ruyter et al., 2019, p. 42).

At the same time, the subordinate status of labour relations in gig employment has been significantly weakened. "Online contract workers" and Internet platforms do not need to be integrated into a labour relationship through labour laws, and can constitute commercial cooperation or contractual cooperation. This working model can improve employees' self-management, self-control, and self-supervision, thereby reducing labour and management costs (Xie et al., 2020). As the engine of the gig economy, the platform saves labour and management costs for enterprises and improves business value and profits (Kinder et al., 2019; Xie et al., 2020).

Undoubtedly, gig platforms provide a flexible working environment for workers. Gig workers have a high degree of autonomy, allowing them to control how to integrate work into their daily lives and decide which type of life they accept. For many gig workers, autonomy seems to be more motivating than money because this form of work allows workers to take care of their well-being and personal matters (Vega et al., 2021; Mäntymäki et al., 2019; Jarrahi et al., 2020). To a certain extent, this kind of work can be a form of liberation for workers seeking to eliminate organisational hierarchy and bureaucratic constraints (De Ruyter et al., 2019). In addition, the gig economy provides a wide range of employment opportunities. After 2008, millions of workers were unemployed due to the impact of the international financial crisis. Many people participate in the gig economy to sustain a livelihood in times of economic turmoil (Ahsan, 2020; Huang et al., 2020).

The positive narrative of the gig economy highlights the work flexibility it provides, and gig workers can better control their work style, pace, and scheduling of their work (Tan et al., 2021). This narrative about flexibility is problematic both in terms of norms and practice. Technological changes have re-intermediate the working relationship between businesses and workers. Online platforms help automate job matching functions, thereby reducing the cost of job searching and matching. In this way, rather than empowering workers as freelancers, gig work may help strengthen the commercialisation of labour and undermine existing labour standards. This re-commercialisation is reinforced by applications that represent the platform, and these applications allow platform owners to enhance the monitoring of the work process (De Ruyter et al., 2019).

The issues and challenges related to the gig economy and legislation are described in the following section. First, the following six points describe the common problems in the employment model of gig work from a legal perspective.

1. Power asymmetry

Platforms favour capital rather than workers and reduces workers' autonomy through algorithmic management and "mandatory regulations" (Etter et al., 2019). Although platforms do not need to follow the same rules that employers protect workers, workers are subject to additional control. The inequality of power can be manifested in two aspects: the equal right to contract is ignored, and platform supervision is too strict.

The reason why the equal right to contract for workers is ignored is ample because platforms are skewed towards the interests of platform users, organisers, and shareholders at the expense of the interests of workers. Compared with platform organisers, workers cannot obtain the same level of rights (Kinder et al., 2019). The technical characteristics and guidelines of the platform are designed for profit, which means their algorithmic mechanism are aimed at creating profit rather than employment, and the convenience of clients needs to be given priority (Vega et al., 2021; Woodside et al., 2021; Chappa et al., 2017). From this point of view, workers are the passive party because they were excluded from obtaining equal working conditions from the beginning.

First, gig platforms use their advantageous position to expand their rights indefinitely in terms of the nature of the legal relationship between the two parties (customers and workers), contract modification, and termination of the contract, while gig employees

lack a corresponding bargaining mechanism (Zou & Wang, 2020). People can find that the platform organiser has pre-drawn a cooperative service agreement for repeated use. The deal is essentially a format contract that has not been negotiated with gig workers. Besides, the platform reduces the wage rate or can punish workers at any time (Cano et al., 2021). Upwork can decide on its own to suspend the worker's account or even dismiss the worker on the grounds of illegal service terms, even if the worker has not done anything (Vega et al., 2021). Uber can also revoke driver's access to the platform at any time for some reasons, such as drivers criticising the company on social networks (Todolí-Signes, 2017). In fact, both parties should negotiate the contract when the agreement is changed, and the unilateral right of modification granted by the platform is essentially an unfair and invalid clause. It restricts gig workers' right to choose and affects gig workers' reasonable expectations of contracts.

In addition, the inequality of power is also manifested in the cruel control and supervision of workers by the platform. Most workers have almost no flexibility or freedom promised on the job surface. Although Uber drivers are free to "work" or "leave" when they choose, their behaviour will be subject to strict and precise scrutiny, monitoring, tabulation, and control once they start. The gig platform allows some flexibility (for example, when to log in, the number of working days), but the application is an intense supervisory device (Ahsan, 2020). This type of power inequality is primarily due to strict algorithmic management. For example, the rating system can represent the imbalanced power dynamics between customers and workers; customers are allowed to evaluate the workability of workers, and workers have no way to influence customers (Vega et al., 2021; Nancy, 2017). Uber has created performance metrics that measure workers, including driver ratings and the number of rides accepted or cancelled. Driver ratings are used to outsource labour monitoring tasks to customers. In other words, Uber sets standards for driver behaviour and recruits customers in disguise to become the company's management agents to some degree (Ahsan, 2020). Besides, the evaluation mechanism also manipulates the driver's labour process. Wu et al. (2019) found that many drivers designed various supplementary strategies to improve their services and entertain passengers (such as providing tissues, water bottles, wireless networks, and chargers, or talking with passengers serving them in a service-oriented and social manner). This process may go far beyond the driver's duties, adding an extra emotional burden to the driver.

In addition to the evaluation mechanism, algorithm management also restricts workers. Many Uber drivers respond that the algorithm indicates that they spend more on arriving at the pick-up location than the revenue from delivering to the customer (Ma et

al., 2018). Although powerful algorithms can determine how individual drivers will be paid, how many and what kind of ride services they may be offered, and what incentives are provided to drivers to persuade them to work at a specific time. Very little is left up to the driver (Ahsan, 2020). Through stakeholder theory, Ma et al. (2018) realise that managerial decisions were justified solely regarding how they would impact stockholders. However, the decision-making around policies and functions only focuses on the driver's influence on passengers but violates the fairness core of stakeholder theory; that is, different stakeholders have sacrificed in proportion to their interests. Fleming (2017) believes that gig work represents the dark side of human capital theory - the "radical responsibilisation" of employment, that is, workers entirely bear the responsibility for all costs and benefits associated with economic actors. This is an extreme form of employment based on self-interested individualism. In other words, what the workers get is not equal to what they pay, and they are forced to take on a lot of responsibilities.

Although gig workers can choose how many jobs they provide, this may be narrow and essentially negative freedom: they can only choose to participate or withdraw. If they decide to participate, gig workers will not get any corresponding positive freedom: their wages are mandatory, algorithms automatically assign tasks, and data collection and rating systems are everywhere (Healy et al., 2020). The existence of feedback, ranking and rating systems is a benchmark for the implementation of technical norms of control and monitoring of a person's work, representing a kind of "mandatory" labour relationship (Gandini, 2019). Workers are forced to manage their customer relationships and shape their behaviours to prevent negative reviews because they are implied by implicit control and supervision throughout the work process (Tan et al., 2021). Although the platform does not provide the obligations that companies need to deliver in traditional employment, it has the right to control workers. This is an unbalanced state of rights and obligations (Zou & Wang, 2020). Although gig workers are workers, they are usually disadvantaged because they do not have the right to speak. They have no room for negotiation on their requirements and can only passively accept the platform's requirements. If the Internet platform strictly controls the gig workers, the platform and the workers have a substantial attribute of subordination (Xie et al., 2020). This kind of unfair distribution of power is the most discussed by scholars on gig jobs.

2. Information asymmetry

The nature of the power asymmetry between the platform and the workers makes the latter only produce a weak and insignificant voice. The information asymmetry caused by changing algorithms also negatively affects workers (Ahsan, 2020; Kinder et al., 2019). The information asymmetry here can be understood as the opacity of the platform system, and algorithm control is the core component of the system. Algorithms are usually proprietary to the gig platform and protected by third-party scrutiny trade secrecy laws. The design and operation of algorithms are generally only understood by those "on the inside", that is, employees who are responsible for designing, optimising and maintaining these systems (Tan et al., 2021). In other words, workers are controlled by the systems, but they cannot figure out the algorithm's rules.

For example, Uber drivers cannot determine the price of a ride (the price paid by the customer may be different from the amount displayed by the driver) because they do not know how the algorithmic mechanism of pricing and actual price is implemented. The complex pricing mechanism involves different incentives related to the number and type of drivers' business (Ahsan, 2020). The platform may increase the price during peak hours, busy areas or bad weather to ensure capacity and meet demand. This means that workload is not the only factor determining income (Mäntymäki et al., 2019). Workers are unable to understand the evaluation's inputs, processing and outputs. They may lose the opportunities for unpredictable updates and fluctuating criteria (Goswami, 2020). Rahman (2021) calls this form of control an "invisible cage" because the platform's management mechanism is unpredictable for the changes to these rules. Workers are unaware of the platform's service pivots and compensation structure changes, resulting in a psychological contract violation and unfavourable emotions. As a result, workers began to think of themselves as employees rather than entrepreneurs (Ravenelle, 2019). Information asymmetry is a specific mechanism for the platform to exert power on workers (Rosenblat, 2018), and algorithmic control usually leaves workers with a bit of resource on the platform, making them passive or helpless participants within the gig economy (Kinder et al., 2019; Gray et al., 2016). For gig workers, this invisible algorithmic mechanism controls their access to clients and projects and weakens their ability to understand and respond to the factors that determine their success (Rahman, 2021).

Another asymmetry of information is reflected in the issue of data privacy; that is, people do not know how much data the platform captures and for what purpose. There are allegations that platforms threaten information privacy because companies can obtain a large and diverse range of information on consumer behaviour and participant behaviour. The platform may collect more information than it needs to achieve its core

goals of reducing search costs and promoting trust (Calo & Rosenblat, 2017). In other words, the platform's data capture may exceed the needs of the original work.

For example, the data on labour tasks collected by the platform may involve waiting time and offline time in addition to effective working time. The Uber app will continue to track the drivers' whereabouts even if they do not have passengers (Fagioli, 2021; Casilli, 2019). There is evidence that the internal safeguards of the gig platform may be insufficient in terms of privacy. In 2014, Uber's senior managers used unrestricted "God's eye view", an internal system tool, to track some passengers' behaviours without any permission (Calo & Rosenblat, 2017). Fagioli (2021) believes that the data stored on the platform and the data they work with, and the algorithm that generates "information about information" can be understood as the platform's use of technology to form a new form of exploitation built on a rude nature. This predatory behaviour is a tool for the realisation of platform capitalism.

It is not difficult to see that the main factor for the problem of information asymmetry is the opacity of the algorithm management mechanism. The platform's primary purpose is to achieve maximum scalability and ultimate profitability (Tan et al., 2021), and the system's opacity happens to be an indispensable tool for this purpose. In other words, capital still uses algorithmic management to control the behaviour of gig workers. The asymmetry of information can also be regarded as another form of platform undermining workers' rights.

3. Insufficient social security

The lack of social security is another one of the most discussed issues in the gig economy. The primary manifestation of the lack of social security can be classified as the unstable income of workers and the lack of labour security.

The first issue is income instability, different from the settlement method of wages for workers in traditional industries, the income of gig workers is distributed according to the results of their labour, and their income is not fixed. The gig platform will not guarantee minimum wages, nor will it bear the personal losses of workers (Cao, 2019; Ashford et al., 2018; Etter et al., 2019). As mentioned earlier, the platform will unilaterally adjust the price setting from time to time or take deductions due to negative feedback from the evaluation to transfer operating risks to the workers (Zhang et al., 2020). Workers have no equal power to refuse and have to bear the risk of income decline. In addition, because the same job faces more competition or bidding by others,

the substitutability of gig jobs will increase. The increase in substitution means that the income of gig jobs is entirely regulated by market supply and demand. In the Internet age, the expansion of people's interconnectivity will lead to an increase in the supply of gig labour and possibly even an oversupply, which will lead to a decline in gig income (Qiu et al., 2020).

The result of income instability is that workers' real income is lower. This is a common phenomenon; all workers who join the gig economy have relatively low incomes. A report released by the Economic Policy Institute in 2018 (Mishel, 2018) indicates 90% of all wage and salary workers earn more than Uber drivers. Uber drivers earn only $11.77 per hour, which is 20% less than the lowest-paid significant occupations. And this amount has not been considered to subtract mandatory taxes (Mishel, 2018; Ahsan, 2020). In the U.K., nearly a quarter of gig-workers were paid below minimum wage in 2018. Many workers are forced to incur other expenses otherwise covered under a traditional employment relationship (Clark, 2020; Moore, 2019). A survey in 2019 found that in China's gig economy, 1,000 to 2,000 yuan is the income level of most gig workers. In a study of Chinese online ride-hailing drivers, it is found that 70% of Didi drivers earn less than 6,000 yuan, and their actual income after deducting vehicle depreciation and maintenance costs is less than 4,000 yuan (Li et al., 2019). Because of this, under the compulsive control of the platform and the huge pressure of work and life, workers seem to have to increase their labour intensity to make more money (Zhang et al., 2020; Clark, 2020).

Moreover, the lack of labour security is also one of the focal points of people "debating" gig employment. Labour security involves traditional employment benefits, including occupational health and safety measures, taxation and social security, such as minimum wages, overtime pay, non-discriminatory employment rights, collective bargaining (unionisation), unemployment insurance, disability insurance, medical insurance, and compensation insurance and health insurance, etc. But the vast majority of gig workers are not eligible for these guarantees (Atmore, 2017; De Ruyter et al., 2019; Clark, 2020; Cano et al., 2021; Poon, 2019; Tan et al., 2021).
In terms of health and safety, workers do not have personal protective equipment, training or other traditional safety measures to reduce workplace risks. Injured workers also lack corresponding compensation options (Clark, 2020; Kaine & Josserand, 2019; Ashford et al., 2018; Drahokoupil & Piasna, 2017). In a survey of British gig drivers and riders, it was found that 63% of respondents had not received training on managing risks on the road, and 65% had not obtained any safety equipment. In addition, 16% of the respondents admitted to having experienced fatigue driving, and nearly one-third

drove through a red light (Christie & Ward, 2018). Also, in China, a survey found that 72.8% of Didi drivers worked more than 10 hours per day, and 41% worked more than 12 hours. Many drivers work about 30 days a month, and their daily working hours are much higher than the 8 hours stipulated in the Labour Law, but there is no overtime allowance (Li et al., 2019). Due to continuous high-intensity work, the health of the workers was severely overdrawn. It is difficult for drivers to have enough energy to ensure travel safety, which increases the risk of traffic accidents (Zhang et al., 2020). It is worth noting that once an occupational injury occurs during their service, workers rarely get compensation for the work injury. If the personal injury of a third person is involved, the worker needs to bear full responsibility. In other words, all the risks that employers should take are transferred to the workers because most gig workers do not have an employment relationship with the platform.

In addition to insufficient protection of safety and health, some articles explored employment discrimination at work. Kotkin (2019) states that companies like Uber platforms may encourage discrimination because they usually provide customers with the names and photos of potential workers, creating explicit or implicit bias. However, the anti-discrimination laws in the United States leave these people unprotected because workers are not considered "employees." A study found that people of colour face longer waits when taking Uber or Lyft along controlled routes in Seattle or Boston (Calo & Rosenblat, 2017).

The nature of gig jobs makes it not only difficult to measure but also challenging to regulate. Because its employment status is unclear, it lacks standard employment conditions such as minimum wage and non-wage benefits (De Ruyter et al., 2019). Cherry & Rutschman (2020) believes that the lack of social security (including minimum wage, safety and health protection, and workplace discrimination) is essentially due to the power imbalance between workers and platforms. This phenomenon is because the existing labour law does not provide relevant restrictions and protections. However, there is also evidence that, for most people, gig jobs are just an occasional supplementary activity to "smooth" the fluctuations in their primary income (Healy et al., 2017). Hall & Krueger (2015) found in a study of Uber drivers in the United States that only one-third of drivers earn the primary income from Uber; most people have another stable job. Perhaps for this, the existing laws have not made any feasible and effective change yet. Because only a few people have gig work as their primary job, the law is unlikely to help these workers who face major employment security problems within the gig economy. Myhill et al. (2020) think gig work is a wonderful alternative for individuals

who aren't looking for a steady or long-term job, so it's unfair to compare it with the same standards as traditional work.

4. Relevant laws and regulations lag behind developments in the gig economy

Regarding workers' legal status in the gig economy, many countries have not established clear standards for determining labour relations between platforms and workers. The application of labour laws and regulations is rather vague.

Just like the aforementioned lack of social security issues, companies often choose "gig" workers out of the consideration of reducing operating costs and expanding profits. If the security provisions in the labour contract are clearly defined, they will cause a specific burden on the company (Li et al., 2019; Ahsan, 2020; Adams et al., 2018). If the labour security rights of employees in the "gig economy" are not stipulated in the contract, then these rights will not be protected by law, and many countries do not have relevant legal rules to restrict such practices.

Most countries adopt a diverse and selectable indicator system and a ternary (or three-level) framework to identify workers' legal status in the gig economy (Tu, 2021). The United States represents the multi-selectable indicator system. In the judgment on the determination of the legal identity of the labourer, the judge selects key indicator elements based on the indicator system set by the court and combined with the facts to determine whether the labourer is an independent practitioner, such as the control test or the "ABC" test (Ahsan, 2020; Tu, 2021). However, the lack of clear and uniform guidelines has led to inconsistent judgments in many related cases (McGaughey, 2019). The ternary framework refers to a certain degree of inclined protection for workers who do not belong to subordinate labour and independent labour. In short, it is the third type of labour form, such as the third category of workers in British employment law, called limb (b) workers, better understood as dependent contractors (Cherry & Rutschman, 2020; Freedman, 2020). However, there is no clear indication as to which type of gig workers the concept of this new category can be applied to (Devinatz, 2019). In China, the applicable standards remain in the traditional binary labour relationship identification framework, that is, the identification framework of "all" or "nothing" in labour relations (Tu, 2021; Zou, 2017).

In the next section, we will give a further overview of the relevant legal solutions in the three countries of the United States, Britain, and China. But it has to be admitted that

although some countries have made corresponding changes in labour laws, the issue of how to link their corresponding tax laws has not been resolved.

5. Tax law issues

Many scholars have conducted research on the classification of relevant laws and found that existing laws are harmful to all parties involved in the gig economy: workers are deprived of the power to a certain extent (Clark, 2020). Platforms “wrongly” classify their workers as self-employed independent contractors so to avoid legal and financial obligations (Tan et al., 2021). Although the platforms benefit from the cost savings (Meijerink et al., 2020), they are subject to the potential economic threat of countless prosecutions and legal retaliations (Clark, 2020; Thomas, 2018); and the government has lost substantial tax revenues due to misclassification of workers by tax laws (Thomas, 2018; Atmore, 2017; Malos et al., 2018).

Although the United States has applied some test standards to help identify labour-employment relations, from the perspective of taxation purposes, gig workers at this stage are still paying taxes as individual "business owners" because they earn income from services outside of the traditional employee-employer relationship (Watson et al., 2021; Thomas, 2018). Therefore, they must budget for self-employment and income tax and pay estimated taxes quarterly to avoid imposing a penalty. However, this process does not match potential gig workers who are not familiar with the tax system (Thomas, 2018). Studies have found that only a limited number of gig workers report their income for tax purposes, while a large number of workers submit non-compliant or incorrect reports resulting in low tax filing rates (Garin et al., 2020). On the other hand, because the wages of gig workers are not tax-deductible, the government has not made relevant tax law adjustments for certain types of jobs, so this misclassification causes the U.S. government to lose 1.6 billion U.S. dollars in tax revenue every year (Snider, 2018).

Therefore, on the one hand, subjecting workers to tax compliance rules aimed at traditional sole proprietors is not only burdensome but also cause lower tax compliance (Thomas, 2018). The complexity of the relevant tax system has brought substantial administrative and law enforcement costs to the relevant institution. On the other hand, the misclassification of gig workers in the tax law has resulted in enormous losses for the government to collect corresponding income taxes.

As far as the U.K. is concerned, its tax laws and social security laws still adopt a binary structure of employees and self-employed persons. There is no separate provision for the third category of limb b) workers (Freedman, 2020). The U.K. tax law gives self-employed a more significant business expense reduction and exemption. In general, self-employed pay less tax than employees. For the self-employed, although the cost is reduced in a short period, in terms of enjoying social security policies, the self-employed still have less than the employees (McGaughey, 2019). For example, the self-employed cannot enjoy benefits such as statutory maternity leave and pay and statutory sick pay (Schoukens et al., 2018; Adams et al., 2018). In terms of national insurance contributions, the U.K.'s requirements for self-employed persons are lower than employees, but the benefits enjoyed in the end are the same. In 2016, the U.K. Treasury found that the effective annual NIC subsidy for self-employed persons exceeded £5.1 billion (Adams et al., 2018; Taylor et al., 2017). It is worth noting that the platform does not need to pay any NICs for workers as an employer. This may be massive damage to citizens' access to appropriate retirement security and social insurance, and other social benefits in the long run. The mismatch of relevant laws and taxation mechanisms makes the platform reduce its tax liability in the loopholes, and gig workers who are used as tools can pay a high price and will be punished and tax collection (Freedman, 2020). Regarding the troubles caused by the status of gig workers to tax laws and social security systems, the U.K. has not yet implemented a proper system.

For China, taxation related to the gig economy has not aroused extensive discussion in the academic community. Compared with developed countries, gig workers in China do not have high expectations for social insurance protection (Lei, 2021), so related tax payment issues maybe not be focused on. Most scholars still concentrate on the unclear identification of labour relations in labour laws.

6. Regulatory arbitrage and ethics

Some scholars believe that a series of behaviours of gig platforms have formed regulatory arbitrage. For example, platforms "intentionally" classify workers as self-employed to avoid legal and financial obligations (Tan et al., 2021; Calo & Rosenblat, 2017). Uber characterises it as the mere provider of a software app, which avoids many traditional taxi industry regulatory requirements (Calo & Rosenblat, 2017; Heeks et al., 2021). However, studies have found that Uber drivers endure a greater sense of control than taxi drivers (Tashiro & Choi, 2021; Norlander et al., 2020). In other words, on the one hand, Uber is reproducing existing services and thriving without the same

social restrictions (grey areas of the law) (Calo & Rosenblat, 2017); on the other hand, it deliberately uses the nominal flexibility of "gig" to attract workers to join (Warren, 2021). But this so-called flexibility is a substantial control of the labour process, which is more stringent than the same traditional industry control (Wu et al., 2019; Susser, 2019). This kind of regulatory arbitrage is a manifestation of ethical evasion because portraying the platforms themselves as neutral "technical platforms" is precise to evade the employers' moral, legal, and social responsibilities (Tan et al., 2021).

The current lag of the law has helped the platform to evade ethical responsibilities more recklessly.
Carroll's Corporate Social Responsibility (CSR) model framework (Carroll, 1991) regards ethics as a necessary responsibility of the enterprise after economic and legal obligations; the enterprise needs to achieve profitability by adding value and maintaining operations; in doing this, companies must comply with laws and regulations as the operating condition. However, society expects companies to conduct themselves ethically. Therefore, companies should conduct business in a manner that meets the expectations of social customs, that is, ethical standards. In other words, the platform is responsible for helping their workers maintain a living wage and a decent level of social welfare (Malos et al., 2018; Kaveny, 2019). However, the fact is that "many platforms are ultimately designed to obscure the reality behind their business model. Carefully worded terms and conditions characterise platforms as matchmakers and workers as independent entrepreneurs beyond the reach of legal regulation. Work is re-branded as entrepreneurship, and labour sold as a technology" (Kaveny, 2019; Prassl, 2018).

Venkataraman (2002) proposes three mechanisms to ensure fair equilibration among stakeholders: ethics, the bargaining process, and the visible hand of the law. When ethics is insufficient to regulate and ensure the equitable distribution of created value, a bargaining process can be used to obtain a fair result (Ahsan, 2020). As mentioned earlier, in the case of unequal power, gig workers do not have the so-called “right to speak”, let alone have the qualifications and conditions for bargaining. Therefore, when moral managers and the bargaining process cannot distribute value fairly, the visible hand of the law is needed as the last and only means of fair value distribution (Venkataraman, 2002; Ahsan, 2020).

Although until now, most gig platform businesses have been established in the grey areas of the law, even the U.K., which has adopted an additional category for

"workers", still suffers from the problem of the boundary of the new category definition and the convergence of tax laws.

4.2 Legal solutions

This section will give a detailed description of the legal approaches that have been used in three different countries to address the above issues related to the gig economy.

United States of America

Laws are designed to govern the relationship between employers and employees, so these laws only take effect after the relationship between employer and employee is established (Atmore, 2017). In the United States, the definition of gig economy practitioners is limited to the relationship between the employee and the independent contractor (the latter cannot enjoy the protection and benefits of the law for employees). These two constitute the basic binary classification schemes of the identity of gig workers in the United States (Antonio & Marco, 2018).

In judicial practice, the U.S. courts have mainly adopted two legal systems: one is the common law judgment standard under the National Labour Relations Act (NLRA), and the other is the economic reality standard of the Fair Labour Standards Act (FLSA) to determine the status of an employee (Brown, 2019; Oei & Ring, 2020). Later, the ABC test standard (Markovits, 2020) and various variants were developed to deal with gig economy disputes.

Common law control test

The control test originated from common law and was the earliest employment relationship recognised by the U.S. courts. This test derives from case law and decisions on agency law, which focuses on defining an employer's "right to control" the work of his employees (Cherry & Aloisi, 2016; Atmore, 2017). In other words, in an employment relationship, the greater the employer's control over employees, the more likely it is to recognise employees as regular employees of the company. Conversely, if the employer has little control over the employee, the employee will likely be recognised as an external person who has signed an independent contract. This test served as the "foundation for determining whether an injured third party may hold a principal liable for a tort committed by its employee." (Clark, 2020)

A related laws (Restatement of the Law, Third, Agency) lists the ten factors to be considered for this test:
(a) the extent of control that the agent and the principal have agreed the principal may exercise over details of the work;
(b) whether the agent is engaged in a distinct occupation or business;
(c) whether the type of work done by the agent is customarily done under a principal's direction or without supervision;
(d) the skill required in the agent's occupation;
(e) whether the agent or the principal supplies the tools and other instrumentalities required for the work and the place in which to perform it;
(f) the length of time during which the agent is engaged by a principal;
(g) whether the agent is paid by the job or by the time worked;
(h) whether the agent's work is part of the principal's regular business;
(i) whether the principal and the agent believe that they are creating an employment relationship;
(j) whether the principal is or is not in business.

At the same time, the statement (Restatement of the Law, Third, Agency) also mentioned: "an agent is an employee only when the principal controls or has the right to control the manner and means through which the agent performs work." Thus, the core of the control test is whether the employer has the "right to control" the nature of work and working hours.

It is worth noting that each of these factors is to be considered by the judge, but no formula exists to determine precisely how these factors should be balanced for deciding the “control” (Clark, 2020; Pearce & Silva, 2018). In other words, for the lack of consensus to weigh these factors, the test may bring inconsistent results for identifying the employment relationship.

Economic realities test

The economic reality test is produced as an alternative to the common law control test. Under the traditional common law regulations centred on “the right of control”, many employers can insulate their businesses from liability and statutory compliance by signing contracts with intermediary companies that provide independent contractor labour (Kurin, 2017). When the government finds that the gulf between the number of workers who need employment protection and the number of workers employed under the control test is growing, they need a test standard that can be more widely

applicable than the control test. In this way, the excluded workers can be included in the scope of legal consideration (Atmore, 2017; Kondo & Singer, 2020).

The economic reality test under the FLSA is more likely than the common law control test to conclude the status of an employee because it broadly defines "employ" as "suffer or permit to work" (Markovits, 2020; Pearce & Silva, 2018; Oei & Ring, 2020). The economic reality test adds factors other than control rights into consideration when distinguishing between employees and independent contractors, mainly including workers' dependence on the business, that is, "whether the individual is economically dependent on the business to which he renders service". .. or is, as a matter of economic fact, in business for himself" (Atmore, 2017, p. 896; Cherry & Aloisi, 2016; Markovits, 2020).

The U.S. Department of Labor's articulation includes seven significant factors:
The extent to which the services rendered are an integral part of the principal's business;
The permanency of the relationship;
The amount of the alleged contractor's investment in facilities and equipment;
The nature and degree of control by the principal;
The alleged contractor's opportunities for profit and loss;
The amount of initiative, judgment, or foresight in open market competition with others required for the success of the claimed independent contractor; and
The degree of independent business organisation and operation (Fact Sheet 13: Employment Relationship Under the Fair Labor Standards Act).

Like the control test, none of the above factors is decisive, and decision-makers must judge labour relations based on various factors. These factors are used to measure the degree of economic dependence of workers on the employer. The extent to which workers are financially dependent on their employers. The more a worker depends on the employer financially, the more likely the court will find that the worker is an employee rather than an independent contractor (Markovits, 2020; Kondo & Singer, 2020; Oei & Ring, 2020).

The central focus of these two tests is about control and independence: the employer's control over the worker and the worker's degree of independence from the employer (Atmore, 2017). However, this has also caused ambiguity and confusion in the legal standards for the classification of workers (Atmore, 2017; Pearce & Silva, 2018). First of all, there is no statutory definition of which test is suitable for use in a given

environment (Pearce & Silva, 2018). Although NLRA and FLSA are fundamental parts of worker protection legislation, they adopt different testing standards when determining the status of workers (Oei & Ring, 2020). People are not clear about when and which of the tests should be used for which situation. Second, all tests need to consider much more complex factors, leading to different results in cases with similar facts (Pearce & Silva, 2018; Cunningham-Parmeter, 2018). The focuses, the common uses and the number and variety of factors of these two tests considered in determining a worker's employment status are different. A worker can be viewed as an employee for some purposes, but for others, that same work in the same position might be found to be an independent contractor (Markovits, 2020). Some courts have argued that these tests are so similar that "there is no functional difference between the . .. formulations" (Atmore, 2017).

Courts sometimes may apply hybrid analyses that combine the elements of each test. Numerous judicial interpretations, along with statutory vagueness, have caused great confusion on the correct employment classification of workers and the existence of related legal rights (Atmore, 2017; Kondo & Singer, 2020). This confusion makes law enforcement more difficult (Markovits, 2020; Cherry & Aloisi, 2016). In O'Connor v. Uber Technologies, Inc. (see Appendix A Case A) (Kotkin, 2019; Dubal, 2017), the factors used to measure the degree of control and independence of workers at work, do not solve the identity classification of gig workers (Malos et al., 2018; Ross, 2015). Although the facts show that Uber has substantial control over drivers and drivers financially rely on Uber, drivers still have autonomous right in scheduling and have other job options (Atmore, 2017; Cherry & Aloisi, 2016; Steinberger, 2018; Cherry & Rutschman, 2020).The court acknowledged that the relevant tests and standards were outdated in the case of Uber for it is a new business model (Maozami, 2016). Because there are no applicable legal standards close to a clear answer, it is difficult for courts to characterise many non-traditional work arrangements used in the gig economy (Pearce & Silva, 2018).

ABC test

Fortunately, based on these tests, the U.S. courts developed the ABC test standard. This employee classification test assumes that every worker is an employee (Markovits, 2020; Kondo & Singer, 2020; Brown, 2019). It is different from the first two tests because it is conjunctive rather than disjunctive (Clark, 2020). In the case of Dynamex Operations West, Inc. v. Superior Court of Los Angeles County (see Appendix A Case B), the California court refused to use control as the most important factor in the judgment and adopted the ABC test (California courts used the "Borello"

test before, which is similar to "the control test") (Zelinsky, 2021). This may be because the court held that the assumption of the status of "employee" in the existing law is not strong enough, and the ABC test adopts a stronger presumption that supports the status of "employee" (Harris, 2018).

The ABC test addresses the asymmetric bargaining power between low-wage workers and their employers (Clark, 2020; Kondo & Singer, 2020). Crucially, it asks the employers for the requirements to deny workers' employer status. Therefore, if the employer cannot meet any of these three conditions, the worker is classified as an employee (Cunningham-Parmeter, 2018; Clark, 2020). The ABC test permits an employer to categorise a worker as an independent contractor only if it can show that:

(A) the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and, in fact; and
(B) the service is performed outside the usual course of the business of the employer; and
(C) the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity ("Dynamex Operations W., Inc. v. Super. Ct. of LA Cnty., "2018)

The employer must prove that the above three conditions are true simultaneously; otherwise, the worker will be recognised as an employee, and the employer shall bear the employer's responsibility (Clark, 2020). The ABC test adopts a stance that favours the protection of workers and imposes higher requirements and duties on employers. If this test is used to determine the status of practitioners in the gig economy, it may be difficult for platform companies to overcome the presumption of the employment relationship. Today, twenty-seven states use the "ABC" test to make unemployment and other determinations. The Dynamex decision not only extended wage protections to more workers but also offered different courts a blueprint for making gig-worker determinations going forward (Cunningham-Parmeter, 2018).

Markovits (2020) believes that the ABC test is currently the most practical test and the only test to determine whether a worker is an employee or an independent contractor. Because it starts with the presumption of employee status, uses cumulative elements rather than equally weighted factors, and presents a more direct statement of the critical questions, the test is trying to answer. First, the presumption of employee status makes it more difficult for employers to mistakenly classify their workers as

independent contractors because the employer must prove that the worker meets all three elements. The ABC test shifts the responsibility of proving the existence of a legal employment relationship to the employer. The employer must carefully weigh the risk of misclassification of workers because they may face the ultimate burden of defending workers' labels (Pearce & Silva, 2018; Markovits, 2020). Second, the ABC test uses elements rather than the most easily manipulated factors. Both the control test and the economic reality test require judges to consider relative factors, and there is no guidance on weighing these factors. This has resulted in many inconsistent judgments (Markovits, 2020). However, under the ABC test, the employer must prove that all three elements are met to overturn the assumption of employee status. Therefore, there is no discrepancy in how judges weigh potentially contradictory factors (Pearce & Silva, 2018; Markovits, 2020). In addition, many factors in the control test and the economic reality test are outdated (such as where the work is completed, the payment method, etc.). The elements included in the ABC test are the most significant factors in these two tests (part A is the description of the control, part B and C are the descriptions of independence). Compared to the complexity of the other two tests, the simplicity of the small number of prongs of the ABC test is more user-friendly to judges, workers, and businesses (Pearce & Silva, 2018).

Assembly Bill No. 5

In September of 2019, California enacted Assembly Bill No. 5 (A.B. 5), which purports to codify Dynamex and the ABC test for the California Labor and Unemployment Insurance Codes and all wage orders of the California Industrial Welfare Commission (Markovits, 2020; Zelinsky, 2021). The text of this bill contains the basic introduction, the definition of employees, the scope of application, the definition of employers, supplementary amendments, and the interpretation of the consequences of violations. The first section is the basic introduction of the bill, including the background of the bill's proposal, legislative purpose, applicable conditions, and protection groups. The second section focuses on the definition of an employee, stipulating that "a person providing labour or services for remuneration shall be considered an employee rather than an independent contractor" unless the three conditions of the ABC inspection standard are met. The third section stipulates the scope of application of the definition of employees. The fourth section is the definition of employers, which specifies the rights and obligations of employers. The fifth section is to supplement the amendments to the definition of employees in the Unemployment Insurance Code. The sixth section emphasises that employers cannot reclaim employees as independent contractors during the bill's enactment. Finally, it is the bill's interpretation of the consequences of violations (Assembly Bill No. 5 2019).

This bill states that the legislature intends to codify the Dynamix resolution and clarify its application. According to this bill, companies must treat gig economic contract jobs, including online car-hailing drivers, as regular employees (Tu & Wang, 2020). Therefore, the bill expands the scope of the definition of employees (Zelinsky, 2021; Kondo & Singer, 2020). The ABC test removes the reliance on the control factors. Even if the first element is not met, the remaining two elements can classify the worker as an independent contractor. It is this shift away from the factor of control, as well as the current law requiring employers to contribute unemployment and disability insurance to wages paid to employees, that has led a large number of platform businesses in California to view the law as an existential threat (Sprague, 2020; Tu & Wang, 2020). Because of the bias towards worker protection and the stringent requirements of employers, many companies are actively seeking exemptions from the bill. Platform companies include Lyft, Uber, and DoorDash, spent more than $200 million in political contributions to vote on proposals (Sprague, 2020; Cherry & Rutschman, 2020). In the end, A.B. 5 was overthrown through Proposition 22 for these app-based transportation and delivery companies (Sprague, 2020; Byrne, 2020; Markovits, 2020).

Britain

Unlike the binary classification schemes of the United States, the United Kingdom tends to identify platform workers as "workers" as defined by British labour law. This is a very distinctive classification of British labour law in addition to the "employee" and the "self-employed" or the "independent contractor" (Adams et al., 2018; Freedland & Prassl, 2017; Prassl, 2017). The most relevant systems for the labour rights enjoyed by workers are the National Minimum Wage Act and Working Time Regulations passed by the United Kingdom in 1998. Accordingly, workers have rights related to wages and working hours, such as minimum wage, the statutory minimum level of paid holiday and the statutory minimum length of rest breaks (GOV.UK, n.d.) Thus, the workers "benefit from a set of employment rights which is more limited than that enjoyed by employees but which is nevertheless very important" (Freedland & Prassl, 2017).

In fact, "worker" is not a new classification created by the gig economy. As early as the late 1990s, British labour law formally adopted this classification to face various flexible employment situations to alleviate the either-or-exclusive consequences of the dichotomy between employees and the self-employed (Freedland & Prassl, 2017). According to the detailed description of Article 230 (Employment Rights Act 1996), worker refers to:

(3) In this Act , worker […] means "an individual who has entered into or works under (or, where the employment has ceased, worked under),
a) a contract of employment, or
b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; and any reference to a worker's contract shall be construed accordingly." (Employment Rights Act 1996)

The "worker" is a new composite category and was logically set up to be a third intermediate category interposed between the "employee" (employment as an employee under a contract of employment) and the "self-employed" (self-employment under any other kind of personal work contract). This new category straddled these two traditional categories, which can be larger than either category but smaller than the two put together. The definition introduced by section 230(3) has two parts, limb (a) worker and (b) worker. The new category was "larger than either of the existing categories in that it comprised the whole of the existing employee category in limb (a) and also included some of the existing self-employment categories in limb (b)", but it was also smaller than both existing categories put together in that limb (b) excluded all contracts for personal self-employment (Freedland & Prassl, 2017). In other words, it includes the concept of "employee" and part of the concept of "self-employed" but excludes completely independent individual workers and only includes individuals who are semi-dependent or economically dependent (Freedland & Prassl, 2017; Prassl, 2017).

However, how to define a "worker" is a complicated issue. In early British case law, similar standards for distinguishing employees were mainly used to determine workers, that is, whether there is "a mutuality of obligation" on the employer to provide work for the employee and on the employee to perform work for the employer, but the requirements for defining workers do not need to be as strict as defining employee status (Prassl, 2017). However, people found that the extension of mutuality beyond employee status is problematic. In O'Kelly v Trusthouse Forte plc (see Appendix A Case C), the court used the lack of "mutuality" in the contract as a reason why the plaintiff could not be regarded as an "employee" (McGaughey, 2019). People were confused about whether this 'mutuality of obligation' was required during any period of any kind of work because it is not an independent and universal feature of workers. "A person supplying services is only doing so on an assignment-by-assignment basis may

tend to indicate a degree of independence in the relationship while at work which is incompatible with employee status even in the extended sense" (Prassl, 2017, p. 8). The status definition of worker and employee are two completely different concepts, and the difference between them is in kind rather than degree.

Therefore, the worker's identity requires a targeted analysis of the detailed provisions of the contract terms, specifically focusing on 1) the absence of an entirely fair contract between independent entities ("irreducible minimum obligation on each side to create a contract of service") and 2) whether the worker personally performs the work ("by one's own hands") (Prassl, 2017; McGaughey, 2019; Atkinson & Dhorajiwala, 2019). In the case of Dewhurst v CitySprint UK Ltd (see Appendix A Case D), the court held that there is no feasible way for couriers to find someone to do the work. Therefore, the identity of the plaintiff should be "worker". (Snider, 2018). In the case of IWGB v RooFoods (see Appendix A Case H), Britain's Court of Appeal confirmed that riders for Deliveroo were self-employed, because they did not have an oligation to provide services personally.

However, in Uber BV v Aslam (see Appendix A Case E), whether the plaintiff personally performs the work did not become the main consideration of the judgment. The key issues focused on whether Uber had the role of the "agent" in the contract and whether the driver was self-employed or a worker. ("Uber BV v Aslam," 2018; "Uber BV v Aslam," 2021). It is to say the workers from ride-sharing platforms are "workers" but workers from takeaway platforms are "self-employed".

The former case considers whether workers can find a substitute to do the work, while the other focuses more on the contract and dependency relationship. There is no clear legal guidance on how to distinguish "worker", "employee" and "independent contractor/self-employed", and there is no related similar to the United States. However, in the Uber case, the court also considered control factors, economic dependence, and similar factors in similar cases in the United States. Generally speaking, the court still needs to distinguish and analyse issues of different natures according to the detailed provisions of the contract and "one's own hands". Besides, the legal situation in the UK means that workers from different gig platforms may have different status.

China

China's legal solution for gig workers seems more complicated. Like the traditional binary classification in the United States, Chinese law uses the "labour relationship" (as

a member of the employer, in addition to providing labour, employees must also accept the management of the employer and abide by its rules and regulations) and the "service relationship" (the two parties are equal civil subjects, and the two parties sign only a labour contract, and there is no personal control or subordination relationship) to distinguish the employment relationship (Ding, 2018; Lin, 2009). However, there is no clear guidance on determining whether it is a labour relationship or a service relationship, not even a related test for help (Brown, 2019).

For the determination of labour relations, the current judicial practice primarily uses the "Notice on Matters Concerning the Establishment of Labour Relations" promulgated by the Ministry of Human Resource and Social Security in 2005 as the basis for adjudicating new labour dispute cases. According to the "Notice" (Ministry of Human Resources and Social Security of the People's Republic of China, 2005), the identification standards of labour relations are mainly judged based on the three factors of subject characteristics, subordination, and labour nature (Tu, 2021; Feng & Zhang, 2011). To evaluate whether there is a labour relationship between the labourer and the employer, the fundamental sign lies in whether it has subordination. As a significant characteristic of workers, subordination includes personality, economic and organisational dependencies (Tu, 2021). Personality subordination emphasises the employer's distribution and command power and the worker's position in the employer's control. In a typical labour relationship, the owner of the control rights is the "employer" who has the right to assign, direct, supervise, and inspect workers (Feng & Zhang, 2011). The economic subordination is mainly reflected in that employees are relatively economically disadvantaged, and they need to provide labour to employers to obtain wages to survive. Whether the employer provides the working conditions and working environment and whether the employer pays the labour remuneration on a regular basis constitute an important indicator for considering the close economic connection between the employee and the employer. Organisational subordination means the employee's labour presentation behaviour constitutes an integral part of the employer's business operation and is one of the elements of business operations rather than ancillary elements (Tu, 2021).

However, these subordinations cannot be applied suitably to measure the labour relationship between gig platforms and gig workers because it differs from traditional labour relationships (Zhao, 2019). Regarding personality subordination, for the assignment of work tasks, the gig economy platform is based on algorithms, GPS and other technologies for information distribution, and workers can choose to accept or reject the job. In addition, the Internet platform does not have specific requirements for

working methods and working hours during the work process of workers, and it is primarily for workers to negotiate with service buyers. After Uber dispatches the order, the driving route and waiting time are negotiated by the driver and the passenger, and the completion of the task is not under the command of the platform. In addition, the Internet platform mainly restricts workers based on service terms and scoring mechanisms and has a certain degree of supervision over workers. Suppose the platform is regarded as an information platform that provides intermediary services to ensure that the transactions between labour demanders and labour providers meet safe and high-quality standards. In that case, platform companies have the right to formulate corresponding entry thresholds and service supervision rules (Tu, 2021).

Therefore, it can only be said that there is some organisational subordination between the platform and the workers, that is, accepting the supervision and management of the online platform but not necessarily establishing a labour relationship with the online platform (Zhao, 2019; Ding, 2018). As far as economic subordination is concerned, the platform is not responsible for providing labour conditions in the gig economy, and the labourers mainly provide the means of production required for labour. Due to the unique nature of their work, workers in the gig economy primarily work in non-fixed places, and at home, so the platform is not responsible for providing a labour environment. Regarding the continuity of payment of labour remuneration, due to the greater volatility of the gig economy, the time and method for workers to obtain job opportunities and obtain labour remuneration are different from traditional labour relations. At the same time, workers may switch between other platforms, so the workers' labour compensation is not sustainable (Tu, 2021; Zhao, 2019). Finally, workers engaged in the gig economy are weak in labour relations organisations. Workers switch between different platforms, resulting in a short duration of the relationship between the two parties. It is difficult for workers to have a sense of belonging to the platform. Suppose the service frequency of workers is low, and it is not sustainable. In that case, it is difficult for the judiciary to regard the labour service behaviour as a necessary part of the overall platform operation (Ban, 2019). Therefore, compared with the traditional labour relationship identification standards, the characteristics of the labour relationship between online platforms and online labour relations cannot be one-to-one with traditional laws and regulations, which leads to the indefinite identification of labour relations between online platforms and online labours (Zhao, 2019).

China's trial practice has inconsistent views on the legal relationship between gig platforms and practitioners, which leads to very different judgments. In case of Yang

and Liang (see Appendix A Case F and G), the labour relation in the former case was not established, while in the latter case was established. Although these two cases are very similar, the factual and legal bases determined by the two courts are different, which ultimately leads to contradictory judgments. However, these two cases are just one of many "same case but different judgments". In other words, there are many disputes of this kind that judges handle through the exercise of discretion (Ding, 2018).

Chapter 5 Discussion

5.1 The comparison and evaluation of the legal solutions

After gaining a certain understanding of the laws of the United States, the United Kingdom and China on the gig economy, this chapter compares and evaluates the legal solutions that have been established, assessing their similarities and differences.

Comparing the relevant labour laws of these three countries, we can find that they have similar characteristics. First of all, when judging whether there is a labour relation or defining what type of labour status, these countries are mainly measured by whether there is control and whether the employer has actual economic control over the employee. Although the relevant laws of the United Kingdom did not emphasise these two factors, in the Uber case (Appendix A Case E), they were crucial factual evidence that helped the plaintiff escape from the "self-care" status. Secondly, the United States and the United Kingdom experienced how to define the position of gig workers for the lack of clear instructions on the definition of employment relations. These two countries are constantly reforming their legal issues in this area. The ABC test in the United States, A.B.5 and the verdict on Uber drivers in the United Kingdom may indicate that the law is tilting towards protecting gig workers' rights. Both of the United States and China adopt the binary classification method; once the labour relations are identified, their main laws governing labour relations will all apply to enterprises; once it is determined as a non-labour relationship, workers will not be able to enjoy the protection of the law at all. However, China does not have various tests similar to those used in the United States to help judge the results, which leads to a greater degree of ambiguity and confusion in the judgment.

In terms of the differences in the related solutions of these three countries, the identification of gig economy practitioners in the United States is limited to employees and independent contractors, which constitute the fundamental dichotomy of the identity of gig economy practitioners in the United States. In practice, different test standards have been developed to identify the status of an employee. Some states have also tried to make breakthroughs that are more inclined to protect workers, such as the A.B.5 in California. The employment law of the United Kingdom divides workers into three categories, namely employees, workers in the limb b and self-employed persons. The concept of "workers" has been expanded in the recent Uber decision to apply to online hires, responding to flexible employment. More and more designs are made based on the overall development trend. In China, the existing labour law basically adopts an all-or-nothing labour relationship identification framework and

imposes or exempts all responsibilities in labour relationships accordingly. Compared with the previous two countries, Chinese laws are still perhaps at a weak stage in protecting gig workers.

However, the current legal solutions are still controversial. For the United States, some scholars believe that A.B.5 embodies the labour law principle of "inclined protection" (Tu, 2021). In the gig economy, although workers and platform companies have the same status at the legal level, in reality, there is a massive gap in the bargaining power between the two parties (Pietro, 2018; Zwick, 2018; Clark, 2020; Kaine & Josserand, 2019; Tronsor, 2018). Workers can only obey the regulations of platform companies in terms of working time, location and price setting. In terms of employee identification, workers can only be passively classified as independent contractors, thus losing the minimum wages and benefits that they deserve as employees. While A.B.5 favours workers in determining the employment relationship, the ABC test restricts the applicable conditions for employers to identify workers as independent contractors. This strict restriction is a kind of "inclined protection" for workers in establishing employment relationship standards. In other words, it mandates employers to classify workers as employees rather than independent contractors (Sprague, 2020). In this way, the vulnerability of platform workers is reduced (Zietlow, 2020).
On the contrary, some people argue that A.B.5 will destroy essential sectors of the economy (Zelinsky, 2021; Atmore, 2017; Oranburg, 2018; Timko, 2018).

In the face of global industrial restructuring and the widespread application of information technology, companies need to adjust their employment models to reduce human resource costs, increase investment in product and service innovation and research and development to enhance their competitive advantage (Tu, 2021). If the platform classifies workers as employees, operating costs will increase significantly, further affecting the company's management and pricing mechanisms. Moreover, platforms may be forced to shut down to comply with the law because they cannot afford the high costs for their workers (Harris, 2018). In this case, the gig economy is bound to cease to exist (Tu & Wang, 2020; Atmore, 2017). In addition to the flexible model that A.B.5 may destroy the economic growth in the gig industry, it also made the definition of "employee" more complex and less uniform. Those pursuing federal or state legislation similar to A.B.5 face the same trade-off: expanded coverage comes at the cost of increased complexity and uniformity in the definition of who is an employee. In the Dynamex case (Appendix A Case B), due to the interpretation uncertainties in the ABC test as defined in A.B.5, the court may classify all Dynamex drivers as workers, including those who hire others to work for them and those who work for other

delivery firms. Suppose Dynamex is found to have control over every driver who delivers for Dynamex under prong A. In that case, no driver may avoid the presumption of employee status because Dynamex exercises control as to all of them. In other words, it appears that nearly all online platform workers are considered employees (Kotkin, 2019). The interpretation problems have made the law governing employee status even more complicated and confusing than before (Zelinsky, 2021).

In fact, the A.B.5 has already had a ripple effect on other states. For example, Bill 4204 passed by the New Jersey Senate (New Jersey Senate Bill 4204 2019) is similar to the A.B.5 bill and has caused widespread controversy in the state (Lobel, 2020). Illinois has also considered legislation similar to AB5 (Zietlow, 2020). New York is also planning to introduce legislation to protect gig workers with similar rules (Lobel, 2020; Clark, 2020; Zietlow, 2020; Ring, 2019). However, the A.B.5 does not apply to all industries and fields. Due to the bias of the Act for worker protection and the stringent requirements for employers, many industries actively seek exemptions from the Act. However, legislation in most US states still tends to classify gig workers as independent contractors (Sprague, 2020). The Alaska State Assembly passed a bill (HB132) in 2017, stating that ride-hailing drivers are not employees and do not enjoy employee rights under the state employment law, and obstruct the decisions of state government agencies (Alaska House Bill 132 2017). The Florida court also opposed the claim that ride-hailing drivers are employees. These states believe that the platform has no control and management rights over the workers, and the workers under the platform cannot be classified as employees (Steinberger, 2018). Thus, the definition of the identity of gig economy practitioners is still a significant problem that plagues the legal profession in the United States, and a consensus has not yet been reached (Kurin, 2017; Ring, 2019).

However, some scholars believe that the root cause of the problem is still attributed to the classification of the dual method (Garben, 2019; Atmore, 2017; Clark, 2020; Christina, 2018; Mangan, 2020). The employment law's binary employee-classification system forces workers to choose between being classified as independent contractors, which facilitates efficient business and spurs economic growth while failing to fully protect workers or being classified as employees, which protects worker rights and benefits while limiting economic growth (Atmore, 2017; Clark, 2020; de Haan, 2017). In other words, no matter how to develop or improve the identification test, it will not be able to strike a balance between protecting workers and growing the economy. The current binary structure of the law is not suitable for the gig economy (Christina, 2018; Mangan, 2020).

For the United Kingdom, there are few comments on the classification of gig workers as "workers" in the relevant employment law. More attention is paid to how the worker's identity is connected to the tax law and the social security system. Although how to define "worker" may be a complicated issue, Uber's judgment has already made the identity of the "worker" of gig workers clear. However, it has become an intricate problem that the relevant tax and social security laws based on the binary structure are not suitable for the third type of worker. As mentioned in the problem part before, self-employed people generally pay lower taxes than employees, but they also enjoy fewer social security policies than employees (McGaughey, 2019). So how to change the taxation and social security system to adapt to the current employment category is a big challenge.

For China, because there is no legislation or clear judgment standards for gig workers, more literature focuses on the changes to the legislation. However, scholars agree that the current law is backward. The imperfect legislation of labour law identification standards and the backwardness of the traditional binary classification structure leads to the phenomenon of different judgments in the same labour dispute cases (Zhao, 2019; Zhang et al., 2020; Ding, 2018). The unclear relationship between the platform and the online hire is in the middle of the labour relationship and the service relationship (one is protected by labour law, the other is protected by civil law), which makes it more difficult for the court to make judgments because these two relationships are not actually suitable for gig jobs (Ding, 2018; Zhao, 2019).

The UK’s system of protecting gig workers with “workers” at its core may be a relatively “advanced” response measure among the three countries. Although the question of how to unify the tax law and the social security system followed, there is no doubt that its related rules tend to protect individuals rather than enterprises. This may have inherited the trend of "giving more substantive legal protection to individual rights" in the British labour legislation (Zhang,1996). However, due to its special defining way, workers from different platforms are classified into different categories. The United States is also making changes to fight for the rights of gig workers. The emergence of the ABC test and California A.B.5 heralded that the balance of protection tilted toward workers. However, based on the specific social background and legislative system, the labour relations laws and regulations in the United States are very complex and scattered. Its labour legal system can be regarded as a patchwork mixture. Both the federal entity and the individual states enjoy corresponding legislative powers, making relevant labour relations issues very ambiguous (Tu, 2021). Under the complex federal

system in the United States, unifying the standards of state laws and local laws is a difficult problem.

China may be a relatively backward country in this regard because so far, there has been no relevant policies or measures to change the status of gig workers. This may be because China has a socialist legal system, and at this stage, it is still in the principle of the rule of law that requires economic and social development and progress. In other words, the current national conditions are different from those of capitalist countries, so the handling of related gig relations is also extra. From the cases of the above three countries, it can be found that in the United Kingdom and the United States, gig workers were usually the plaintiffs who sued the platforms, whereas in China, gig workers were usually defendants. In developed countries, people's expectations for welfare and protection exceeds those of developing countries (Lei, 2021). This may be why the United Kingdom and the United States have "inclined" to protect gig workers, while China has not yet introduced relevant measures. Because of the different levels of understanding of labour relations in various countries and jurisdictions, the basis and legal procedures involved in cases vary. Legislation is often the result of a game between two or more parties with opposing interests, and sometimes it is even a political issue. Therefore, how to protect gig workers' rights through legislation or institutions still needs to be conceived according to the current situation of labour, employment, and social security systems in each country (Tu & Wang, 2020).

5.2 Exploring the impacts on the performance of platforms

After an understanding of the legal solutions and related reforms to the gig economy in the three countries mentioned above, this section will explore the performance of several relevant platforms in different countries (Table 3 in Chapter 3) to analyse whether and what impact the changes in applicable labour laws have had on these platforms.

As mentioned before, company performance can be measured from financial and non-financial indicators (Table 2). This part is intended to evaluate the platform performance from a financial perspective and a customer perspective. Internal business processes and the learning and growth perspective may not be critical indicators here. Internal business processes focus on the products and services of the company (Chavan, 2009). However, the products or services offered by gig platforms are based on innovation and the creation of digital technologies (Etter et al., 2019; Fagioli, 2021). The platforms do not provide products or services, and the actual service providers are the workers (Etter et al., 2019). Furthermore, the impact of labour laws on the platform will not be changed by optimising and enhancing the platform's product, or applications, as it is to a certain extent skewed protection for workers.

For the learning and growth perspective, which focuses more on the employees (here, this can be replaced by the "workers"), the relevant issues and relevant laws which have already started to protect workers in some regions can be found in Chapter 4. This section will focus more on the performance of platforms, not the status of workers. In this way, we may focus more on the reputation or the customer satisfaction of the platforms from some business survey reports instead of exploring from the internal business process and the learning and growth perspective. As there are few articles on the legal implications for the performance of platforms, financial reports, stock market information, industry reports and relevant news are reviewed to summarise the impacts of changes in labour law. Besides, there are currently no specific laws to deal with cases related to gig platforms in China. However, there were two big announcements about two platforms in 2021. They are described in detail below (Table 5) to explore the direction of recent government regulation of the gig economy in China.

Table 5: Recent Events Relating to Gig Platforms in the US, UK and China

Countries and platforms	Key dates	Affairs related to the regulation
US **Uber, Lyft and Doordash**	September 2019	California enacted A.B.5 which become effective in January 2020.
	August 2020	The California court ordered Uber and Lyft to comply with the law within a 10-day deadline.
	November 2020	Proposition 22 was passed, granting app-based transportation and delivery companies an exception to A.B.5 by classifying their drivers as "independent contractors" rather than "employees".
UK **Uber, Deliveroo and Just Eat**	19th February 2021	The case of Uber BV v Aslam (Appendix A Case E) The Supreme Court dismissed the appeal and ruled that the driver was a worker and obtained the rights to the minimum wage and paid vacation requested in the lawsuit. However, Uber said it would defy the Supreme Court order by only paying drivers the minimum wage while driving, rather than when they were ready for work, as the Supreme Court required.
	24th June 2021	The case of IWGB v RooFoods (Appendix A Case H) Britain's Court of Appeal confirmed that riders for Deliveroo were self-employed, dismissing a union appeal against past judgments on their status.
CN **Didi and Meituan**	2nd July 2021	The Office of the Central Cyberspace Affairs Commission (2021) implemented a cybersecurity review of Didi to prevent national data security risks. Didi had to stop new user registration during the review period to cooperate with the cyberspace office review work and prevent threats.
	April 2021 8th October 2021	The government investigated Meituan's abuse of its dominant market position in the online food takeaway platform market. The Government punishes Meituan for its monopolistic practices (Appendix A Case I).

5.2.1 Financial perspective-revenue and market value

The success and reliability of business transactions and research in emerging markets depends on the quality of financial information. The quality of financial reporting by listed companies is much better than by unlisted companies due to more significant government and investor scrutiny (Li et al., 2014). Therefore, we will analyse the impact of relevant laws on the performance of listed companies through their financial reports and stock market movements.

United States of America:

To distinguish the impact of the COVID-19 and legal policies on the gig platform, here we choose to look at the financial performance of Uber and Lyft in 2019Q4 (Doordash was not listed at that time, and no information was available). In addition, we will focus on the description of the relevant classification issues in the 2019 and 2020 annual reports and the change in the share price.

First, in Q4 2019, which is after the release of the A.B.5, there is not much impact on the financial results of the platform. Uber's revenue reached $4.069 billion in the fourth quarter of 2019, up 37% from $2.974 billion in Q4 2018 and 39% year-over-year. And in the U.S. and Canada regions, revenue was $2.407 billion, up 39% year-over-year on revenue (Uber, 2020). This performance also drove Uber's share price higher (see Figure 3 below). Similarly, Lyft's revenue was $1,011.1 million in Q4, up 52% year-over-year (Lyft, 2020). It is to say that the policy change has had a minimal impact on the financial results of the gig platform in the short term.

The Covid-19 pandemic caused all three platforms to see a significant drop in revenue in 2020, and the financial impact of the law change on the platforms cannot be seen here in the annual report. However, instead of complying with A.B.5, the Uber and Lyft platforms spent heavily to get Proposition 22 passed, which exempts employers from providing a full suite of statutory employee benefits (including overtime and a half, paid sick leave, employer-provided health care, bargaining rights and unemployment insurance), but requires new protections for drivers, including a 120% local minimum wage for drivers, and an average of health insurance benefits for drivers driving more than 15 hours per week, requiring companies to pay for medical expenses and basic protections such as loss of income for some drivers injured while driving or waiting (Uber, 2021a; Lyft, 2021; California Legislative Analyst's Office, 2020). Doordash disclosed that the costs associated with dasher in California had increased because of A.B.5 and it would charge higher fees and commissions in some cases to offset some of these increased costs (DoorDash, 2021). Moreover, all three platforms' annual

reports in 2020 categorised employment as a risk factor and mentioned any reclassification would need a fundamental shift in the gig business model, which would harm the operations, financial and these negative impacts are unpredictable (Uber, 2021a; Lyft, 2021; Doordash, 2021). It is noteworthy that in December 2021, DoorDash has started to hiring couriers as employees for the outdated employment law prompting new structure in break with gig worker model (Lee, 2021).

However, the market share price trends of these two platforms in the months following the enactment of A.B.5 were declining, as shown in the chart below:

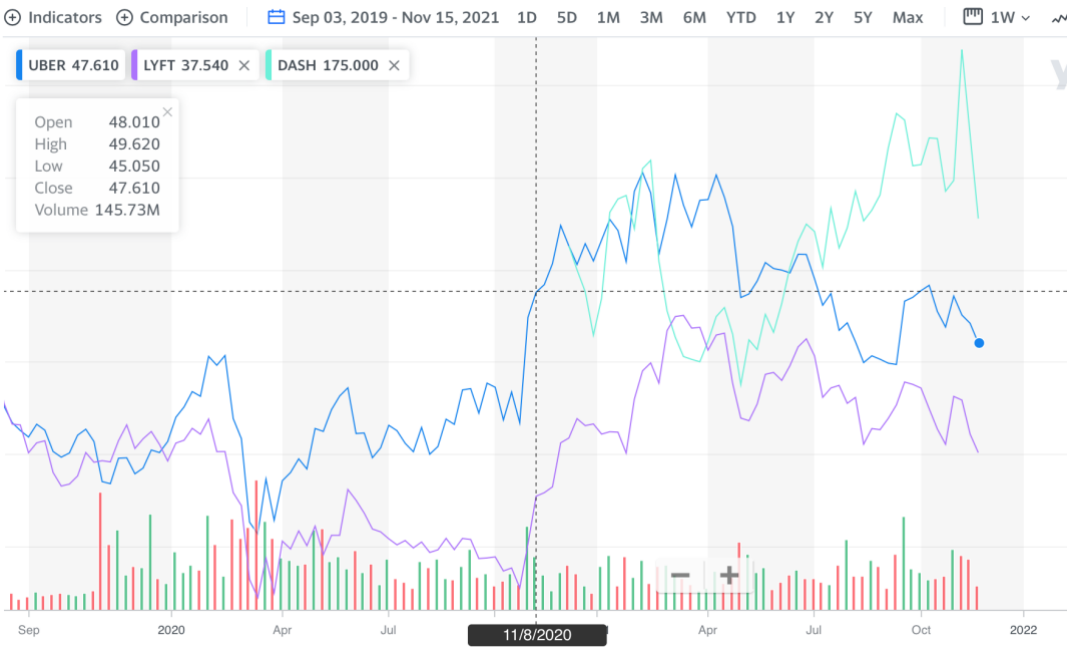

Figure 3: Share Prices of Uber, Lyft and Doordash from Sep 3 2019 to Nov 15 2021 (from Yahoo Finance)

After Uber and Lyft released their Q4 earnings in 2019, it is remarkable that their stock prices rallied again on the back of their outstanding results. It is to say that policy adjustment and formulations can directly impact companies' stock prices within the respective industries. As Uber revealed in its annual report, "lawsuits threatened, filed or decided against us or negative media coverage or publicity" would make the market price of stock decline steeply or suddenly regardless of the operating performance (Uber, 2021a).

Another major point in time after November 2020, that is, after the passage of Proposition 22, Uber and Lyft closed sharply higher, each up more than 15% in trading. Uber's total market capitalisation was about $71.8 billion; Lyft's total market capitalisation was about $9.1 billion (Mohamed, 2020). Thus, it seems that the change in relevant laws has a greater impact on platforms, especially for public companies. Many restrictions on platforms on law changes can affect their stock prices, as

exemplified by A.B. 5 and Proposition 22. However, a strong revenue capacity can still recover the decline in market capitalisation or share price.

While Uber and Lyft did not comply with the implementation of A.B. 5, Doordash did add additional costs in the California region (Uber, 2021a; Lyft, 2021; Doordash, 2021). After A.B.5 and Proposition 22, the platforms have made concessions to workers' rights, such as instituting a minimum wage and providing related injury insurance. Uber stated in its 2021 annual report that these changes will not have a significant impact on its business, including operating results, financial performance or cash flow (Uber, 2021a). This is probably a considerable concession platforms can make while retaining their operating model.

Britain:

The revenue of three platforms (Deliveroo, Just Eat, Uber) was examined starting from the first quarter of 2021 to match the judgment in the Uber BV v Aslam lawsuit,. Surprisingly, the verdict in the lawsuit had little impact on the total revenue of the three platforms, except for a slight effect on Uber's UK business, which showed revenue of US$2.903 billion for the quarter ended March 31, down 11% from US$3.543 billion in the same period last year. However, Uber's net loss for the first quarter of fiscal 2021 was only US$108 million, a significant narrowing of the company's net loss compared to the US$2.936 billion loss in the same period last year. But Uber's Mobility Revenues were reduced by a $600 million accrual made for resolving historical claims in the UK relating to drivers' classification, which decreased 65% compared to last year. Even without the loss due to the lawsuit, Uber's Mobility Revenue was down 41%, in large part due to the impact of Covid-19 (Uber, 2021b).

For Just Eat, its orders rose 79% to 200 million in the first quarter of 2021, up from 112 million a year earlier. The Gross Merchandise Value (GMV) was €4.5 billion, up 89 per cent on a constant currency basis from the first quarter of 2020. In addition, the fastest-growing segment and the company's key growth driver was in the United Kingdom, which processed 64 million orders, up 96% from the same period in 2020 (Just Eat, 2021b). Deliveroo, for the fourth quarter, group orders increased by 114 per cent year on year to 71 million, and Gross Transaction Value (GTV) increased by 130 per cent to £1.65 billion, significantly growing by over 120% year-on-year in London (Deliveroo, 2021). This means that, except for the litigation losses of Uber, the subject of the lawsuit in the UK (only the Mobility part of the reduction was particularly severe), all three platforms are generally doing well in profitability. Although quarterly revenue

figures are not available for the UK platform due to differences in national accounting systems, all three platforms' overall business economic capacity is soaring.

In contrast to the reaction of the share prices of the relevant platforms in the US following A.B.5, although Uber and Just Eat's share prices fell following the lawsuit (Deliveroo was not listed at that time), this appears to have lasted only a week or more minor before recovering, as shown below:

Figure 4: Share Prices of Uber, Just Eat and Deliveroo from June 2020 to Nov 15, 2021 (from Yahoo Finance)

The Aslam case seems to have had a vast impact only on the Mobility part of Uber, with the rest of the business, including Delivery and Freight, unaffected (Uber, 2021b). This indicates that the impact of the Aslam verdict on Uber was short term and that Uber's share price recovered in the latter part of the year. Like Uber, Just Eat's share price fell quickly but recovered within a week. Indeed, the Aslam case has led many to believe that the gig platforms in the UK could be struck, and the takeaway platforms seem to be the most implicated. In fact, Just Eat planned to classify couriers as "workers" as early as 2020. In November 2020, Just Eat launched its 'Scoober' operating model in London, meaning that couriers who sign a contract can receive essential job perks such as training, holiday pay, sick leave and related insurance in specified areas. Just Eat thinks it is the right thing to do, improving their visibility and service quality to consumers and restaurant partners (Just Eat, 2021a). It seems that

the Aslam case has not affected Just Eat much, as it had already started to implement the possible outcome of the judgment long before it was handed down.

In terms of Deliveroo, although its share price has been in the doldrums for some time since it opened, after June, when it won the legal battle over riders' employment status and bargaining rights (see Appendix A Case H), the stock rose for the first time by 9% to a record high (Reuters, 2021). It seems that takeaway riders are considered to be self-employed and therefore do not have 'worker' rights, which has put to rest any speculation about the impact of the Aslam decision on takeaway platforms. Uber offered new employment rights such as holiday pay and pensions to thousands of drivers following the Aslam decision but also made it clear that this did not apply to Uber Eats takeaway couriers.

The Aslam decision did not have a ripple effect on gig service businesses or platforms other than the online ride-sharing services. It only targets Uber's Mobility business, which has created a monopoly situation in the UK's online ride-sharing market. While the change in the stock market does reflect some investors' concerns about the operations of the successor platform, this is only for a short time. In November 2021, Uber even raised its fares by 10% in London for attracting more drivers to sign up to meet the growing demand (Topham, 2021). However, Uber may overhaul its model for its mobility business in UK in the future because the court ask it must have direct contracts with drivers (Milligan, 2021). This needs more research in the future.

China:

Due to the review of Didi Chunxing by the government in July 2021 and its subsequent delisting, there is no information on its financial results. However, after Meituan was fined, its second and third quarterly reports showed a 77% increase in revenue in the second quarter and a 37.9% year-on-year increase in total revenue of RMB48.83 billion in the third quarter, with solid revenue growth in the food and beverage takeaway and in-store, hotel and travel segments and a total segment operating profit of RMB4.7 billion in the third quarter of 2021(Meituan, 2021b; Meituan, 2021a). As with previous platform operations in the US and UK, negative news or related policies do not appear to have significantly impacted the platform's financial results. Meituan is still achieving steady revenue growth.

In comparison to the stock market, as follows:

Figure 5: Share Prices of Didi and Meituan from May 2020 to Nov 15 2021 (from Yahoo Finance

Didi's share price has been persistently falling since its IPO, supposedly concerning being reviewed for its cyber security compliance. However, it seems that Didi's share price has not been able to recover because the Didi app was ordered to be taken down. Meituan's share price, however, fell after its antitrust affair broke but soon rebounded, and its share price fluctuations after the fine were not much affected. Perhaps it is still because of its solid revenue-generating ability that it has gained the favour of investors.

5.2.2 Customer perspective-reputation and customer satisfaction

Traditional financial statements do not capture the value of the critical intangible assets seen as the most significant drivers of value creation. As a result, they do not provide sufficient and relevant information about the market value of the business (Xu & Liu, 2005). The divergence between book value and market value has become more pronounced in the new economy of globalisation and the Internet revolution. Many technology companies have no substantial physical assets, working infrastructure, or effective business operations but have attracted significant venture capital and generated considerable market value in a relatively short period (Marley, 2020; Xu & Liu, 2005). This illustrates the critical role that corporate reputation plays in measuring the company’s performance.

United States of America

Here, we explore this by drawing on relevant data reporting studies, and we found some information in Axios Harris "Corporate Reputation Rankings" Poll. This ranking is used to determine the most reputable U.S. companies. It involves a two-part process: the first part is to determine the most popular companies by selecting 100 of the public's top of mind awareness of companies who either excelled or faltered; while the

second part is based on seven reputation indices, including trust, vision, growth, products and services, culture, ethics, and citizenship (Axios Harris Poll, 2021). It is worth noting that Uber has always been a resident company in this ranking; in other words, it has always been one of the "most visible companies" in the minds of Americans. However, its ranking is not quite as high and has been falling in recent years (from 80th in 2020 to 90th in 2021). The main reason for this is that Uber received a low score in the category of citizenship, which is the public's general perception that the company does not share their values and support good causes. At the same time, it also got a fair score in trust, ethics, products or services. However, A.B.5 did not impact its reputation ranking, and Uber still scored high in growth and vision. In other words, the public still believes Uber holds a clear vision for the future as well as firm prospects for growth.

Lyft did not make the list, and DoorDash was a new member of the 2020 list for its positive response to the Covid-19, coming in at 42nd place, with excellent scores in all categories, especially in vision and growth (Axios Harris Poll, 2019; Axios Harris Poll, 2020; Axios Harris Poll, 2021). While Lyft did not have a public ranking on reputation, information on its comparative survey with Uber found that while Uber was more prominent, Lyft is friendlier. Lyft users choose Lyft for its driver friendliness and brand image (Schulze, 2018). Besides, in the "2020 Brand Passion Report: Top Global Brands", ranking of the most loved brands according to consumers in social media (NetBaseQuid, 2020), Uber and Lyft are ranked 32 and 69, respectively. This means that they are both trendy brands loved by the customers in the media. However, both companies have been losing money so far and strengthening their affinity with drivers and riders maybe the things they must consider in the future (Landor Pulse, 2019).

Perhaps the emergence of A.B.5 has not had a more significant impact on the platform's reputation. Because of the epidemic, it is not evident that it has had a substantial effect on the platform's reputation. Some platforms have even gained a very high reputation for their positive performance in response to Covid-19. The reasons for Uber's weakness in citizenship, trust, ethics, products/services and culture could be attributed to the impact of previous cases of poor behaviour regarding drivers, sexual harassment and gender discrimination by executives (Landor Pulse, 2019) and other causes summarised in Chapter 4. Although the evaluation of these three platforms is different, the dilemmas they face (employee classification, regulatory hurdles, etc.) may be the same. However, some platforms consistently score high in vision and growth, despite scoring low on the relevant categories. While customers question the safety of

ride-sharing software, they still use it frequently (Alarms.org, 2020). These may be the characteristics of the gig economy industry.

Britain

Although no similar survey to the Axios-Harris Corporate Reputation Rankings was found for the UK, Uber and Just Eat were ranked 17th and 37th respectively in the top 50 most relevant outperformed brands by UK consumers (Prophet Brand Relevance Index 2019). The rankings are based on actual consumer feedback. The brands on the list are typically customer-obsessed (meeting important needs in people's lives), ruthlessly pragmatic (making customers live easier), pervasively innovative and distinctively inspired (make emotional connections, earn trust and fulfil a large purpose). The report notes that both Uber and Just Eat are the brands that UK customers cannot live without and that Uber is cited as the top brand within the ridesharing industry (Prophet, 2019a). Although detailed parameters are not disclosed in the report, it is clear that these two platforms, which are closely linked to the gig economy, are closely related to people's lives and are the brands UK people are usually keen to use. No consumer satisfaction or reputation rankings have been released for Deliveroo, probably because it is still on the rise in size (Scott-Delany, 2021).

Because the Aslam lawsuit took place in 2021, there is no way to visually see if Uber's reputation has improved since it fulfilled the judgment requirements. But it is worth noting that the reliance on platforms such as Uber, or Just Eat for that matter, seems to be unaffected by how "harshly" the platforms treat their workers, as the gig economy model has become embedded in people's lives. However, some platforms may have also noticed that the performance of a business is not just about customer satisfaction or reputation, but that the long-term growth is dependent on the 'riders' who work for the platform. In addition to Just Eat's "Scoober" model, Deliveroo improved its insurance for riders in the UK in 2018, such as providing both third party liability and accident insurance free with free cost to riders, automatically enrolling riders onto the personal injury cover and so on (Deliveroo, 2018).

China

There are two reports or rankings related to these two platforms. The first is the "New economy enterprise reputation monitoring research report 2019" released by the Corporate Reputation Research Centre of the Nandu Big Data Research Institute (2019), which unfolds the annual reputation monitoring of sample new economy enterprises closer to public life in five dimensions: public concern, social appeal, social responsibility, product recognition and market proximity. Meituan was one of the top

10% of the 143 sampled companies, with a good reputation and high scores in all five dimensions during the monitoring period. On the other hand, Didi was ranked as a "reputation aggressive company", with a significant increase in its reputation value due to its safety remediation and upgrades following the negative public opinion in 2018, as well as its efforts in strategic development innovation, environmental protection and philanthropy.

Another ranking is the "Top 10 China industry supply-side digital service platforms 2021", published by iiMedia Ranking (2021). This ranking is based on companies' overall strength, investment value, supply chain synergy capability, technology service capability, market reputation, analysts' evaluation and other perspectives through iiMedia's big data decision-making and intelligent analysis system. Meituan and Didi are ranked 1st and 3rd, respectively, indicating that they are both excellent enablers of enterprise digitalisation, helping Chinese enterprises to transform and innovate digitally. Moreover, Metituan was ranked 19th in the 2019 China Prophet Brand Relevance Index (2019b).

Indeed, typical gig platforms like Didi and Meituan are popular with the public. Even when there are adverse incidents, the platforms are proactive and cooperative. As seen in recent events, China's current order introduced a series of regulatory measures for the internet industry, covering anti-monopoly, data security and other aspects of consolidation but did not focus on the policy reforms with the protection and rights of gig workers. But it cannot be said that the status of platform workers has been completely forgotten. On 26th July 2021, the State Administration for Market Regulation and other departments issued "the guidance on implementing the responsibilities of online catering platforms to effectively safeguard the rights of takeaway delivery workers" (Song, 2021), which put forward a full range of requirements to safeguard the legitimate rights of takeaway delivery workers, such as guarantying takeaway riders the local minimum wage; rejecting the "strictest algorithm" as an assessment requirement for workers (reasonably determine the number of orders, punctuality, online rate and other assessment factors); protecting labour safety (improve the platform order assignment mechanism, optimise the delivery route, reasonably determine the order saturation, reduce labour intensity), etc. This is to say that China has taken a “gentler” approach to guide platforms to optimise the reasonable treatment of workers, rather than catching many platforms off guard like A.B.5. Subsequently, Meituan said it would actively respond to policy calls to protect riders' rights (Meituan, 2021b).

5.3 Impact of labour law on platform performance

According to the performance evaluation above, we find some new points. Firstly, the policy changes mentioned above (excluding A.B.5) have little or possibly no financial impact on the gig platform. They do not affect the platform's revenue profile, except for pay-outs required due to litigation or settlements. Some platforms have even had to raise their fees to attract more workers to join because of the high demand. It may be because the "concessions" made by the law to workers (new protections after Proposition 22 and the case of Aslam to drivers) do not impose much of an operating cost burden on the gig platforms. However, all policy changes or litigation cases will immediately affect the platform's share price and impact the market value of the business. Most of the time, the share price recovers due to the solid revenue capacity of the company and regains the favour of investors.

In addition, although changes in the law have not affected the platforms' financial performance, for the time being, more and more platforms have started to pay attention to the protection of the rights of their workers. Some platforms in the US have started to transition to offering full-time work to their workers, which is just as some academics have previously predicted that the changes in the labour law may break the unique gig work model and pull it back into the cage of the traditional work model (Lao, 2017). However, platforms in the US seem to be more reactive to the transition than the UK platforms. Although the law has clarified that takeaway riders are self-employed in the UK, takeaway platforms there are still optimising their protection schemes for riders. In China, where there is no explicit legal protection, the government has also started to make guidelines for opinions on the relevant profession, although not as strong as other countries.

Furthermore, we evaluated several typical platforms in three countries from a reputational and customer perspective. Some platforms may not be doing well in ethics, culture, etc., but most have excellent brand values, vision and growth. And most of the platforms have become brands that people cannot live without, particularly visible and loved in the media. Therefore, even if the platforms do not give enough rights for the workers, it does not affect the convenience that the new gig economy model brings to people. In other words, the law reforms are likely to have little impact on the people's choice of platform.

Another thing we noticed is that all the platforms listed here have a negative EBIT, which means all the gig platforms are still growing and unprofitable at the moment. But the prospects for the operating model of the gig platforms and the ability to generate

revenue attract the capital to invest. This reinforces our belief that most people will not abandon using the services offered by platforms for the labour rights issues associated, as long as the relevant laws are reformed in a way that does not destroy the gig model. More research may be needed to demonstrate this in the future. And we may understand why the platform's technical characteristics and guidelines are designed for profit.

Going back to the law in question, as previously mentioned, many scholars have been pessimistic about the emergence of A.B.5 because it was developed based on a binary classification that was already inappropriate for determining the status of workers. Its overly skewed protection of workers could destroy the gig work model. Without the advent of Proposition 22, platforms may have ceased operations in California; Just as Uber and Lyft were unable to meet the city of Austin's ordinance requiring drivers to register their fingerprint information for background checks, or Deliveroo abandoned the Spanish market due to Spain's employment rights law (Jolly, 2019; Zeitlin, 2019). Proposition 22 may be a "compromise" of platforms in front of the law and workers, which can minimise the loss on the operating costs and financial threat caused by A.B.5.

Looking at the UK, despite the heavy losses from litigation and compensation caused by the Aslam case, Uber is still operating steadily in the UK and has good revenue capacity. It is to say that the ruling which is within the acceptable range for the platforms (such as Proposition 22 and the "worker" category of UK) will not affect the platform's financial health. However, for the different legal solutions, the UK's classification of different types of gig workers has yet to yield the same results. Uber's mobility business and other ride-sharing platforms may have to overhaul their operating model for the judgement from the Aslam case. Surprisingly, although the UK is clear that takeaway riders are self-employed, there are still platforms that have paid attention to and improved the protection of their rights. While China does not have a policy on this, we have found that the country is highly regulated and focused on digital innovation companies and has begun to pay attention to workers' rights issues.

5.4 Possible trends

Based on the different solutions for dealing with gig jobs in the above three countries, the academic community has also provided different suggestions. This part will sort out the potential legal development directions and trends in these three countries from the related articles.

United States of America

Faced with the high degree of uncertainty in labour relations in the Internet and information age, many scholars and policy proponents argue that the law must adjust to the needs of platforms and the gig economy, rather than focusing on defining the worker as either an employee or as an independent contractor (Ding, 2018). Specifically, scholars and policy proponents offer the following three types of solution progressions.

The first solution, and also the most popular way, is to create a new type of legal relationship between the existing dualistic structure, which is labelled by others as the "independent contractor" classification (Atmore, 2017; Pearce & Silva, 2018; Kondo & Singer, 2020; Cherry & Aloisi, 2016; Holloway, 2015; Ding, 2018; De Ruyter et al., 2019; Sprague, 2020; Poon, 2019). This new category is created for workers who work with a certain degree of autonomy but are at the same time controlled by the platform. Some existing laws should apply to them, while others do not (Ding, 2018). Many of the protections provided to employees under the economic realities test would apply to this categorisation, including minimum and a fair wage, health and family leave, and discrimination protection. The benefits provided under the control test, including retirement, health, and welfare benefit programmes, unionisation, and tax withholding, would not be available to this new categorisation. This allocation will give gig workers their fundamental rights, but in exchange for the flexibility and independence that gig labour provides, rather than the higher economic benefits of full employment (Atmore, 2017; Ding, 2018). A three-category legal framework could be beneficial because it would recognise and account for the vast and increasing number of worker-employer relationships in the current marketplace. This solution would benefit full-time workers by providing statutory protection while preserving employers' ability to use the independent contractor distinction without fearing negative repercussions from misclassification (Pearce & Silva, 2018; Atmore, 2017).

However, creating the third category would be a problematic legislative intervention, in part because difficult decisions regarding which rights and obligations to include and exclude from the classes would have to be made (Holloway, 2015; Cherry & Aloisi, 2016). Furthermore, establishing where a worker fits into one of the three groups would include doctrinal considerations as well as the risk of misclassification, arbitrage, and confusion (Cherry & Aloisi, 2016). Adding a third classification to legislation that only allows for two would be a huge act of judicial activism. It would be perceived as the type of approach that would necessitate more political debate and discussion than

judicial decision-making, requiring a lengthy and slow legislative process (Cherry & Aloisi, 2016; Atmore, 2017).

Therefore, Atmore (2017) suggests that immediate safe harbour could be implemented as a remedy to protect gig workers in the short term before refining the third classification. He believes Congress should pass a safe harbour statute that allows gig companies to categorise workers as either employees or independent contractors to protect them from legal confusion and the potentially catastrophic implications of forced adoption of the employee classification. This law will effectively protect gig companies from costly legal fights and future court orders interpreting the control or economic realities standards to force gig companies to become employers. This is a must if employment development and economic opportunity are to be preserved. Such a law would assist developing gig companies to achieve rapid growth and stable maturity by shielding them from this huge financial burden during their early stages of survival and development. This proposal tends to protect the gig platform and is useful to help decide later on the details of the third category on how to create a fair balance between workers and platform companies.

The second solution of proposals advocates some adjustments to existing labour laws and a unique path of legal regulation of the platform economy. In other words, one could consider classifying the relationship between online platforms and workers as non-labour as possible and then adopt different regulatory tools on this basis, depending on the particular circumstances (Ding, 2018; Lobel, 2020; Kondo and Singer, 2020). Kondo and Singer (2020) argue that policy solutions that avoid generating new status disparities rather than creating new ones are better suited to dealing with the issues of on-demand work. They, therefore, propose the concept 'labour without employment', which provides a valuable summary of recent legislative and regulatory developments. In other words, there has been a push to give benefits and protections to gig workers without depending on the classic employer/independent contractor distinction. Lobel (2020) proposes three paths for that, which entails extending specific employment standards and rights to anybody who provides labour, establishing rules particular to independent contractors, and detaching social welfare provisions from the workplace (De Ruyter et al., 2019). For instance, New York mandated minimum per-trip payment formulae for "for-hire vehicle service companies" like Uber, and Seattle enacted legislation that would allow rideshare drivers to form unions (Lobel, 2020; Kondo and Singer, 2020; Brown, 2019; Greenhouse, 2016). In this way, legislators and regulators sought to safeguard workers without relying on the concept of employment or to define employees and independent contractors in a way

that avoided standard definitions of those terms, which may be better (Kondo and Singer, 2020).

The third type of solution is a new, creative way of dealing with gig employment. Kurin (2017) proposed that gig companies should use a franchise business model. These businesses would be able to protect themselves from franchisee liability by doing so. Furthermore, as franchisors, gig companies would be able to maintain crucial brand control without paying the same compensatory incentives to franchisees as they would to workers. In other words, as a franchisee, the gig-economy worker pays a franchise fee (which can be 20-30% of the commission) to the platform, the franchisor, to obtain the franchisor's business name and systems to run the business. And the gig-economy platform only needs to provide specific advice to the workers to improve their ratings without close control and taking subsequent responsibility. Holloway (2015) thinks the greatest solutions will be discovered, proposed, negotiated, formed, and implemented by and between gig workers and gig firms, called “develop freely market solution”. This solution will not be brought about through administrative, legislative, or judicial methods.

Gig companies can help gig employees thrive while also maintaining the independent contractor designation by relinquishing control in ways that benefit both parties. The possibilities may include: ensuring that each newly established relationship is as straightforward as possible from the start; providing tools for micro-entrepreneurial success, such as financial literacy; encouraging and supporting synergistic combinations across gig firms; allowing gig workers to set their rates of pay; allowing subcontracting; allowing portable reputations to replace terminations; and engaging in interdisciplinary collaboration. Both options offer a new perspective on future trends in gig employment, although it is not certain that they are feasible.

Britain

The UK has not yet developed an adequate system to address worker status’s problems to the tax and social security system. Directly related to this issue is the Taylor Review, published in July 2017, which assesses the current state of work in the UK (Taylor et al., 2017). Here, the authors make recommendations on dealing with issues such as identifying "worker" status and related tax law.

Firstly, the term "worker" has uncertain meaning, and the legal definition is overly broad. Thus, the government should rename the category of people who are eligible for worker rights but are not employees as "dependant contractors," making it more

straightforward to distinguish between two groups of people who qualify for "worker" rights (Haines, 2018; Taylor et al., 2017; Taylor, 2017). Furthermore, the status of "dependent contractor" should have a more precise definition that more accurately reflects the reality of modern working arrangements, properly capturing those more casual employment relationships that are on the rise today– an individual who is neither an employee nor a true self-employed. While evaluating dependent contractor status, the principle of "control" is recommended to be given greater weight (Taylor, 2017). Taylor et al. (2017) believe that more people will be protected by labour law by putting a larger focus on control and less on personal service. However, because Taylor et al. do not describe "control" in-depth, this approach has generated concerns, as it may lead to a conceptual reliance on a hazy definition of the term (Bales et al., 2018; Wood, 2019).

When control is viewed from a sociological perspective, it becomes clear that it is a central aspect of all labour interactions, spanning all employment statuses and taking on various complicated forms. As a result, centring labour law on a nebulous concept of control may result in the reclassification of individuals who operate under subtle, insidious, and intangible forms of control, thus reducing existing levels of protection. Employees' livelihood is dependent on the person who hires them; hence labour rules exist to recognise their vulnerable situation. This dependency persists regardless of the type of control exercised by an employer (Wood, 2019). Accordingly, it may not be appropriate to prioritise "control" over "personal service."

Another suggestion focus on tax issues. The current tax system further distorts employment rights by levying a surcharge on employed workers that is not imposed on self-employed workers, and the amount of money the government raises in tax revenue is influenced by the various tax rates applied to various types of labour (Taylor et al., 2017). Therefore, Taylor et al.(2017) believe that the level of NIC paid by workers and self-employed persons should be brought closer to parity, and the government should address the remaining areas of entitlement where self-employed people lose out, such as parental leave. In other words, in the future, the tax law may treat workers as employees, and self-employed and employees are required to pay the same proportion of NIC to obtain corresponding social benefits. However, the proposed modifications to the gig economy's employment standards would be detrimental to platform companies, raising the cost of services and reducing options for people to supplement their incomes because the company could be liable for employment taxes including national insurance and payroll taxes (Jones, 2021; Haines, 2018). It remains to be seen whether the assumption of this taxation system can be put into practice and how well it

performs. However, the Good Work Plan issued by the British government in response to the Taylor Review in December 2018 does not respond to the control factors and tax change recommendations in the Taylor Review (GOV.UK, 2018).

China

There is a lack of laws and local regulations on the part-time labour economy in China. In this regard, most scholars have suggested the current relevant laws with the inspiration of overseas practices, which focus on the improvement of the labour laws, optimising the social security system and regulating online platforms.

Firstly, there are many different opinions on improving the relevant labour laws and clarifying the labour relations. Zou and Wang (2020) argue that if the platform imposes strict labour control on the gig workers, the court should not limit to the superficial agreement but dig the real legal relationship behind the facts. Like the control test in the United States, judges can consider the employment relationship from daily attendance, reward and punishment rules, compensation settlement, labour tools, management control and other elements. Tu (2021) thinks that it is possible to transform the regulation model of labour law by typifying and differentiating employees, taking reference from the California A.B. Bill. This would expand the coverage of labour law to include more groups. However, while the pursuit of substantive fairness is the goal of tilted protection, the question of how to protect workers' fundamental rights and how to measure this is a critical one. The legislation needs to consider the needs of both workers and platform companies, based on the consent of both parties, and differentiate the treatment according to the actual situation for implementing a differentiated coordination mechanism (Zhao, 2019; Tu 2021; Zou & Wang, 2020).

Therefore, some prefer to establish an intermediate type of labour law to protect gig workers. Wang & Wang (2018) argue that given the drawbacks of the current labour law, which either protects entirely or does not protect at all, "online workers" labour forms should be divided into three categories. One is atypical labour relations (kind of “worker” in limb a) in UK), the other is independent labour (kind of self-employed in UK), and the third is intermediate quasi-subordinate independent labour (kind of “worker” in limb b) in UK). In the case of atypical labour relations and quasi-subordinate independent labour, a certain degree of protection should be given to atypical labour relations and quasi-subordinate independent work, while no protection should be given to independent labour. Besides, Wang & Wang (2018) propose the organisational subordination, economic subordination, continuity, and whether or not the platform

enterprise benefits from the workers' labour are the four elements to distinguish the three categories. If all four elements are present and the organizational subordination is strong, the relationship can be classified as atypical labour; if the organizational subordination is weak, and the other three elements are present and the economic subordination is strong, the relationship can be classified as quasi-subordinate independent labour; if none of the four elements is present or weak, the relationship can be classified as independent labour. These differences will be the basis for the multiplicity of indicators to be considered in adjudication practice.

However, Ding (2018) does not suggest a third category in his disagreement of binary labour law but instead proposes a public-private partnership "booster" rule. He believes that the government should adopt facilitative rules to induce market players to make reasonable choices without prohibiting them from making other choices. For example, the government can encourage platform companies to provide effective protection for workers, and without affecting the free flow of labour and fair competition in the market, the government can offer incentives to those companies that provide proper labour protection, thus encouraging platform companies to establish more long-term and benign cooperative relationships with their employees.

In addition to improving labour laws, optimising the social security system and regulating online platforms are also important. Under the current situation where labour relations and social insurance are bundled, personal accident insurance and compulsory medical insurance can be mandatorily established for workers in casual labour relations to receive maximum financial assistance in case of accidents at work (Zhao, 2019). Online platform companies and workers can jointly insure themselves to bear the payment cost according to the actual situation, and the government can also subsidise part of it. These insurance cost benchmarks can be set uniformly by the labour department according to the actual situation (Zhao, 2019; Wang & Wang 2018; Zou & Wang, 2020). In addition, the government needs to strengthen the regulation of Internet platforms. Platform enterprises, both as organisers of production factors and as social governors, have the responsibility to protect and manage "online workers" (Wang & Wang 2018). In practice, the platforms are usually behind large enterprises with professional legal teams, while the part-time workers lack legal knowledge, information resources and are scattered (Zou & Wang, 2020). To prevent platforms from infringing on the rights of workers, the government needs to guide media to take legal, economic and social responsibilities (Zhao, 2019; Zou & Wang, 2020; Wang & Wang 2018; Xie et al., 2020). For example, the government can directly supervise and

manage the market access, price setting, and product services of Internet platform enterprises to correct the economic behaviour of platforms (Zou & Wang, 2020).

Although scholars have provided many new ideas on how to improve and reform employment relations in the gig economy, how to protect platform workers through legislation in each country still needs to be conceptualised according to the current situation of labour and employment and social security systems.

5.5 Summary

We find that while the impact of the laws on platforms has not caused severe damage to the financial health of the platforms (although it does affect the share price), for the time being, there are slight differences in performance between platforms in different countries. Firstly, some US and UK platforms have started to shift back to the traditional work model of offering full-time opportunities to workers. But they are based on different premises: the US is still in the grip of a backward binary classification and a complex federal system that does not exactly classify workers; in the UK, it is clear that workers on ride-sharing platforms are 'workers' and workers on takeaway platforms are self-employed. While the US does not have a definitive classification scheme, some platforms have already begun the transition. The likely explanation for this is that the ripple effect of A.B.5 on other states has led some platforms to plan ahead, as there is no guarantee that similar legislation will be introduced in the future. Some platforms in the UK have been planning schemes to give workers more protection long before the ruling, possibly as a way for platforms to increase their value and reputation. However, the outcome of the Aslam case could affect the future of Uber's mobility business in the UK, as the way the platform contracts with drivers will need to change by law. This is something that needs to be proven by more research in the future. As for China, it seems that it is still at the stage of regulating the compliance of the gig economy market, but it is beginning to be aware of the rights of workers. However, it seems that China's gig economy is still booming, and for the time being, there will be no policies to crack down on it as there are in the US and UK due to the national context.

It is undeniable that many scholars believe that the current binary classification in the United States is flawed, and the sort of gig workers cannot be determined by simply being "employees" or "independent contractors". Creating the third category could be a new way of protecting worker status. Still, until that happens, it will take a long time to plan and implement how the third category will be determined, how it will be grouped and how the tax implications of that category will be addressed. Some platforms in the US have already begun to change due to A.B.5, gradually moving back to traditional

employment models. However, the unique business model has attracted so much investment and customer interest that is the main reason for the boom in the gig job economy. Whether the forced transition of platforms due to the law will be affected their operations and growth will take a lot of time and research to verify. The UK's 'worker' classification, specific criteria for identification and several recent decisions in related cases have provided increasing clarity on the status of gig workers. Some of the platforms closely associated with the rulings have already started changing their operating models. However, how the ternary classification of labour applies to the binary tax system still haunts the UK. This may not be a problem only for the UK but for all countries with a third classification or adopting a ternary type because the changes in tax system may also affect the operation of gig platforms. China is still at the stage of promoting socio-economic development. Although scholars have many proposals on protecting workers' legal rights, many of them mention that the premise is not affecting economic growth. Perhaps because of the different national conditions in China, the job opportunities given to them by the gig economy may have become their chances of survival, which can be further explored.

Chapter 6 Recommendations and Conclusion

6.1 The implications of the research

This chapter aims to translate the above findings and discussion into future research. Firstly, we apply a comparative approach to compare the legal solutions of different countries in dealing with gig workers. We find significant differences in the legal solutions involved in dealing with issues related to gig workers in the US, UK and China. The reasons for these differences may be related to a country's history, legal traditions (civil code vs. common law), and employment relations norms (structured or unstructured, informal vs. formal, collaborative vs. antagonistic etc.). However, we do not explore this direction much more deeply. Future researchers may do the same exercise with countries that differ in employment relations norms and legal traditions from the other countries to understand better how gig work is being managed and why this is being done differently around the world. Scholars may look for differences in the development of the gig work economy across countries and the reasons for these differences.

In addition, we have gathered information and analysed the impact of the relevant legal changes in different countries on the platform from a financial and partly non-financial perspective with available materials. We find that the changes of legislation do affect the share price of the platform but do not seem to affect the revenue capability of the platform much; customers may not abandon using the services provided by the platform due to legal issues or negative events (this point is relatively poorly researched and can be confirmed by researchers in the future). However, these are the results of a situation where the platform has not yet wholly changed its operating model. The law does make it necessary for some platforms to start planning for the transition. How to retain the unique operating model of the gig economy and maximise the protection and welfare of workers is also something that business executives should consider, and changes in laws relating to the gig economy may be an early warning to these platforms. Those involved will need to plan for the long-term future of the platforms. Besides, whether investors and customers will be able to support a shift to a traditional model of gig platforms is a question that researchers will need to examine in the future.

Moreover, we provide a summary of future trends in the laws of different countries. We find that most scholars support the creation of a third category to classify workers, while for countries that have already implemented this approach, the associated tax system issues have always been challenging to resolve. Although scholars have given

much advice on this, changes in the law will not happen overnight and need to be considered long-term. China, on the other hand, attaches significantly less importance to the status and position of gig workers than other countries, and its related legal system is relatively backward, but these issues have not been the focus of attention in recent years. Therefore, in addition to exploring the reasons for legal differences between countries, future research could also compare the perceptions of platform workers in different countries, explore why workers' aspirations differ between countries and relate them to the relevant national contexts to understand the reasons for these differences.

6.2 Limitations

As far as the methodology is concerned, systematic literature reviews have certain limitations. Firstly, there is still a degree to which articles searched through a series of specific keywords are missing. For example, I did not obtain sufficient information in the search results for the law relating to the gig economy in the UK. In this regard, I had to capture information from some of the sources cited in the retrieved articles. Secondly, the entire literature search process was manual, which does not exclude the possibility of missing some relevant articles.

In terms of content, in addition to collating laws related to the gig economy in different countries, this is one of the few studies that explore the impact of the law on the platform. As such, we have analysed the performance of the platforms through available material, including corporate earnings, share prices and relevant news, from a financial perspective and customer perspective. However, these materials are based on secondary sources and are somewhat restrictive. Also, company performance is not limited to be measured from these two aspects. This part of the analysis needs to be explored and extended by more empirical studies.

Finally, this study has selected three specific national labour laws to study, which is somewhat limiting. Many countries in Europe and Asia have completely different labour protections for gig workers. There are many other countries whose labour laws deserve to be explored to gain new perspectives.

6.3 Conclusion

This study aims to examine how legal solutions for the gig economy affect the performance of platforms by comparing them in different countries. As there is limited research on the impact of relevant laws on gig platforms, we adopt a comparative approach, using the relevant literature to review and collate the problems, legal solutions and future legal trends for the countries face in the gig economy market. At the same time, we use the available material to initially explore the impact of different legal changes on platforms' financial and non-financial performance. We found that the short-term revenue levels of gig platforms will not be affected by the legal changes, but some platforms' operating models have already begun to change for the laws. However, this type of research will take time to validate, as we also suggest some opportunities for future research.

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Appendix A: Key Gig Economy Cases/Events

Case A: O'Connor v. Uber Technologies, Inc.

In 2013, two Uber drivers in California filed a class-action lawsuit against Uber on behalf of all Uber drivers except Massachusetts. They seek to obtain minimum wages and overtime pay under the Fair Labor Standards Act (FLSA). These drivers claim that they are employees of Uber and are entitled to various statutory protections for employees under California labour law (Cherry & Aloisi, 2016; Steinberger, 2018).

Uber drivers think that they are employees because Uber exercises control over them. For example, Uber's detailed requirements include "rules regarding their conduct with customers, the cleanliness of their vehicles, their timeliness in picking up customers and taking them to their destination, what they are allowed to say to customers, etc" (Atmore, 2017). Uber also uses a customer rating mechanism to maintain almost continuous monitoring of drivers (Cherry & Aloisi, 2016). Most importantly, the plaintiff pointed out that Uber can dismiss drivers unilaterally and arbitrarily (Steinberger, 2018). These facts all show that Uber has substantial control over drivers.

However, Uber argued that the employment relationship was not established because the plaintiff did not provide its services. Uber is not a "transportation company" but a "technology company" that generates "data" for its transportation providers only through software. It does not rent office space for drivers, own any cars, and provide training programs typical of transportation companies. Thus, there is no so-called control right (Atmore, 2017). Besides, Uber drivers have more control over their schedules than traditional employees because they can accept or reject work (Atmore, 2017; Cherry & Aloisi, 2016). End-User Agreement Licenses (EULAs) also directly label drivers as "independent contractors" and force them to click "I agree" to continue working (Cherry & Aloisi, 2016).

The court also considered factors such as the skill level, the length of time the service is provided, the degree of permanence of the relationship, and whether the service is an integral part of the business (Kotkin, 2019). Drivers believe that they financially rely on Uber for business, and Uber also relies on drivers as part of their business (Atmore, 2017). However, considering the standard about the economic dependence, the profit or loss of Uber drivers depends on the performance level of the individual at work; that is to say, the more profitable drivers may be more inclined to be employees rather than independent contractors (Ross, 2015). Moreover, not all Uber drivers regard driving as their primary source of earnings (Cherry & Rutschman, 2020).

The case finally ended in settlement.

Case B: Dynamex Operations West, Inc. v. Superior Court of Los Angeles County

In 2005, two drivers under the Dynamex (a courier company) platform filed a lawsuit, claiming that they were mistakenly classified as independent contractors, depriving them of overtime compensation, itemized wage statements, and compensation for business expenses as required by California's wage orders. Dynamex employs drivers to provide an indefinite delivery service, but this arrangement can be terminated at any time as long as Dynamex provides three-day notice. Drivers can set their own schedule and refuse the deliver request. Dynamex dispatchers will allocate available deliveries to drivers, although Dynamex cannot guarantee drivers the quantity or type of deliveries in advance (Dynamex Operations W. v. Superior Court and Charles Lee, Real Party in Interest, 4 Cal.5th 903 (Cal. 2018)).

The court found two sufficient reasons for the ABC test to identify the employee status of the drivers. First, concerning part B, the work performed by the drivers was not outside the usual course because deliveries were the core of Dynamex's business. Second, for part C, no evidence can show that these drivers are customarily engaged in an independently established trade, occupation, or business of the exact nature. However, the accuser category of Dynamex is limited to fulltime drivers who work alone for Dynamex. "This limitation excluded from the plaintiff class those Dynamex drivers who hired their personnel or who also made deliveries for a Dynamex competitor or for their own account" (Zelinsky, 2021). This case represents a significant change in the pattern of California's worker classification system.

Case C: O'Kelly v Trusthouse Forte plc

At the Grosvenor House Hotel, some waiters were engaged to assist with dinner functions. They were summoned for banquets, but their contracts stated that they were under no obligation to attend, and that the employer was under no obligation to summon them. They were fired after attempting to form a trade union. They claimed they were fired unfairly because trade union legislation guaranteed them the right to not be treated unfairly as "employees."

The court determined that the waiters were not "employees" of the function hall or the agency because they were not required to show up for a shift and may be fired at any time. The contract lacked "mutuality" and could not be classified as a "employer-employee" relationship. They didn't have the right to sue for unjust dismissal because they weren't "employees." As a result, even though they were protected by anti-discrimination legislation, they did not have access to the tribunal to enforce their rights.

Case D: Dewhurst v CitySprint UK Ltd

The plaintiff Dewhurst was a courier under the CitySprint platform, and the contract between the two parties agreed that Dewhurst was an individual contractor. Besides, the contract stipulated that workers could find a replacement to do the work.

However, according to CitySprint's requirements for couriers and promises to customers, the court held that there is no feasible way for couriers to find someone to do the work. Therefore, the contract was a false contract designed to conceal the real labour relationship, and Dewhurst's actual identity should be a worker (Snider, 2018).

Case E: Uber BV v Aslam

In 2016, Uber drivers in London sued Uber to the Labour Court, demanding benefits such as the national minimum wage and paid vacation. This case went through four trials: the Employment Tribunal, the Employment Appeal Tribunal, the Court of Appeal, and the Supreme Court, which lasts six years. In February 2021, the Supreme Court dismissed the appeal and ruled that the driver was a worker and obtained the rights to the minimum wage and paid vacation requested in the lawsuit.

Uber insisted that the contracted drivers were self-employed because they chose their working hours and locations and often used Uber competitors' mobile apps to find passengers. In addition, Uber drivers were not obliged to open the Uber software, and even if they opened the software, they were not obliged to accept driving tasks. This freedom of Uber drivers meant that there was no employment relationship between them and Uber, and there was no contract for drivers to provide services to Uber.

The court held that Uber sets fares and contract terms to punish drivers who refuse or cancels orders and manage drivers with the help of passenger evaluation, resulting in

stringent supervision and control of the services provided by drivers. The driver is in a subordinate and dependent position in the relationship with Uber. So it's not Uber who works for the driver, but the driver who works for Uber. In addition, unlike self-employed people, drivers cannot gain economic status through professional or entrepreneurial skills. The only way to increase their income is to improve their working hours while meeting Uber's requirements. Therefore, Uber cannot treat drivers as self-employed.

Another point of dispute is whether the driver and Uber form a client or customer relationship, which focuses on the contract's nature. Uber considered itself only the "agent" of the drivers, only acting for the driver to sign the contract with the passenger. The court held that the analysis should be based on the nature of the relationship between the parties rather than the literal meaning of the contract. Uber is a transportation service company rather than a technology company. The essence of the transaction between the driver and Uber is that the driver sends Uber passengers to the destination to get paid. For documents carefully drafted by the employer but inconsistent with the facts, the employer cannot be used as a basis for its claims. If there is a contract between the driver and Uber, Uber's position in the contract cannot be the driver's customer or the driver's consumer. Therefore, there is an unequal dependency relationship between Uber and the driver for the unfair contract Uber provided.

Case F: The case of Minghua Yang

On October 6 2016, the defendant (Minghua Yang), a Ele.me platform rider, collided with the plaintiff (Shulan Sun), a bicycle rider, while driving an electric bicycle for distribution work. Two people were injured at the same time, and the traffic control department determined that Yang was entirely responsible for the accident.

The court held that the agreement signed between Yang and Ele.me platform stipulates that the rider has no employment or labour relationship with the platform; it also specifies that the rider shall bear all losses caused by the rider during the delivery task. According to this agreement, the court determined that Ele.me platform was not responsible for the accident and that the defendant Minghua Yang should bear all the plaintiff's losses.

Case G: The case of Dong Liang

On September 22, 2018, Dong Liang, a Ele.me platform rider, collided with the plaintiff (Ying Li), who drove an electric bicycle. When Liang was returning after completing a takeaway delivery, he caused Li to be slightly injured. The traffic control department determined that Dong was entirely responsible for the accident.

The court held that Liang's distribution work is the platform's daily primary business operations, and his food delivery is subject to a considerable degree of management constraints on the platform. Therefore, the Ele.me platform to which the defendant belongs compensated the plaintiff for all losses.

Case H: The case of IWGB v RooFoods

The Independent Workers Union of Great Britain (IWGB) was refused permission in 2017 for collective bargaining rights for a group of Deliveroo riders because they were not workers under the terms of legislation on labour relations. In June 2021, Britain's Court of Appeal confirmed that riders for Deliveroo were self-employed, dismissing a union appeal against past judgments on their status, which was the fourth court judgment determined its riders were self-employed, after one by the Central Arbitration Committee and two at the High Court (Atkinson & Dhorajiwala, 2019).

Central to the decision is that the terms of the employment allow for "substitution" - meaning that Deliveroo's riders do not have an obligation to provide services personally. Thus, they cannot be "workers" but "self-employed.

Case I: Regulatory Action against Meituan

On 8th October 2021, the State Administration For Market Regulation issued an administrative penalty decision following the Anti-Monopoly Law, ordering Meituan to stop its illegal conduct, refund the total amount of the exclusive cooperation deposit of RMB 1.289 billion and impose a fine of RMB 3.442 billion (Zhong, 2021). The reason is that since 2018, Meituan has abused its dominant position in the takeaway platform service market in China to induce merchants on its platform to sign exclusive cooperation agreements with it by imposing differential rates and delaying the launch of merchants. It also adopted various punitive measures to ensure the implementation of the "two-for-one" practice by charging exclusive cooperation deposits and technical means such as algorithms, which excluded and restricted the relevant market competition, impeded the free flow of market resources, weakened the platform's innovation and development dynamics, and harmed the legitimate rights and interests of merchants and consumers within the platform.

Appendix B: Studies that were Reviewed

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