Research Square

Preprints are preliminary reports that have not undergone peer review.
They should not be considered conclusive, used to inform clinical practice,
or referenced by the media as validated information.

Does a third employment category protect platform workers? Evidence from a national census of Chinese judgments and local arbitration records, 2021–2026

Xinghua Hu

290891836@qq.com

Zhejiang Business Technology Institute

Article

Keywords: platform work, employment classification, third category, intermediate employment status, judicial decision-making, China

Posted Date: November 6th, 2026

DOI: https://doi.org/10.21203/rs.3.rs-11010453/v1

License: This work is licensed under a Creative Commons Attribution 4.0 International License.
Read Full License

Additional Declarations: No competing interests reported.

Abstract

Whether platform workers should be assigned to a third employment category, intermediate between employee and independent contractor, remains contested internationally. China created such a category in July 2021, when eight central ministries distinguished a situation "not fully meeting the conditions for establishing an employment relationship" from both standard employment and civil cooperation. Five years on, how it actually operates has not been assessed. Drawing on an exhaustive full-text phrase census of a national legal database (164 distinct documents from two phrase searches, retrieved August 2026), a purposively coded database of 66 authoritative and lower-court decisions screened from 771 retrieved judgments, and the complete population of 24 platform-related arbitration cases handled by a district labour arbitration commission in Ningbo between 2025 and mid-2026, this article examines the category's actual use. Three findings emerge. First, it is close to dormant: only five judgments nationwide characterise a relationship affirmatively under it, and none of the 24 arbitration cases does so. Second, its application is displaced: two of the five concern traditional storefront service work rather than platform work, and only one involves a location-based gig platform. Third, and most consequentially, its observed function has been delimiting rather than conferring. In four of the five, characterisation preceded dismissal of the worker's claims; in the fifth and only case producing a payment, the obligation arose under a commercial employer's liability insurance policy rather than from any labour-law entitlement; and in one further case an employer invoked the category in its own submissions. This article argues that the pattern is structural rather than incidental: a classificatory position that remains at the level of policy guidance, is defined only by exclusion, and is unaccompanied by any change in evidentiary access, has no operative content that an adjudicator can apply. The findings bear directly on jurisdictions now designing intermediate statuses and rebuttable presumptions of employment.

Introduction

Whether the binary division between employee and independent contractor can accommodate platform work is among the most persistent unresolved questions in contemporary labour law. One recurrent proposal is to create a third category: a status intermediate between the two, carrying a reduced but non-trivial bundle of protections. Its advocates argue that platform work is genuinely hybrid, combining substantial autonomy over when to work with intense algorithmic direction over how, and that forcing such relationships into either pole produces arbitrary outcomes (Cherry and Aloisi, 2017; Prassl and Risak, 2016). Its critics reply that intermediate statuses tend, in practice, to become instruments of exit: a convenient destination to which employers can consign workers who would otherwise qualify as employees, and which delivers far less than it appears to promise (Davidov, 2016; Countouris, 2019).

This disagreement has proved difficult to settle empirically, because almost no jurisdiction has operated an intermediate status for platform work long enough to be observed. Spain's 2021 Riders Law took the opposite route, presuming employment rather than creating a middle tier. The United Kingdom's "worker" category predates platform work by decades and was extended to it only through litigation (Uber BV v Aslam [2021] UKSC 5). Directive (EU) 2024/2831, which introduces a rebuttable presumption of

employment together with obligations of algorithmic transparency, must be transposed by 2 December 2026 and has therefore produced no adjudicative record at all. The critics' central claim — that a third category will be used against workers rather than for them — has consequently remained a prediction.

China offers a rare setting in which that prediction can be examined against an adjudicative record. In July 2021, eight central ministries issued guidance distinguishing three situations in platform work: relationships meeting the conditions for an employment relationship; relationships "not fully meeting the conditions for establishing an employment relationship" but in which the enterprise nonetheless exercises labour management; and genuinely independent activity conducted through a platform. The middle situation — the intermediate category examined here — was thereby established as a formal classificatory position five years ago. Two features of its creation matter for what follows. It was created in a policy document rather than in legislation, and it was created without any accompanying schedule of entitlements: the guidance specified what the category was not, but not what followed from falling within it.

How that category has actually been used has not been established. This article addresses three questions. How often, and by whom, has it been affirmatively applied? In what kinds of work, and with what consequences for the workers concerned? And if its use departs from what its designers intended, what accounts for the departure?

Three bodies of evidence are used. The first is a census: because the category exists only as a policy formulation, any decision applying it can be expected to reproduce that formulation, so an exact full-text phrase search across a national legal database identifies the relevant population directly. That search, together with a supplementary search on a shorter variant of the formulation, returned 164 distinct documents, each examined in the context of the court's reasoning, with the decisive ones verified against the full judgment text. The second is a purposively assembled database of 66 decisions, screened from 771 retrieved judgments and including the Supreme People's Court's guiding cases of December 2024, which supports contextual comparison. The third is the complete set of 24 platform-related cases handled by one district labour arbitration commission in Ningbo, Zhejiang, between January 2025 and June 2026, obtained through fieldwork in two districts of that city.

Three findings follow. The category is close to dormant: five judgments nationwide characterise a relationship affirmatively under it, and none of the 24 arbitration cases does so. Its application is displaced: two of the five concern storefront service work — a clothing stall and a foot-massage parlour — that is not platform work at all, and only one involves a location-based gig platform. And its observed function has been delimiting rather than conferring: in four of the five, characterisation preceded the dismissal of the worker's claims; in the fifth, the only case producing any payment, the obligation arose under a commercial employer's liability insurance policy rather than from labour law; and in one of the five the action was brought by the employer, while in two further verified documents the formulation appeared as an employer's argument and as an appellant's unsuccessful argument.

This article argues that the pattern is structural. Chinese courts and arbitration commissions decide on the basis of statutes, judicial interpretations and administrative regulations; ministerial guidance documents are not among the norms they may invoke as grounds of decision, and the near-absence of the category from adjudication reflects the normative form in which it was cast rather than any reluctance on the part of adjudicators. Within that form, a classificatory position defined solely by what it is not can carry only negative work; its single available function in adjudication is to explain why labour-law protection does not apply. That tendency is compounded by a second constraint. Distinguishing the intermediate case from full employment requires a graduated judgment about the intensity of algorithmic direction, yet the evidence courts can actually reach remains documentary and binary — written agreements, payment records, attendance screenshots — and across the 66 coded decisions no court obtained platform back-end data through any disclosure order. Evidence that can only sustain a yes-or-no answer cannot sustain a three-way classification.

The article makes three contributions. It supplies systematic evidence on how an intermediate platform-work status performs once in operation, and so brings a prediction in the comparative literature into contact with an adjudicative record. It identifies the structural conditions — a citable norm-form, positive content, and evidentiary access — on which the viability of any such category depends. And it clarifies what jurisdictions transposing Directive (EU) 2024/2831 are actually doing when they pair a classificatory rule with obligations of algorithmic disclosure: the two are not separate reforms but complements, and the Chinese record indicates what happens when the first is enacted without the second.

Literature review

The classification problem and the case for and against a third category

Employment law in most jurisdictions allocates protection through a binary: a worker is either an employee, and within the scope of labour regulation, or an independent contractor, and outside it. The difficulty this creates for work mediated by digital platforms has been the organising problem of the field for a decade (De Stefano, 2016; Prassl and Risak, 2016; Aloisi, 2016). Platform work characteristically combines wide latitude over whether and when to work with narrow latitude over how the work is performed, since dispatch, routing, timing and evaluation are set by the platform's software. Neither pole of the binary describes this combination well.

One response is to add a category. Proposals for an intermediate status — variously "dependent contractor", "independent worker" or simply a third tier — argue that hybridity is a real feature of the relationship rather than an artefact of misclassification, and that a status carrying a reduced bundle of protections, typically social security coverage, collective bargaining rights and protection against unilateral variation of terms, would better fit that reality than either pole (Cherry and Aloisi, 2017). Comparative work notes that several jurisdictions already operate such statuses outside the platform

context — the United Kingdom's "worker", Germany's arbeitnehmerähnliche Person, Canada's dependent contractor — and that they have proved workable in their own domains (Cherry and Aloisi, 2017; Freedland and Countouris, 2011).

The objection is not that hybridity is unreal but that a legally recognised middle tier changes the incentives facing employers. Davidov (2016) argues that labour law's protective scope should be determined by the purposes protection serves — democratic deficit in the employment relationship, dependency, subordination — and that an intermediate tier defined by descriptive hybridity rather than by those purposes will admit workers who satisfy them fully. Countouris (2019), writing for the International Labour Organization, makes the practical version of the same point: where a lower tier exists, relationships will be structured to reach it, and the tier becomes an exit from full protection rather than an entrance to partial protection. Rogers (2016) and Dubal (2017) reach related conclusions from the United States, the latter documenting how intermediate identities have historically been contested and deployed strategically rather than settled descriptively.

This disagreement has proved resistant to empirical settlement. The jurisdictions most often cited operate intermediate statuses that were not designed for platform work and that reached it, if at all, through litigation rather than design: the extension of "worker" status to private-hire drivers in Uber BV v Aslam [2021] UKSC 5 is the leading example. Where legislatures have acted deliberately, they have mostly declined the third-category route. Spain's Royal Decree-Law 9/2021 introduced a presumption of employment for delivery riders rather than a middle tier. California's Dynamex decision and the statute codifying it tightened the binary rather than supplementing it. Directive (EU) 2024/2831 likewise adopts a rebuttable presumption of employment, and must be transposed by 2 December 2026, so that no adjudicative record yet exists. The critics' claim about how a third category behaves in operation has therefore remained a prediction about an institution that has seldom been observed in operation.

Algorithmic management and the evidence it leaves

A second literature examines the form control takes in platform work. Studies of dispatch, rating and deactivation systems show that direction is exercised continuously and at fine grain, but indirectly: through the allocation of work, the structure of incentives, and the consequences attached to metrics, rather than through instructions issued by an identifiable supervisor (Rosenblat and Stark, 2016; Lee et al., 2015; Wood et al., 2019). Kellogg, Valentine and Christin (2020) synthesise this as a distinct terrain of control, and Aloisi and De Stefano (2022) and Adams-Prassl (2019) trace its implications for legal categories built around the figure of the directing employer.

Running through this work is a theme with direct bearing on adjudication: algorithmic management is asymmetrically legible. The platform holds a complete record of dispatch, timing, acceptance rates and penalties; the worker sees fragments through an interface and retains only what happens to be captured — screenshots, notifications, payment statements (Rosenblat and Stark, 2016). The literature treats this asymmetry mainly as a feature of the labour process and of workers' capacity to contest treatment. Its

consequences for what a tribunal can establish have received less attention. Recent regulatory design takes the point seriously: the transparency and information-access provisions of Directive (EU) 2024/2831 respond to it directly. What has not been examined is whether that asymmetry constrains not merely the enforcement of a classification rule but the kind of classification rule that can be operated at all.

China: platform labour and the norms that govern it

Research on Chinese platform labour has established the organisational forms through which control operates and the contractual devices that separate it from responsibility. Studies of food delivery and ride-hailing document algorithmic dispatch, time compression and penalty structures comparable to those found elsewhere (Sun, 2019; Chen, 2018; Chen and Sun, 2020), together with layered outsourcing and the enrolment of workers as registered individual businesses (Liu and Friedman, 2021). This work is principally sociological, concerned with the labour process and with collective responses to it.

The regulatory side has been described but not tested. Chinese authorities established a three-way classification of platform work in ministerial guidance in July 2021, and the Supreme People's Court issued guiding cases in December 2024 setting out a test for the binary determination — whether an employing fact exists and whether the enterprise exercises what the Court terms dominant labour management — together with five considerations relevant to that judgment. Analyses of this framework have concentrated on its content and on its relation to prior doctrine. How far the intermediate limb of the classification has been used, in what circumstances and to what effect, has not been established empirically, in Chinese or in English.

Two constraints have made such an assessment difficult. Judgment disclosure in China has become markedly less complete since 2021, and the disclosed corpus is not a random sample of decisions (Liebman et al., 2020). And most labour disputes are resolved at the arbitration tier, whose records are not published, so that litigation data alone understate what happens at the point where classification questions first arise.

Implementation gap and the form of rules

The final strand concerns why formally adopted rules sometimes fail to operate. Sociolegal scholarship has long distinguished a rule's enactment from its practical reach, and has traced the gap to features of institutional transmission rather than to the attitudes of those applying it. Edelman (1992) shows that where legal standards are ambiguous, the meaning that governs practice is supplied by the organisational and professional structures through which the standards travel. Meyer and Rowan (1977) and, in a later synthesis, Bromley and Powell (2012) describe the more general phenomenon of decoupling, in which formal structures and operating practices come apart without either being abandoned.

Applied to classification rules, this literature directs attention to two conditions seldom examined together. The first is norm-form: whether the instrument stating the rule is one that the relevant decision-makers are institutionally permitted to invoke. The second is operability: whether the rule's application requires facts that decision-makers can, in practice, obtain. Neither is addressed by asking whether the rule is well drafted. The present study brings both to bear on a single category and shows that they interact — a category lacking positive content is also a category for which no particular evidence needs to be sought, and a category whose application would require evidence held exclusively by one party will not be applied even where its content is clear.

The gap addressed here

Three gaps thus converge. The comparative debate on intermediate status lacks a case in which such a status has been in place long enough to be observed. The literature on algorithmic asymmetry has examined its effects on workers but not on what adjudicators can establish. And research on Chinese platform work has described the regulatory framework without testing the operation of its middle term. This article addresses all three by treating a single question empirically: over the five years since the category was created, how often, by whom, in what sectors and to what effect has it actually been applied?

Institutional background

The binary and its statutory basis

Chinese labour law allocates protection through a binary comparable to that found elsewhere. The Labour Law 1994 and the Labour Contract Law 2007 attach their protections to the employment relationship, and the operative test for whether one exists in the absence of a written contract has since 2005 been supplied by a ministerial notice: the parties must be qualified as employer and worker; the employer's rules must apply to the worker, who performs remunerated work assigned by the employer and is subject to its labour management; and the work performed must form part of the employer's business. Relationships falling outside are governed by civil law, principally the contracts for services and for work provided in the Civil Code, and carry no labour-law entitlement — no minimum wage, no working-time limit, no work-injury insurance, no protection against termination.

Two institutional features shape how this test operates and matter for the findings reported below. First, labour disputes must ordinarily be submitted to labour arbitration before they may be litigated, so the arbitration commissions of each district are where classification questions are first decided, and their awards are not published. Second, Chinese adjudicating bodies decide by reference to a defined hierarchy of norms — statutes, administrative regulations, judicial interpretations, and departmental and local government regulations. Guidance and opinions issued by ministries occupy an important place in the policy system but are not among the instruments that may be cited as the ground of a decision.

The 2021 three-way classification

In July 2021, eight central ministries led by the Ministry of Human Resources and Social Security issued Guiding Opinions on safeguarding the labour rights and interests of workers in new forms of employment. For the first time, the Opinions distinguished three situations rather than two. Where the circumstances for establishing an employment relationship are met, an employment contract is to be concluded. Where the circumstances are "not fully met" but the enterprise nonetheless exercises labour management over the worker, the enterprise is to conclude a written agreement with the worker specifying rights and obligations. Where the individual conducts business independently through the platform, the relationship is governed by civil law.

Three features of this instrument are material. It is guidance, not legislation or regulation. It defines the middle situation by negation — as one in which the conditions for employment are not fully met — without stating criteria by which the incomplete fit is to be identified. And while it directs that a written agreement be concluded and elsewhere addresses remuneration, rest and occupational-injury protection in general terms, it does not attach to the middle situation a determinate schedule of entitlements enforceable through the labour dispute system. The Opinions were followed in November 2023 by three sets of ministerial guidelines on rest periods and pay, on the publication of platform rules, and on rights-protection services, which likewise take the form of guidance.

Judicial consolidation of the binary

Judicial guidance on classification developed on a separate track and addressed the binary rather than the middle situation. In December 2024, the Supreme People's Court issued its 42nd batch of guiding cases, Nos 237 to 240, concerning disputes in new forms of employment. The batch establishes that where an employing fact exists and the enterprise exercises what the Court terms dominant labour management, an employment relationship is to be found, and it lists considerations relevant to that judgment: the degree to which the worker independently determines working time and volume; the degree of management to which the labour process is subject; whether the worker must comply with work rules, labour discipline and reward-and-penalty provisions; the continuity of the work; and whether the worker can determine or alter transaction prices. Two of the four cases find an employment relationship and two do not, marking both boundaries of the binary. Disclosed alongside the batch was the figure of approximately 420,000 civil disputes involving new forms of employment received by Chinese courts between 2020 and 2024.

In May 2025 the Court released model cases extending the standard to road-freight platforms and confirming that occupational-injury protection benefits and third-party tort claims may be pursued in parallel; an interpretation on labour dispute adjudication issued in August 2025 took effect on 1 September 2025, addressing among other matters commingled employment across affiliated entities. Throughout, the intermediate situation received no operative treatment. The judicial architecture that

consolidated between 2024 and 2025 is an architecture for deciding whether an employment relationship exists.

Parallel developments

Two parallel developments are relevant. Occupational-injury protection for workers in new forms of employment was established as a pilot scheme by ministerial measures in December 2021 and progressively extended, reaching nationwide application to ride-hailing, on-demand delivery and intra-city freight platforms from July 2026. Its significance for the present argument is that it operates independently of classification: entitlement follows from platform-mediated engagement rather than from a finding that an employment relationship exists. It is, in effect, a protection detached from the classificatory question rather than an entitlement attached to the intermediate category.

Second, at provincial level, Zhejiang enacted an Employment Promotion Regulation effective July 2024 whose Article 62 requires platform enterprises and their cooperating enterprises to set workloads, work intensity and remuneration reasonably and to bear occupational-injury protection responsibility, expressly without conditioning that responsibility on the existence of an employment relationship, while Article 63 provides that sectoral and regional collective agreements bind platform enterprises and workers in the sector or area concerned. In 2026, provincial departments issued guidance restating the three-way classification, and a provincial regulation on the protection of workers in new forms of employment was placed on the legislative programme for that year. At the time of writing, the intermediate category has no expression in any statute, administrative regulation or judicial interpretation at national level.

This is the setting in which the findings below are to be read. A classificatory position has existed since 2021 in an instrument that adjudicators may not cite; the judicial standard that consolidated three years later addresses the binary; and such protection as has been extended to platform workers in the interim — occupational-injury coverage, and the provincial obligations just described — has been extended by detaching entitlement from classification rather than by giving the intermediate category content.

Data and methods

Design

The study combines three bodies of evidence, deliberately kept separate because each supports a different kind of claim. A census of every publicly available judgment containing the policy formulation establishes how often the intermediate category has been applied. A purposively assembled and coded database of 66 decisions establishes what adjudicators rely on when classifying platform work generally, and thus what the intermediate determination would require. The complete population of platform-related cases handled by one district labour arbitration commission establishes whether the pattern observed in litigation also holds at the administrative tier through which most Chinese labour

disputes must first pass. Only the first and third are exhaustive; the second is purposive and is not used for statistical inference.

The census

The intermediate category exists in Chinese law only as a phrase in a ministerial guidance document: the formulation "not fully meeting the conditions for establishing an employment relationship" (□□□□□□□□□□□□□□□, bu wanquan fuhe queli laodong guanxi qingxing), introduced by the Guiding Opinions of eight ministries in July 2021. It has no statutory definition and no established synonym. A decision that applies it must therefore reproduce it, and an exact full-text phrase search identifies the relevant population directly rather than approximating it. The string searched was the substantive core of the formulation, □□□□□□□□□□□□, without the final □□ ("situation"), a syntactic addition in the guidance document that carries no independent meaning; any decision applying the category must reproduce the shorter string, so searching on it widens rather than narrows the population retrieved.

The full text of all judgments in the Wolters Kluwer China legal database (Weike Xianxing □□□□) was searched for that string on 13 August 2026, retrieving 156 documents. A supplementary search on the shorter variant "incomplete labour relationship" (□□□□□□□□) returned 14. Because the database exports search reports in batches of 100, these sets were exported in successive batches and consolidated. Of the 170 records, one judgment was listed twice in the primary results and five were returned by both searches, leaving 164 distinct documents (Fig. 1). Each was examined in the context of the court's reasoning as reproduced in the search report; the seven in which the formulation appeared in or near the court's own characterisation were then verified against the full text of the judgment. Contextual reading, rather than automated classification, was necessary because the phrase occurs in three distinct positions that a keyword match cannot distinguish: in a court's own characterisation of the relationship; in a recital of the policy background carrying no determinative weight; and in the submissions of a party, whether as a claimant's argument or as an employer's argument.

Five judgments were found to contain an affirmative judicial characterisation, that is, a holding by the court that the relationship before it fell within the intermediate category. Two further documents were identified and then excluded on verification: in one the phrase appeared only in the appellant's grounds of appeal, and in the other it formed the employer's argument, which the court rejected in holding that an employment relationship existed. Each of the five was obtained in full text and its case number, deciding court, date, sector, party bringing the action, characterisation language and disposition were recorded (Table 1).

The census is exhaustive with respect to the phrase, within the corpus of publicly disclosed judgments. It is not a census of platform-work litigation, and no claim is made that only five platform relationships in China have had intermediate characteristics; the claim is that the category has been invoked as a ground of decision five times.

The coded database

To establish what adjudicators actually rely on when classifying platform work, six further thematic searches were run on the same date and in the same database, combining "confirmation of an employment relationship" with food delivery, with ride-hailing and with a provincial delimiter, and covering account deactivation and officially designated model cases; the search string, date filter and count for each search are listed in the Supplementary Data. Across all seven searches, 771 documents were exported. These were screened in stages against three inclusion criteria — priority to authoritative sources, completeness of the recorded reasoning, and balance across sectors, contracting structures and outcomes — and against three exclusion grounds: mere recitation of policy text, appearance of the formulation only in party submissions, and absence of any connection to new forms of employment.

The resulting database comprises 66 decisions: the four guiding cases (Nos 237–240) issued by the Supreme People's Court in December 2024, six model cases jointly released by the Ministry of Human Resources and Social Security and the Court, 51 further judgments and officially designated model cases from provincial and municipal authorities, and five arbitration awards coded in detail from the field material described below. Because selection was purposive, the database cannot support frequency claims about Chinese adjudication as a whole, and none is made; it is used to characterise the evidentiary basis on which classification proceeds.

Arbitration population and field material

Chinese labour disputes must ordinarily pass through labour arbitration before litigation, so the arbitration tier is where classification questions first arise. Fieldwork conducted in two districts of Ningbo during 2026 yielded the complete set of platform-related cases handled by one district labour arbitration commission in Ningbo, Zhejiang, between January 2025 and June 2026 (N = 24), recording for each the sector, the heads of claim, and the mode of disposal. This is a population, not a sample, for that district and period.

Fieldwork in two districts also produced institutional information from labour inspection, arbitration and occupational-injury pilot administration on the norms actually applied in casework and on evidentiary difficulties encountered. This material is reported in aggregate and non-attributed form, as institutional background rather than as analysed interview data.

Coding

Each decision in the database was coded on nine variables: source and authority level; year; sector; contracting and organisational structure; nominal designation of the agreement; type of dispute; holding; the facts the decision itself identified as determinative; and the rule proposition stated. The determinative-facts variable was confined to facts appearing in the court's or tribunal's own reasoning,

excluding facts recited only in party submissions. Coding followed the approach to systematic content analysis of judicial opinions described by Hall and Wright (2008). Coding was performed by the author against a written protocol, working from the official releases and the reasoning sections of the judgments. No second coder was available, so no inter-coder reliability statistic is reported; this is noted under Limitations.

Robustness of the phrase-anchored design

A census anchored on a formulation is open to the objection that adjudicators might apply the substance of a category without reproducing its wording. The coded database provides a check that is independent of wording by construction. Most of its 66 decisions were reached through searches that did not use the formulation at all — sector-based searches on confirmation of an employment relationship in food delivery and ride-hailing, together with the Supreme People's Court's guiding cases and ministry–court model cases. Among the decisions drawn from those paths, none applies the intermediate category; each proceeds on the binary determination and, where the reasoning is developed, on the dominant-labour-management standard. The low incidence reported below is therefore unlikely to be an artefact of variant phrasing.

Limits of the judgment corpus

Two limits of the judgment corpus bear on the census and are taken up under Limitations. Judicial disclosure in China has declined markedly since 2021, and the disclosed corpus is not a random sample (Liebman et al., 2020); because a decision applying the category must reproduce the phrase, what is limited is disclosure rather than retrieval, and the constraint runs in one direction only, so the five decisions identified are a lower bound. And because ministerial guidance is not among the norms that Chinese adjudicating bodies may cite as the ground of a decision, the scarcity documented below is read as reflecting the normative form of the category rather than any reluctance on the part of adjudicators.

Findings

Incidence: a category rarely invoked as a ground of decision

Of the 164 distinct documents retrieved by the two phrase searches, five contain an affirmative judicial characterisation under the intermediate category (Table 1). Two further documents in which the formulation appeared were excluded on verification: in one it formed the appellant's grounds of appeal, and in the other the employer's argument, which the court rejected in holding that an employment

relationship existed. In the remaining documents the formulation appears as a recital of policy background or in party submissions, without bearing on the disposition.

Table 1
Judgments affirmatively applying the intermediate employment category, nationwide full-text search, July 2021 – August 2026 (N = 5)

ID	Court	Case no.	Date	Actual sector	Target sector?	Who invoked	Outcome for worker
J1	Jing'an District People's Court, Shanghai	(2021) Hu 0106 Min Chu No 31898	26 Oct 2021	Clothing-stall sales	No	Court	Claims denied
J2	Jing'an District People's Court, Shanghai	(2021) Hu 0106 Min Chu No 40628	12 Nov 2021	Foot-massage service	No	Employer (plaintiff)	No employment relationship found
J3	Haishu District People's Court, Ningbo	(2022) Zhe 0203 Min Chu No 5635	17 Mar 2023	Livestreaming (70% revenue share)	Partly	Court	All claims dismissed
J4	Haishu District People's Court, Ningbo	(2022) Zhe 0203 Min Chu No 9014	27 Mar 2023	Livestreaming (revenue share)	Partly	Court	All claims dismissed
J5	Xixiu District People's Court, Anshun, Guizhou	(2025) Qian 0402 Min Chu No 453	8 Apr 2025	Food delivery (dedicated rider)	Yes	Court	CNY 64,434.57 awarded, payable by the insurer under an employer's liability policy

Notes. Full-text search for the phrase "[redacted]" in the Wolters Kluwer China (Weike Xianxing) database, retrieved 13 August 2026, returning 156 records; a variant search returned 14, five of which duplicated primary results. After de-duplication, 164 distinct documents were examined in the context of the court's reasoning, and the seven in which the formulation appeared in or near the court's own characterisation were verified against the full judgment text. Five contain an affirmative judicial characterisation. Two further documents were excluded on verification: in one the phrase appeared in the appellant's grounds of appeal, and in the other it formed the employer's argument, which the court rejected. In none of the five did the category itself confer any labour-law entitlement; in J5, the only case producing a payment, the payment obligation arose under a commercial insurance contract.

Five affirmative applications over five years is a small number in absolute terms and a very small one relative to the volume of platform-work litigation over the same period: the Supreme People's Court reported approximately 420,000 civil disputes involving new forms of employment received by Chinese

courts between 2020 and 2024. The disposition is not, however, evenly spread over the period. Two of the five were decided in late 2021, two in March 2023 and one in April 2025. The category appeared shortly after the guidance was issued and did not subsequently diffuse.

Two of the five were decided by a single basic-level court within months of the guidance, indicating both awareness of the category and willingness to use it where a suitable case arose. What this pattern implies is taken up in the Discussion.

Sectoral placement

The five decisions did not arise in the sectors that prompted the category's creation. Two concern storefront service work with no platform intermediation of any kind: a clothing stall in a Shanghai wholesale market and a foot-massage parlour. Two concern livestreaming performers engaged under revenue-sharing agreements, one specifying a 70 per cent share to the performer. Only the fifth, decided in 2025, involves a location-based gig platform — a dedicated food-delivery rider working through a regional agent of a major delivery platform.

This placement is itself informative about how the category has been understood. In four of the five, the feature that drew the relationship into the intermediate position was the structure of remuneration — payment varying with output, revenue sharing, absence of a fixed wage — rather than the algorithmic direction of work that the guidance had in view. The category has functioned less as a designation for algorithmically managed platform work than as one for output-based, loosely supervised engagement generally.

Function: what followed characterisation

In four of the five decisions, the characterisation was followed by dismissal of the worker's claims. In the two Shanghai decisions the court held that no employment relationship existed; in the two Ningbo livestreaming decisions the court dismissed all heads of claim. In one of these four the action had been brought by the employer, seeking a declaration that no employment relationship existed.

The fifth decision produced a payment, and its structure repays attention. A dedicated rider injured in a road accident while delivering sued the platform's regional agent and its insurer. The agent's defence was that the parties stood in a cooperative relationship characteristic of new forms of employment, being neither an employment nor a service relationship, and that it therefore bore no employer's liability. The court rejected that defence, holding that the relationship fell within the intermediate category and that a written agreement between the parties "does not alter the employing-entity responsibility of the platform enterprise or of its cooperating enterprise". It then awarded CNY 64,434.57. The payment obligation, however, arose under a commercial employer's liability insurance policy that the agent had taken out, and it was the insurer that was ordered to pay. The characterisation operated to defeat the

agent's denial of employer status and thereby to make the policy respond; it did not itself generate any entitlement under labour law.

Across the seven verified documents, then, the category was invoked once by an employer as an argument (rejected), once by an appellant as an argument (unsuccessful), once by an employer as plaintiff, and four times by courts on their own motion. In none of the five affirmative applications did the characterisation confer an entitlement traceable to labour law.

The arbitration tier

Because Chinese labour disputes must ordinarily pass through arbitration before litigation, the arbitration tier is where classification questions first arise. In the complete set of platform-related cases handled by one district labour arbitration commission in Ningbo between January 2025 and June 2026 (N = 24), the intermediate category was applied in none (Table 2).

Table 2
Platform-related cases at one district labour arbitration commission, January 2025 – June 2026 (N = 24)

Sector	n	Heads of claim	n	Disposal	n
Courier and parcel delivery	14	Wages and pay	16	Mediated settlement	11
Livestreaming	7	Confirmation of employment relationship	4	Award granting claim	3
Ride-hailing	1	Occupational injury benefits	3	Award granting in part	3
Other	2	Severance	1	Award dismissing claim	3
				Withdrawn	3
				Terminated	1
Total	24	Total	24	Total	24

Note. No case was determined under the intermediate category. Sector and claim categories were coded by the author from the case-level records supplied by the commission; totals match the commission's own tally, with minor differences in the classification of multi-claim and collective cases.

Two features of this population bear on the argument. First, classification was seldom the object of the dispute: confirmation of an employment relationship was the principal claim in only four of the 24 cases (seven on the commission's own tally, which classifies multi-claim cases differently), while two thirds principally concerned unpaid wages. Second, 11 of the 24 were resolved by mediated settlement and a further four were withdrawn or terminated, so that fewer than half reached a reasoned determination at all. Classification questions thus reach the point of authoritative decision less often than the volume of

disputes would suggest — a pattern also reported during fieldwork, where a district arbitration body indicated that the formulation had not been used and that no case calling for it had been encountered.

The evidentiary basis of classification

If the intermediate category is to be applied, an adjudicator must place a relationship on a gradient between full subordination and genuine independence. To see what such a judgment would require, the facts that each decision identified in its own reasoning as determinative were coded. Of the 66 coded decisions, 63 record such facts; three record none and are excluded here. Categories were derived from the five considerations listed in the Supreme People's Court's guiding cases of December 2024, supplemented by recurrent categories observed in the material. A decision was assigned to a category where its recorded determinative facts contained one of the terms listed for that category in the coding dictionary; the dictionary and the resulting case-by-factor matrix are provided in the Supplementary Data. Because the coding is applied to recorded summaries of reasoning rather than to full texts, the counts are lower bounds: absence of a mention indicates that a factor was not recorded as determinative, not that it was not considered.

Table 3
Facts recorded as determinative (N = 63)

Factor	n	%
Remuneration structure: who sets and who pays	40	63
Autonomy over working time and volume	32	51
Work rules, discipline and penalties	19	30
Control over the labour process	17	27
Nominal designation and contracting party	16	25
Integration into the organisation	7	11
Tools and means of production	7	11
Continuity of engagement	1	2

Note. Percentages are of the 63 decisions recording determinative facts. A decision may cite more than one factor.

Two observations follow. The first concerns which facts discriminate. Among the 54 decisions reaching a determinate classification, work rules, discipline and penalties were recorded as determinative in 15 of the 27 in which an employment relationship was found, but in only three of the 22 in which it was not (Table 4). Autonomy over working time and volume was recorded in 21 of 27 and 10 of 22 respectively. Documented disciplinary authority thus does most of the discriminating work, and it is precisely the kind of fact that leaves a written trace: rosters posted in messaging groups, attendance records, deduction entries, signed acknowledgements of company rules.

Table 4
Determinative facts by outcome (n = 54)

Factor	Employment found (n = 27)	No employment (n = 22)	Intermediate (n = 5)
Work rules, discipline and penalties	15 (56%)	3 (14%)	0
Autonomy over time and volume	21 (78%)	10 (45%)	0
Remuneration structure	20 (74%)	12 (55%)	3 (60%)

Note. Nine decisions with administrative or mixed dispositions are excluded. Counts are descriptive; no inference is drawn.

The second observation concerns the five intermediate decisions, which sit apart. None records work rules or disciplinary measures as determinative, and none records autonomy over working time or volume; three rest on remuneration structure. The intermediate determination, as made in these five cases, was not a graduated version of the binary test conducted on a fuller evidentiary record. It was made on a narrower footing, and on the one dimension — how the worker was paid — that is visible without any access to how the work was actually directed. Given that only five decisions are involved, this is offered as a description of those five and not as a generalisation.

Finally, and across the coded database as a whole: no decision records the court or tribunal obtaining platform back-end data — dispatch logs, algorithmic scoring, in-app working-time statistics — through any order for production. Where algorithmic direction entered the reasoning at all, it did so through artefacts already in the worker's possession: screenshots of dispatch instructions, deduction notices, order-volume tallies, messages posted by site managers. The record on which classification proceeds is thus assembled almost entirely from what the worker happened to retain.

Discussion

What the Chinese case does and does not test

The comparative literature contains a prediction: that an intermediate employment status, once created, will function less as a floor of protection than as a destination to which workers are consigned (Davidov, 2016; Countouris, 2019). The findings reported above are consistent with that prediction, but they do not straightforwardly confirm it, and the distinction matters.

What China created in July 2021 was not a third status in the sense contemplated by that debate. It was a classificatory position stated in a ministerial guidance document, unaccompanied by any schedule of entitlements and unaccompanied by any change in the rules governing proof. What the Chinese record therefore tests is narrower and, for design purposes, more useful: it shows what happens to an intermediate category that is created without norm-form, without positive content, and without

evidentiary access. The three findings map onto those three absences, and the mapping is what the remainder of this section sets out.

Norm-form and dormancy

The first absence explains the first finding. Adjudicating bodies in China decide by reference to statutes, judicial interpretations and administrative regulations. A guidance document issued by ministries is authoritative as policy but is not a norm that may be cited as the ground of a decision. A category that exists only in such an instrument is therefore available to adjudicators as a description but not as a basis for disposing of a claim.

This reading is supported by the internal structure of the evidence rather than merely asserted. Two of the five affirmative applications were made by a single basic-level court within months of the guidance being issued, which indicates awareness of the category and willingness to deploy it. Their non-diffusion thereafter, and the complete absence of the category from a district arbitration population of 24 cases, are better explained by what adjudicators may cite than by what they know or prefer. The pattern is a familiar one in the study of legal implementation: a rule's practical reach depends on the institutional channel through which it is transmitted, and formal enactment status is one of the strongest such channels (Edelman, 1992).

Negative definition and delimiting function

The second absence explains the second and third findings together. The guidance defined the category by what it is not: a situation not fully meeting the conditions for establishing an employment relationship. It attached no entitlements. A classificatory position so constructed has, in adjudication, only one operation available to it — marking the outer boundary of employment — because there is nothing on the other side of the boundary for it to deliver.

The five decisions bear this out. In four, characterisation preceded the dismissal of the worker's claims, which is what a boundary-marking device does. In the fifth it operated in the worker's favour, but by the same mechanism: it defeated the agent's assertion that the relationship was one of pure cooperation and so of no employer responsibility. Even there the entitlement itself came from elsewhere — a commercial employer's liability insurance policy — and the court's own words locate the operation precisely, holding that the written agreement between the parties does not alter the employing-entity responsibility of the platform or its cooperating enterprise. The category told the court who could not disclaim responsibility. It did not tell the court what responsibility consisted in.

The sectoral displacement follows from the same feature. Absent any content specifying what the category is for, courts drew relationships into it on the strength of the one attribute the formulation

implies — an incomplete fit with employment — and that attribute is not distinctive to platform work. A clothing stall and a foot-massage parlour fit it as readily as a delivery platform.

Evidentiary access and graduated classification

The third absence bears on whether the category could have been applied as intended even if the first two had been remedied. Distinguishing an intermediate case from full employment is a judgment about degree: how strong is the direction exercised, how confined is the worker's discretion. Such a judgment requires evidence capable of expressing degree.

The coded record indicates that the available evidence does not readily express degree. Documented disciplinary authority did most of the discriminating work between the two poles, and such evidence is characteristically threshold-like: rules were acknowledged or they were not; deductions were imposed or they were not. Meanwhile no decision in the database records a court obtaining platform back-end data — dispatch logs, algorithmic scoring, in-app time records — through an order for production. Algorithmic direction entered reasoning only through artefacts the worker had retained. This is the information asymmetry documented in platform work elsewhere (Rosenblat and Stark, 2016; Kellogg et al., 2020), reappearing as an evidentiary constraint on adjudication: the party best placed to demonstrate gradation is the party without access to the data in which gradation is recorded.

The five intermediate decisions are consistent with this constraint. None records work rules or disciplinary measures as determinative; three rest on remuneration structure — the one dimension observable without any access to how the work was directed. On the evidence actually reachable, the intermediate determination was made on the thinnest of the available bases rather than the fullest.

Implications for jurisdictions now legislating

Read this way, the Chinese record speaks less to whether an intermediate status is desirable than to what has to accompany one. Three conditions are indicated: a norm-form that adjudicators may invoke; positive content specifying what follows from falling within the category; and a rule of evidentiary access sufficient to support judgments of degree.

Jurisdictions currently legislating have, in effect, converged on the second and third. Directive (EU) 2024/2831 pairs a rebuttable presumption of employment with obligations of algorithmic transparency and with rights of access to information about automated management, and requires transposition by 2 December 2026. Notably, the adopted text abandoned the list of control criteria contained in earlier drafts, leaving classification standards to member states — an acknowledgement that operative criteria are difficult to specify centrally. Spain's Royal Decree-Law 9/2021 similarly combined a presumption with an obligation to disclose the parameters of algorithms affecting working conditions. The Chinese record suggests why that pairing is not incidental: a classificatory rule and a rule of evidentiary access are

complements, and the first without the second yields a category that adjudicators can name but not operate.

China is itself moving in this direction. At the time of writing, the intermediate category remains without statutory or regulatory expression at national level, while at provincial level the Zhejiang authorities have placed a regulation on new-forms-of-employment labour protection on the 2026 legislative programme, and provincial guidance issued in 2026 restates the three-way classification. Whether such instruments supply the three conditions identified here — and with what effect on adjudication — is an empirical question that the present design cannot answer and that the record examined here suggests is worth following.

Limitations

Four limitations bear on how the findings should be read.

Disclosure. All judgment data derive from publicly disclosed decisions, and rates of disclosure in China have declined markedly since 2021; the disclosed corpus is not a random sample (Liebman et al., 2020). Retrieval within that corpus is close to exhaustive, since a decision applying the category must reproduce the policy formulation, so what is limited is disclosure rather than search. The constraint also operates in one direction only: undisclosed decisions could contain further applications but could not reduce the five identified. The incidence finding is accordingly a lower bound, and the argument developed above rests on the order of magnitude and on the pattern of use among the decisions retrieved rather than on the precise figure.

Coding. The coded database was assembled purposively and cannot support frequency claims about Chinese adjudication generally; none is made. Coding of determinative facts was performed against a written protocol by a single coder, working from official releases and the reasoning sections of the judgments, but no second coder was available and no inter-coder reliability statistic can be reported. Factor categories were assigned by a published keyword dictionary, which makes them reproducible but may miss facts expressed in other words. The counts in Tables 3 and 4 are applied to recorded summaries of reasoning rather than to full judgment texts and are therefore lower bounds: the absence of a factor indicates that it was not recorded as determinative, not that it was not considered. The cross-tabulation in Table 4 is descriptive; with 54 decisions distributed across three outcomes it supports no inference.

The arbitration population. The 24 cases are the complete set for one district over eighteen months. They establish what occurred there and are consistent with the litigation findings, but a single district in one coastal province cannot represent arbitration practice nationally, and its case mix — dominated by courier and livestreaming work rather than by ride-hailing or on-demand delivery — may not be typical.

Mechanism. The account offered in the Discussion is an interpretation of a pattern, not a demonstrated causal claim. Norm-form, absence of positive content and evidentiary asymmetry are analytically distinct but empirically entangled: they were introduced together and would have to be varied separately to be tested separately. Whether supplying one without the others changes adjudicative practice is a question the present design cannot answer. The regulatory instruments now under preparation at provincial level, and the transposition of Directive (EU) 2024/2831 before December 2026, will generate the variation that such a test requires.

Conclusion

Whether platform work should be governed through a third employment category has been debated for a decade largely in the absence of cases in which such a category has been observed in operation. China created one in July 2021. Over the following five years, an exhaustive search of publicly disclosed judgments identifies five in which a court affirmatively characterised a relationship under it, and none among the complete set of platform-related cases handled by one district arbitration commission between 2025 and mid-2026. Two of the five concern storefront service work with no platform involvement; only one concerns a location-based gig platform. In four, characterisation preceded dismissal of the worker's claims; in the fifth, the sole case producing a payment, the obligation arose under a commercial employer's liability insurance policy, the court's contribution being to hold that the parties' written agreement did not alter the employing entity's responsibility. In one case the action was brought by the employer, and in two further verified documents the formulation appeared as an employer's argument and as an unsuccessful argument on appeal.

The category was not, however, a third status of the kind the comparative debate contemplates. It was stated in ministerial guidance rather than in law, defined by what it is not, and introduced without any change to the rules governing access to evidence of how work is directed. What the Chinese record therefore establishes is not that intermediate statuses fail, but what an intermediate status requires. Cast in an instrument that adjudicators may not cite, it will seldom be reached. Defined only by exclusion, its single available operation is to mark the outer boundary of employment, which is what it was observed to do. And made to depend on judgments of degree while the data recording degree remain with one party, it will be decided, when decided at all, on whatever is visible without them — in these five cases, on how the worker was paid.

Three conditions follow for any jurisdiction contemplating such a category: a norm-form that adjudicators may invoke; positive content specifying what follows from falling within it; and a rule of evidentiary access sufficient to sustain judgments of degree. Jurisdictions now legislating have converged on the second and third without necessarily articulating why the pairing matters. Directive (EU) 2024/2831 combines a classificatory rule with obligations of algorithmic transparency and rights of access to information about automated management, and must be transposed by 2 December 2026; Spain's Royal Decree-Law 9/2021 pairs a presumption with disclosure of algorithmic parameters. The Chinese record supplies the reason: a classificatory rule and a rule of evidentiary access are

complements, and the former enacted without the latter produces a category that can be named but not operated.

The same conditions frame what remains to be observed in China. Protection has in fact been extended to platform workers over this period, but by detaching entitlement from classification — through occupational-injury protection that follows platform-mediated engagement rather than employment status, and through provincial obligations expressly not conditioned on an employment relationship. Whether the intermediate category is instead given operative content, in the provincial regulations now under preparation or otherwise, and what adjudicators then do with it, is the question this study leaves open and the one most worth following.

Declarations

Author contributions. X.H. is the sole author. He designed the study, conducted the database searches, read and verified all retrieved documents, coded the case database, carried out the fieldwork, and wrote and revised the manuscript.

Funding. This work was supported by the 2026 Zhejiang Provincial Philosophy and Social Sciences Planning Applied Policy Research (Department Cooperation) Project, "Research on the Provincial Legislative Path for Protecting the Rights and Interests of Workers in New Forms of Employment in Zhejiang: An Institutional Design Based on Classified and Tiered Protection and Platform Co-governance" (Project No. 70).

Data availability. The data supporting this study are provided as Supplementary Data (a single Excel workbook). It contains the search log (search strings, date filters, retrieval dates and counts); the complete list of records returned by the phrase census, with the classification assigned to each; the seven decisions verified in full text; the coded database of 66 decisions, with its codebook and coding dictionary; and the case-by-factor matrix from which Tables 3 and 4 are computed. All judicial decisions listed are publicly available and are identified by case number or official title. The arbitration data are unpublished administrative records supplied by a district labour arbitration commission; they are reported in aggregate in Table 2 and the Supplementary Data, and case-level records cannot be shared because they are not public.

Competing interests. The author declares no competing interests.

Ethical approval. This study analysed publicly available judicial decisions and de-identified administrative case records. It did not involve human participants, and no personal data were collected or processed; ethical approval was therefore not required.

Informed consent. Not applicable.

Declaration of generative AI and AI-assisted technologies in the writing process. During the preparation of this manuscript, the author used Doubao 2.1 Pro (ByteDance) for language editing, Chinese–English

translation. The author reviewed and edited all output and takes full responsibility for the content of the manuscript.

References

1. Adams-Prassl J (2019) What if your boss was an algorithm? Economic incentives, legal challenges, and the rise of artificial intelligence at work. Comp Labor Law Policy J 41(1):123–146
2. Aloisi A (2016) Commoditized workers: case study research on labor law issues arising from a set of on-demand/gig economy platforms. Comp Labor Law Policy J 37(3):653–690
3. Aloisi A, De Stefano V (2022) Your Boss Is an Algorithm: Artificial Intelligence, Platform Work and Labour. Hart Publishing, Oxford
4. Bromley P, Powell WW (2012) From smoke and mirrors to walking the talk: decoupling in the contemporary world. Acad Manag Ann 6(1):483–530
5. Chen JY (2018) Thrown under the bus and outrunning it! The logic of Didi and taxi drivers' labour and activism in the on-demand economy. New Media Soc 20(8):2691–2711
6. Chen JY, Sun P (2020) Temporal arbitrage, fragmented rush, and opportunistic behaviors: the labor politics of time in the platform economy. New Media Soc 22(9):1561–1579
7. Cherry MA, Aloisi A (2017) "Dependent contractors" in the gig economy: a comparative approach. Am Univ Law Rev 66(3):635–689
8. Countouris N (2019) Defining and Regulating Work Relations for the Future of Work. International Labour Office, Geneva
9. Davidov G (2016) A Purposive Approach to Labour Law. Oxford University Press, Oxford
10. De Stefano V (2016) The rise of the "just-in-time workforce": on-demand work, crowdwork, and labour protection in the "gig-economy". Comp Labor Law Policy J 37(3):471–504
11. Dubal VB (2017) Wage slave or entrepreneur? Contesting the dualism of legal worker identities. Calif Law Rev 105:65–123
12. Edelman LB (1992) Legal ambiguity and symbolic structures: organizational mediation of civil rights law. Am J Sociol 97(6):1531–1576
13. European Parliament and Council of the European Union (2024) Directive (EU) 2024/2831 of 23 October 2024 on improving working conditions in platform work. OJ L, 11.11.2024
14. Freedland M, Countouris N (2011) The Legal Construction of Personal Work Relations. Oxford University Press, Oxford
15. Hall MA, Wright RF (2008) Systematic content analysis of judicial opinions. Calif Law Rev 96(1):63–122
16. Kellogg KC, Valentine MA, Christin A (2020) Algorithms at work: the new contested terrain of control. Acad Manag Ann 14(1):366–410
17. Lee MK, Kusbit D, Metsky E, Dabbish L (2015) Working with machines: the impact of algorithmic and data-driven management on human workers. In: Proceedings of the 33rd Annual ACM Conference

on Human Factors in Computing Systems (CHI '15). ACM, New York, pp 1603–1612
18. Liebman BL, Roberts ME, Stern RE, Wang AZ (2020) Mass digitization of Chinese court decisions: how to use text as data in the field of Chinese law. J Law Courts 8(2):177–201
19. Liu C, Friedman E (2021) Resistance under the radar: organization of work and collective action in China's food delivery industry. China J 86:68–89
20. Meyer JW, Rowan B (1977) Institutionalized organizations: formal structure as myth and ceremony. Am J Sociol 83(2):340–363
21. Ministry of Human Resources and Social Security and seven other departments (2021) Guiding Opinions on Safeguarding the Labour Rights and Interests of Workers in New Forms of Employment, Ren She Bu Fa [2021] No. 56, July 2021
22. Ministry of Human Resources and Social Security and nine other departments (2021) Interim Measures for Occupational Injury Protection for Personnel in New Forms of Employment (Trial), December 2021
23. Ministry of Labour and Social Security (2005) Notice on Matters Concerning the Establishment of Employment Relationships, Lao She Bu Fa [2005] No. 12
24. National People's Congress (1994) Labour Law of the People's Republic of China, adopted 5 July 1994
25. National People's Congress (2020) Civil Code of the People's Republic of China, adopted 28 May 2020
26. Prassl J, Risak M (2016) Uber, TaskRabbit, and Co.: platforms as employers? Rethinking the legal analysis of crowdwork. Comp Labor Law Policy J 37(3):619–651
27. Rogers B (2016) Employment rights in the platform economy: getting back to basics. Harv Law Policy Rev 10:479–520
28. Rosenblat A, Stark L (2016) Algorithmic labor and information asymmetries: a case study of Uber's drivers. Int J Commun 10:3758–3784
29. Spain (2021) Royal Decree-Law 9/2021 of 11 May 2021 on guaranteeing the labour rights of persons engaged in distribution through digital platforms. Boletín Oficial del Estado, 12 May 2021
30. Standing Committee of the National People's Congress (2007) Labour Contract Law of the People's Republic of China, adopted 29 June 2007
31. Standing Committee of the Zhejiang Provincial People's Congress (2024) Zhejiang Provincial Employment Promotion Regulation, effective 1 July 2024
32. Sun P (2019) Your order, their labor: an exploration of algorithms and laboring on food delivery platforms in China. Chin J Commun 12(3):308–323
33. Supreme People's Court (2024) 42nd Batch of Guiding Cases, Nos 237–240, December 2024
34. Supreme People's Court (2025) Interpretation (II) on Several Issues Concerning the Application of Law in the Trial of Labour Dispute Cases, Fa Shi [2025] No. 12, effective 1 September 2025

35. Wood AJ, Graham M, Lehdonvirta V, Hjorth I (2019) Good gig, bad gig: autonomy and algorithmic control in the global gig economy. Work Employ Soc 33(1):56–75

Cases cited

36. Uber BV v Aslam [2021] UKSC 5
37. Dynamex Operations West, Inc. v. Superior Court (2018) 4 Cal.5th 903
38. Xiang v Moshang Clothing Store, Zhabei District, Shanghai, (2021) Hu 0106 Min Chu No 31898, Jing'an District People's Court, 26 October 2021
39. Shanghai Hanyuan Foot Health Co. Ltd v Lü, (2021) Hu 0106 Min Chu No 40628, Jing'an District People's Court, 12 November 2021
40. Zhang v Ningbo Huasi Culture Media Co. Ltd, (2022) Zhe 0203 Min Chu No 5635, Haishu District People's Court, Ningbo, 17 March 2023
41. Wang v Ningbo Qianyue Culture Communication Co. Ltd, (2022) Zhe 0203 Min Chu No 9014, Haishu District People's Court, Ningbo, 27 March 2023
42. Zhang v Guizhou Co. Ltd and Shenzhen Branch of China Co. Ltd, (2025) Qian 0402 Min Chu No 453, Xixiu District People's Court, Anshun, 8 April 2025

Figures

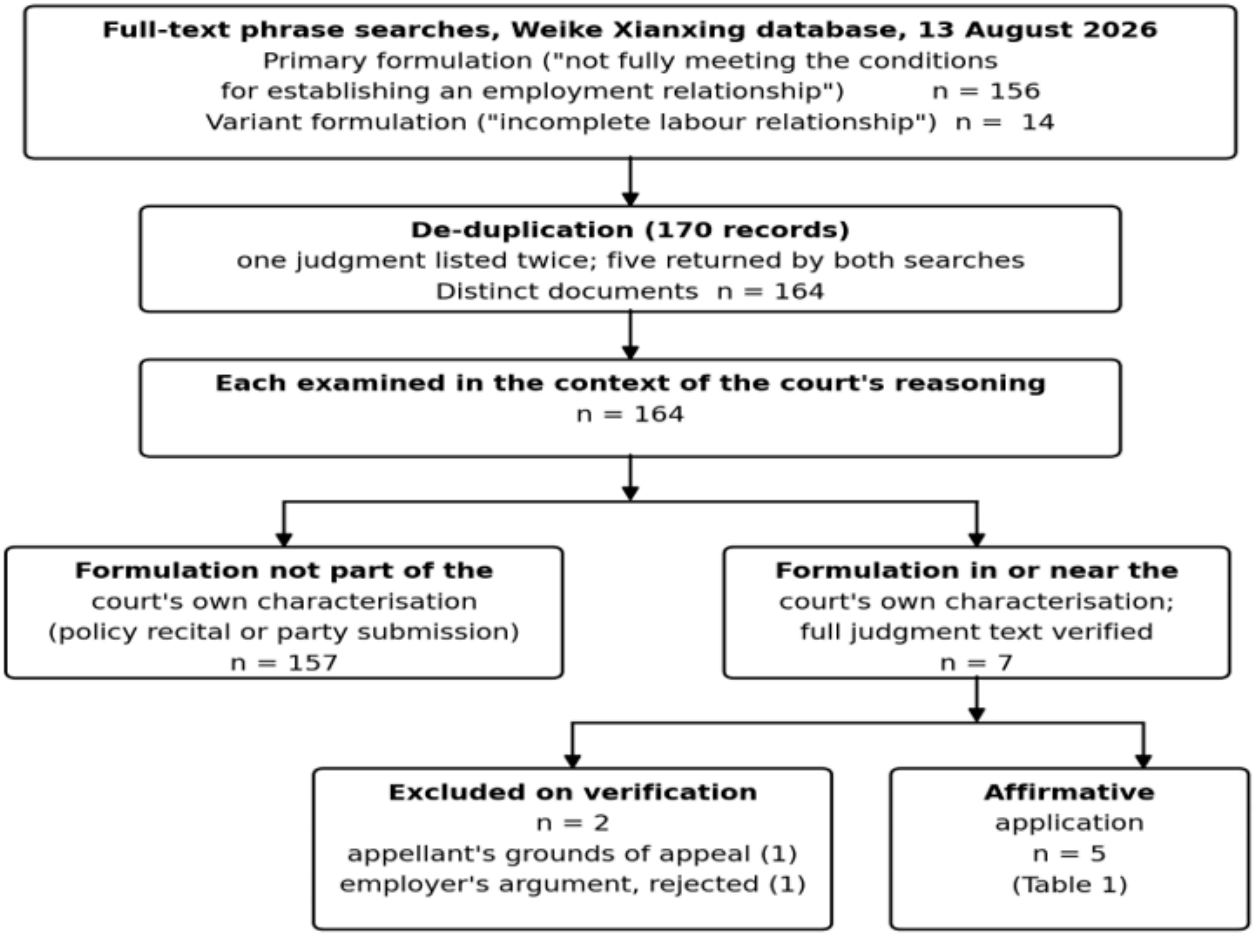


Figure 1

Identification of judgments affirmatively applying the intermediate category.

Supplementary Files

This is a list of supplementary files associated with this preprint. Click to download.

- SupplementaryData.xlsx