

# **Grace, Riders' Rights Concern Group Hong Kong**

## **Overview on the situation in Hong Kong**

Hong Kong's takeaway workers and platform workers around the world face similar problems: opaque algorithms, control of algorithms, job security, cuts in pay, etc. We all know more or less the details, so today I won't share the very details of the work situation. Instead, we will share some of the background of the political system and the traditions of the workers' movement that we feel are crucial, and try to analyse together with you why the workers' resistance in Hong Kong and the overall situation presents a different face from that of the Mainland, Germany and other regions, in order to make a three-way exchange.

### **1. Basic background of Foodpanda**

- Number of people: over 10,000 active accounts (November 2021).
- Market share: Foodpanda 51%, Deliveroo 49% Dual monopoly.
- Ethnicity: Chinese, Pakistani, Indian, Nepalese.
- Employment relationship: entered the Hong Kong market in 2014, the vast majority are employees; all employees to be sacked in 2021, all takeaways to be independent contractors with no labour rights In Hong Kong, almost all platform takeaways are independent contractors, unlike in the Mainland and Germany.

### **2. The legal environment**

- The level of protection for workers in the labour law system is low: compared to Mainland China and Germany, the level of labour law is much lower and employees have very limited legal rights.
- Strong government involvement in economic/labour matters: small government, no intervention in the market.
- Limitations on the powers of the Labour Department: no power to define employment relationships or determine workplace injuries, only powers to inspect and prosecute, and the Labour Department is reluctant to use these two powers.
- Legal system: Common law, time consuming, costly and risky. For the time being, there are only a few Labour Tribunal cases in Hong Kong and all previous cases have ended in settlement.

### **Hong Kong protest cases**

#### **Case 1: Foodpanda traffic accident injuries and death of driver**

- The company denied liability.
- The Employees' Compensation Division of the Labour Department did not conduct any investigation and did not take any initiative to obtain any information, but only referred the case for legal aid and civil claims.
- No further action by the family.
- Labour and Welfare Bureau: social survey to be launched before 2023; Labour Department may not intervene in certain issues, including wage reduction and contract terms; unknown how to protect, may be legislation, policies, guidelines.

#### **Case 2: Labour Tribunal case to recover paid leave**

- There are numerous cases around the world, especially in Europe, where employee relations have been established.

- Labour Rights Division: mediation, non-intervention, not necessarily neutral.
- Labour Trial: second hearing, as there is a high risk of losing the case, the case owner is not willing to appeal and fight to the end.

### 3. Civil society space

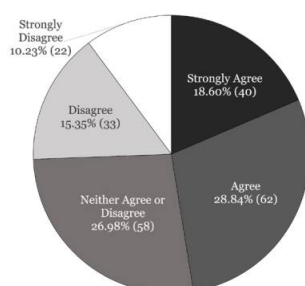
- Labour movement: weak labour movement tradition, low union awareness; no collective bargaining rights for unions, lack of motivation to establish unions.
- Trade unions: before 2021, catering and hotel trade unions played an important role in the struggle of take-away workers; in 2021, due to the national security law and their involvement in the pro-democracy movement, the Confederation of Trade Unions (CTU) was disbanded and the priority of catering and hotel trade unions was to survive and did not follow up on the take-away industry.

#### The case of Hong Kong's struggle

- Is there a trade union for take-away workers in Hong Kong? There are about 100 take-away workers who have joined the CTU and the FTU Free Workers Union will follow up on the issue of take-away workers after the Foodpanda strike in 2021.
- Is there no more room for street protests by Hong Kong workers? There is still a lot of room for street actions in comparison to the Mainland. Compared to other industries in Hong Kong, the frequency of strikes and collective actions of Hong Kong's take-away workers is higher, and almost once a year there is a major strike over pay.

### 4. Workers' awareness and demand

- The attitude of take-away workers towards becoming employees: compared to European countries such as Germany, they have reservations about whether they should fight for employee status, and the group of take-away workers: full-time South Asian drivers tend to demand traditional employee rights, while many full-time take-away workers tend to retain their status as freelancers, worrying that their salary and flexibility will be reduced after becoming employees, and only demand certain basic rights (wage protection, work injury).
  - What are the demands of take-away workers in terms of legislation?
- See the graph and the table below.



Graph 3.3.2 Surveyed food delivery workers' responses to whether they think there is actual employment relationship between the platform and them

	Food Delivery		Goods Delivery		Care work	
	Primary income source (122)	Multiple income source (93)	Primary income source (47)	Multiple income source (39)	Primary income source (8)	Multiple income source (5)
Company cannot change contract terms unilaterally without consulting workers	69.7%	77.4%	70.2%	71.8%	100%	80%
MPF or other retirement protections are provided by their job	54.9%	46.2%	61.7%	38.4%	75%	60%
Job is covered by labour insurance and there is compensation to work-related accidents	80.3%	84.9%	76.6%	87.2%	100%	100%
Job offers a guaranteed base salary per hour	71.4%	74.2%	70.2%	82.1%	87.5%	100%
Holiday with salary is provided by their job	70.5%	58.1%	70.2%	58.9%	75%	80%
Cannot terminate workers' accounts without reason	81.2%	87.1%	78.7%	92.3%	75%	100%

Table 4.4 Percentage of surveyed workers who agree or strongly agree with the statements by sector and income source

\*Primary = Take platform work as primary source of income; Multiple = Take platform work as part of one's multiple income sources