

Youth Unemployment and Sustainable Development Pathways in China after the COVID-19 Pandemic

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The COVID-19 pandemic has adversely affected the overall economic growth of countries. Governments have taken various measures to prevent the spread of the virus, resulting in a significant increase in unemployment, such as young people who are disadvantaged groups such as first-time job seekers and inexperienced fresh graduates. The concept of sustainable development has been gradually recognized by most countries as an important principle in international regulations. It has been reflected in international treaties, judicial cases, and initiatives. To alleviate the pressure of youth unemployment, China has adopted a series of policies and measures, which are consistent with the concept of sustainable development. This paper intends to focus on the current situation of China's youth employment market and relevant laws and policies to improve it. It draws on the measures taken by other countries to deal with youth unemployment and puts forward suggestions from the perspective of sustainable development.

Keywords: COVID-19 Pandemic, Youth Employment, Sustainable Development, ILO, Global Initiative on Decent Work for Youth

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I. INTRODUCTION

On January 30, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak to constitute a public health emergency of international concern.¹ On March 11, 2020, WHO further declared COVID-19 as a possible global pandemic.² This public health emergency has negatively impacted global trade and countries' overall economic growth. Governments have taken various degrees of precautionary measures to prevent the spread of the virus by limiting or halting the operation of certain facilities, businesses, or services. These measures have caused a significant increase in unemployment, including among youth.³ One in six young people worldwide has been laid off or stopped working since the start of the COVID-19 pandemic.⁴ As a result, the concept of "COVID-19 or the Lockdown Generation" has emerged and is used to describe "the economic and labor market scarring that may impact young people in the coming years, if robust policies to offset the damage caused by the pandemic are not introduced."⁵

The International Labor Organization (ILO)'s latest report, *Global Youth Employment Trends 2022*, shows that the pandemic has exacerbated many of the labor market challenges facing young people aged 15 to 24, with a much higher rate of job losses than adults since early 2020.⁶ The report says the total number of unemployed youth globally is expected to reach 73 million in 2022, a slight improvement from 75 million in 2021, but still 6 million above the pre-epidemic level in 2019.⁷

The meaning of work for individuals and society is changing, increasingly linking to the challenge of sustainable development at the global level. Sustainable development has also been recognized by contemporary international law as a consensus of the international community.⁸ "Promoting inclusive and sustainable economic growth, employment and decent work for all" is one of the United Nations' Sustainable Development Goals (SDGs).⁹ "Decent Jobs for Youth - The Global Initiative," developed by the ILO, is also committed to promoting joint action by countries to promote youth employment and cooperation.¹⁰

Both China's 14th Five-Year Plan and the Mid- and Long-Term Youth Development Plan propose to prioritize employment to alleviate the employment pressure of domestic youth and promote quality and inclusive sustainable development. Against this background, this paper will address the current situation

of China's youth employment market since 2020 and related legal policies to protect youth employment and the labor rights protection clauses in China's current international investment agreements (IIAs). It will analyze possible defects and problems, and further propose recommendations to improve youth employment in China from the perspective of sustainable development.

This article is divided into six parts including Introduction and Conclusion. Part two will discuss the UN SDGs for youth employment. Part three will expound on the status quo and regulations in China's youth employment market during the COVID-19 pandemic. Part four will reveal the shortcomings in the current laws and policies for promoting youth employment in China. Part five will examine the major paths to dealing with youth employment in China during the pandemic.

II. THE UN SUSTAINABLE DEVELOPMENT GOALS FOR YOUTH EMPLOYMENT

With the deepening of economic globalization, the labor force gradually evolves into the flow of goods, and transnational service trade rises. Western countries including the US, have also begun to make labor rights an important area of negotiation in trade and investment agreements, promoting the development of international law in the direction of humanization.¹¹ As an important element of human rights protection, the implementation of labor standards can be summarized into four forms: treaties, codes, soft law, and trade agreements.¹²

Due to the disagreement between developing and developed countries on labor standards and the complexity of the World Trade Organization (WTO)'s Doha Round negotiations, developed world represented by the US and the EU have abandoned labor standards under the WTO framework and turned to the promotion of labor standards in the field of Regional Trade Agreements (RTAs).¹³ Current RTAs mostly focus on forced labor, violence against workers, child labor, immigration, gender discrimination, and other issues closely related to personal interests.¹⁴ However, there is no direct provision on promoting youth employment. The international standards on youth employment are in the form of soft law, especially under the concept of "sustainable development" that countries have been promoting in recent years.¹⁵

As time changes, human needs have been developed accordingly. The connotation of sustainable development has entered the stage of emphasizing “human” as the center.¹⁶ The concept of “sustainable development” was formally proposed “Our Common Future”¹⁷ published in 1987 by the United Nations World Commission on Environment and Development.

Based on the theory of inter-generational equity, it requires sovereign states to update their own development needs with times and create and realize contemporary development on the premise of protecting the future rights of future generations.¹⁸ On September 25, 2015, the UN Sustainable Development Summit was held at its headquarters in New York. The 193 member States of the UN formally adopted 17 SDGs at the summit.¹⁹ Among them, the eighth goal is related to employment: “Promote inclusive and sustainable economic growth, employment and decent work for all.” The SDGs provide an opportunity to strengthen actions on youth employment. There are 12 sub-targets under the targets. Three sub-targets directly related to youth employment are marked, including “achieve full and productive employment” (8.5), “reduce youth not in employment/education” (8.6), and “enable strategy youth employment” (8.b).²⁰ The achievement of these goals needs to be supported by the following elements.

A. Active Labor Market Policies (ALMPs)

ALMPs are designed to “increase employment opportunities for job seekers through more effective and efficient matching of jobs (vacancies) and jobseekers while improving the employability of workers to reduce the skills mismatch.”²¹ It is achieved primarily through interventions such as job search assistance, basic skills and vocational training, wage and employment subsidies, and incentives for entrepreneurship provided by governments to specific groups such as unemployed youth and indigenous people.²² Some scholars have empirically studied the relationship between ALMPs and the unemployment rate in 16 Organization for Economic Cooperation and Development (OECD) countries.²³ Overall, ALMPs are effective in reducing the unemployment rates in these countries.²⁴

Policymakers should conduct periodic evaluations to judge the quality of the design of ALMPs, their implementation, and the effectiveness of the goals maintained in reducing unemployment.²⁵ In addition, increasing flexibility in labor market regulation through ALMPs is one of the main pillars of reducing youth

unemployment. This is because a rigid labor market prevents flexible adjustment of labor supply and demand according to the different stages of the business cycle; increases production costs for companies; reduces the competitiveness of goods and services internationally; and thus leads to high unemployment rates.²⁶

B. Training and Education in Job Skills and Employability

Breaking the vicious cycle of low education, low productivity, and persistent poverty is important for achieving the goal of “promoting inclusive and sustainable economic growth, employment, and decent work for all.”²⁷ Education is also a means of obtaining decent jobs, especially for young people, and lifelong learning is essential to keep up with the changing skills required by the labor market.²⁸ Thus, skill development is a type of sustainable development. It is also essential to respond to the opportunities and challenges to meet the new demands of changing economy and new technologies in the context of globalization.²⁹ Many countries also support funding for relevant education and training through ALMPs. For example, the Singaporean government launched “SGUnited Traineeships Programme” in April 2021 to support recent graduates in the challenging job market.³⁰

In addition, the ILO provides policy guidelines and technical assistance to member countries to help them integrate skill development into national and sector-specific development strategies.³¹ For example, the ILO has developed the Skills for Trade and Economic Diversification Programme (STED), which helps member countries identify the skills needed to participate effectively in international trade and diversify their economies.³² The level and distribution of skills in a country’s workforce affect its trade patterns and may also influence its export performance.³³ Appropriate skill development policies are the key to helping firms expand their export activities and to helping unemployed workers make a smooth and rapid transition to new jobs with equal or higher wages.³⁴

Particularly in the context of the COVID-19 pandemic, there is an urgent need for countries to consider the areas in which their people can be productively employed in the future and the different skills needed to achieve economic and employment recovery.³⁵

C. Social Protection Floor

The Social Protection Floor (SPF) is a nationally defined set of basic social

protections designed to prevent or reduce poverty, vulnerability, and social exclusion to guarantee access to basic health care and basic income security for all those in need.³⁶ The universal rights to social protection must be integrated into national policies and laws, as well as global and regional frameworks, in order to reduce poverty, inequality, and social exclusion and to make such protection an automatic social and economic stabilizer.³⁷ With political will, sound design, costing and fiscal space analysis, and inclusive social communication, states can progressively build and strengthen social protection systems, even in times of economic austerity.³⁸

Social protection can play a key role in alleviating poverty and deprivation. Furthermore, it helps to improve human resource development and stimulate more productive activity, strengthening resilience to economic shocks and thus accelerating economic recovery on a path to more inclusive and sustainable development.³⁹

D. Youth-specific Initiatives and Strategies

The ILO has a long-standing commitment to promoting decent work for the youth. As early as 2005, the ILO consolidated its response to the global youth employment challenge through the Youth Employment Programme. Subsequently, this work was guided by two global resolutions adopted by the International Labor Conference in 2005 and 2012, respectively.⁴⁰ According to the resolutions, addressing youth employment requires an integrated approach that combines supportive economic policies with targeted measures to address labor demand and supply, as well as the quantity and quality of employment.⁴¹ At the level of national interventions, strengthening social dialogue and national capacity is central to addressing youth employment, with youth employment programs focusing on knowledge development and dissemination, technical assistance at the national level, and advocacy partnerships.⁴²

In 2016, the ILO launched the “Decent Jobs for Youth - The Global Initiative” on behalf of 22 UN members to take joint actions to promote youth employment and cooperation, achieving the youth employment target set out in the 2030 Agenda for Sustainable Development.⁴³ The initiative aims to increase impact and scaled-up country-level actions on decent youth employment through multi-stakeholder partnerships, the dissemination of evidence-based policies, and the effective and innovative interventions.⁴⁴

To mitigate the risk of insufficient commitment and investment, ensuring

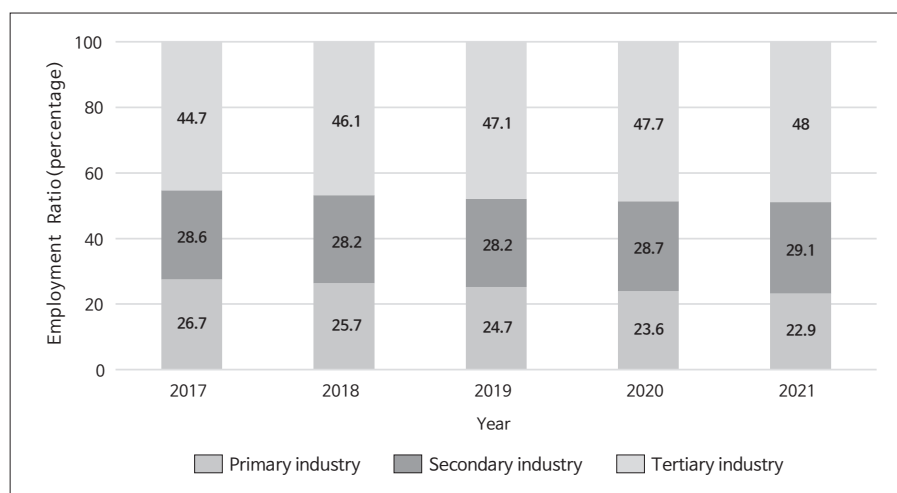
a high level of ownership and sustainable resource allocation will be a priority and criterion for each country-level initiative to receive support from the Global Initiative.⁴⁵ The main challenge for the initiative is to mobilize national resources and expand innovative and experimental actions. One of its main solutions is to establish transparent funding mechanisms with public–private partnerships, open to all initiatives that support innovative solutions and the scaling up of effective interventions to increase access to decent work.⁴⁶

III. CHINA’S YOUTH EMPLOYMENT MARKET UNDER THE COVID-19 PANDEMIC: STATUS QUO AND REGULATIONS

A. COVID-19’s Impact on China’s Youth Employment

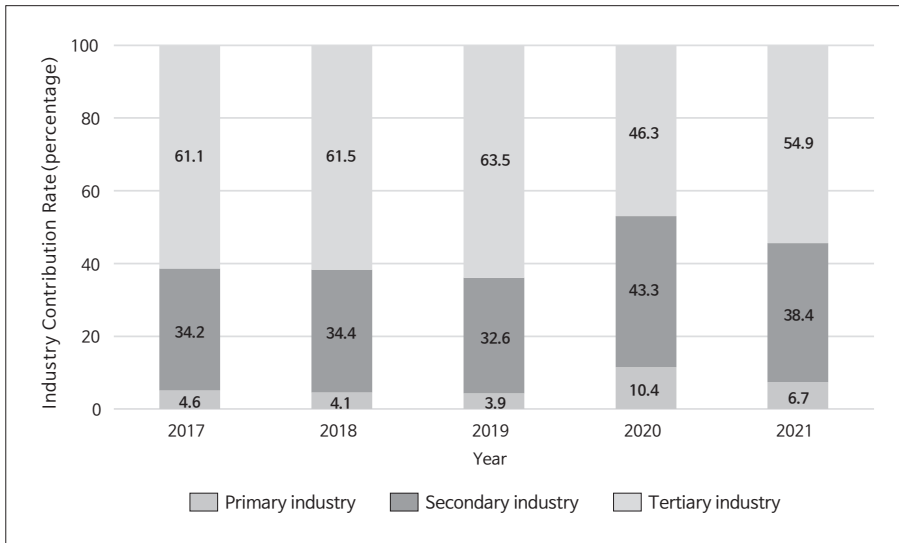
In recent years, the tertiary industry, represented by the service industry, has become the main employment area in China. By the end of 2021, 746.52 million people were employed nationwide, of whom 467.73 million were employed in urban areas. The primary industry accounted for 22.9%, the secondary industry for 29.1%, and the tertiary industry for 48.0%. The proportion of employment in the tertiary industry has increased year by year in the past five years (Figure 1).

Figure 1: Industrial Composition of China’s Employed People in the Past Five Years⁴⁷



From the perspective of industrial contribution rate,⁴⁸ by the end of 2021, the contribution rate of China’s primary, secondary, and tertiary industries was 6.7%, 38.4%, and 54.9%, respectively. Before 2019, the contribution rate of the tertiary industry was expected to gradually increase. However, with the outbreak of COVID-19 in 2020, the contribution rate of the tertiary industry fell to 46.3% due to its dependence on the concentration and flow of people and then rebounded in 2021. (Figure 2)

Figure 2: China’s National Industrial Contribution Rate in the Past Five Years⁴⁹



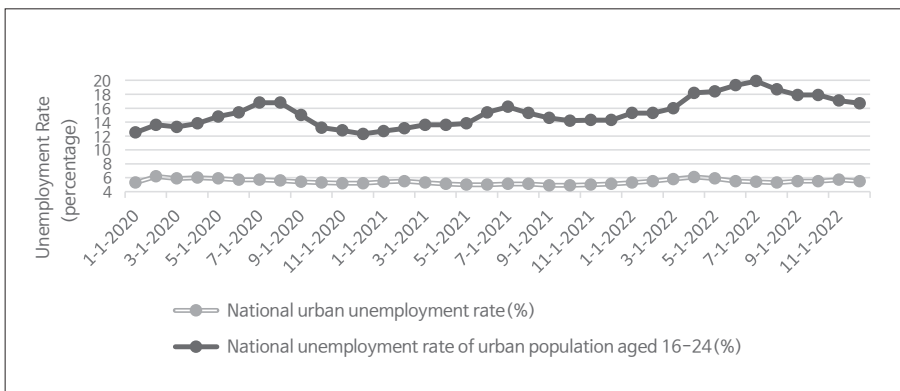
The COVID-19 pandemic has caused a large number of enterprises to stop working or even go bankrupt. Even under the normalization of pandemic prevention and control, it is difficult for enterprises to quickly restore their original productivity and production order.⁵⁰ After the COVID-19 pandemic was effectively controlled in China, the Chinese central government put forward guidelines for the resumption of work and production, employment, and entrepreneurship under the normalization of prevention and control, requiring the active and orderly promotion of the resumption of work and production across the industrial chain in a zoned and graded manner.⁵¹ Although China’s control of the pandemic was timely and effective, the negative

impact of the pandemic on employment has already emerged.

From January to April 2020, the monthly national urban survey unemployment rate was 5.3%, 6.2%, 5.9%, and 6.0%, respectively.⁵² In addition, the COVID-19 pandemic harmed the employment of small- and medium-sized enterprises, most of which have closed down due to cash flow difficulties. According to the data of the China Association of Small and Medium Enterprises, from 2016 to 2019, China’s Small and Medium Enterprises Development Index (SMEDI) was stable at around 93, while in 2020 it plummeted to 76.4,⁵³ as the lowest record since the survey was started in the second quarter of 2010.

The SMEDI improved but generally remained below 90. In December 2022, China’s SMEDI stood at 87.9.⁵⁴ In the normalized prevention and control phase of the pandemic, although enterprises have improved their resumption of work and production, youth employment is still facing certain downward pressure. China’s urban survey unemployment rate for the population aged 16–24 has remained above 12% since the outbreak and even reached 19.9% in July 2022 (Figure 3).

Figure 3: Unemployment Rate Statistics for China’s Urban Population
(From January 2020 to December 2022)⁵⁵



This is mainly due to the impact of the pandemic on enterprises, which have experienced difficulties in production and operation and a decline in their ability to absorb employment. In particular, the tertiary sector, which has a high share of youth employment, has been slow to recover, constraining youth employment.⁵⁶ On

the other hand, young people who enter the labor market are currently attracted to more stable positions. The gap between job-seeking expectations and real job demand also affects the employment entry of young people.⁵⁷

B. The Basic Provisions of Chinese Law on Protecting Youth's Right to Employment

At the legislative level, China does not have a unified labor code at present. Laws and regulations on labor rights and labor protection are scattered in the PRC Constitution and several separate laws, including the Labor Law, the Employment Promotion Law, the Labor Contract Law, the Social Insurance Law, the Trade Union Law, the Occupational Disease Prevention and Control Law, and the Production Safety Law. The PRC Constitution has made general provisions on labor rights, as one of the basic rights of citizens, reflecting the important position of labor rights in China.⁵⁸

The passage of the Labor Law in 1994 represents a critical movement from the planned economy to a market-oriented one, as well as an attempt to strike a balance between employee protection and employer needs. The Labor Law and its implementing rules offer more protection to employees, especially underage and female workers, given their relatively disadvantageous positions in the negotiation of employment contracts and labor relations.⁵⁹ Meanwhile, the government has been steadily reforming the “iron rice bowl” system to a social insurance safety net covering employees’ social insurance and welfare as well as freeing state-owned enterprises and employers from financial burdens.⁶⁰

Along with these reformist movements, China has implemented social insurance reform and enacted several key labor-related legislation, such as the Labor Union Law. In recent, the government has been switching its focus from labor protection to labor relation stability.⁶¹ The Labor Law and other labor-related rules and regulations cover almost all aspects of labor relations, such as employee promotion, career training, labor contract, collective contract, labor standards, labor protection, social insurance, and resolution of labor disputes.⁶² A Chinese style legal system has taken shape to protect workers’ right to employment.⁶³

China’s Labor Law explicitly prohibits employers from employing child laborers (under 16) and provides special protection for workers aged 16 to 18. Underage workers will not be assigned work in mines or wells, any work involving danger of injury or poisoning, work that requires physical labor (of the fourth grade of

intensity), or other work that is specified by the State. Employers should arrange periodic health examinations for underage workers.⁶⁴ The details of the types of work, work hours, work intensity, and protection measures for underage workers are set out in other labor regulations. Employers that violate the protection legislation will be ordered to correct the situation and pay penalties.⁶⁵

As regard employment, the term “discrimination” is not defined under the Chinese Labor Law. In practice, employment discrimination refers to the differential treatment given to employees in employment opportunities or labor treatment.⁶⁶ In principle, employment rules or measures are formulated to ensure employment equality. Discrimination based on nationality, sex, race, and religious belief is prohibited.⁶⁷ There are two types of laws regarding anti-discrimination. The first type addresses employment equality among all laborers including the Employment Promotion Law, the Labor Law, and the Labor Contract Law, which set out basic principles such as equal pay for equal work and equal hiring opportunities. Article 12 of the Labor Law stipulates: “Workers shall not be discriminated against in employment based on ethnicity, race, gender, or religious beliefs.” The second type focuses on the employment of disadvantaged groups such as the Law on the Protection of the Disabled and the Law on the Safeguard of Rights and Interests of Women. They contain provisions for avoiding employment discrimination against disadvantaged groups. There are also administrative rules against discrimination in employment, such as the Regulations on the Education of the Disabled, Regulations on Labor Protection for Female Employees, Regulations on Work-related Injury Insurance, Regulations on Labor Security Supervision, Regulations on the Working Scope Banned for Females, and Temporary Provisions on Recruitment by Social Welfare Enterprises.

The Employment Promotion Law promulgated in 2007 has further improved the provisions on equal employment rights in light of the new situation in China’s labor market under the PRC Constitution. In particular, Chapter 3 (Fair Employment) provides detailed regulations on issues related to equal employment rights and specifically stipulates the relevant obligations of the government (Article 25) and employers and intermediaries (Article 26).⁶⁸

C. China's Youth Development Policy in the Post-COVID-19 Era

1. Medium- and Long-Term Youth Development Plan (2016-2025)

Since the 18th Party Congress in 2012, China has attached great importance to youth employment and entrepreneurship. In April 2017, the Communist Party of China's Central Committee and the State Council formulated and issued the Medium- and Long-term Youth Development Plan (2016–25).⁶⁹ The Plan makes youth employment and entrepreneurship one of the ten major issues in youth development and proposes to improve the policy system for promoting youth employment and entrepreneurship and further accelerate the active employment policy.⁷⁰

Previously, youth development was not a separate issue in the field of public policy research. On the one hand, classical social policy research is often limited to such areas as social security, medical care, and social assistance, and is rarely based on youth, middle age, and old age.⁷¹ On the other, families have long taken on the main task of caring for and meeting the needs of youth, and the level of social satisfaction of youth needs is not high. Not only does society not treat the youth as a vulnerable group requiring special social care, but it also sees youth as the backbone of social development.⁷² As Chinese youth policies were scattered among relevant laws and regulations, rules and regulations, working documents, and leadership speeches, they were decentralized and implicit.⁷³ Thus, the Plan is regarded as “the first national-level guideline and development plan for youth development issues in China.”⁷⁴

In terms of policy effect, the Plan is adopted by the State Council and issued as a document of the Central Committee of the Communist Party of China. Thus, it has binding force as the top administrative and party regulations, which address core policy of the youth development system.⁷⁵ Furthermore, all provincial-level plans are jointly issued in the name of the Party committees and governments at the same level. This indicates that both the Plan and the provincial-specific plans have the highest validity among the Party and government documents on youth development policies.⁷⁶

In terms of content, the Plan is the fundamental reference and basic model for provincial plans, which need to be inherited, transformed, and innovated according to the actual situation.⁷⁷ The Plan integrates the 15 priority development areas of the UN for youth development, the common areas of existing youth development strategies abroad, or the priority areas of youth development in youth law, following

the basic aspects of youth development determined by the level of economic development of China. It has set various key development areas for young people.⁷⁸

In terms of youth employment and entrepreneurship, the Plan proposes three development goals. First, “the youth employment will be more adequate, and employment of college graduates will be maintained at a high level.” Second, “the employment rights of young people are better protected, and their legitimate rights and interests such as wages, labor protection, and social insurance are fully protected.” Third, “the youth entrepreneurship service system is more complete, and the vitality of entrepreneurship is significantly enhanced.”⁷⁹

2. Action Programs for Millions-Youth Skills Training

The COVID-19 pandemic has brought serious challenges and pressure to youth employment. The Chinese government has continued to introduce relevant policies based on the Plan to facilitate youth employment and entrepreneurship. For example, on July 21, 2020, China’s Ministry of Human Resources and Social Security, the Ministry of Finance, and the Central Committee of the Communist Youth League issued the “Millions of Action Programs for Youth Skills Training.”⁸⁰ It targets college graduates and other youth groups for training, focuses on improving youth employment and entrepreneurship, and carries out large-scale youth vocational skills training to improve the employment and entrepreneurial success rate of youth and expand and stabilize youth employment.⁸¹

D. Labor Rights Protection Clauses in China’s IIAs

Foreign direct investment (FDI) has boosted the world economy and improved the living conditions of workers. It is especially relevant to China’s economic growth and social development.⁸² However, while pursuing the maximization of benefits, investors often reduce labor costs and violate the rights and interests of workers as a means to achieve their investment goals, which negatively impacts the rights and interests of workers.⁸³ IIAs require investors to undertake sustainable development, labor and human rights protection as an important aspect. Recently, IIAs have tended to be linked to labor issues.⁸⁴

In particular, FDI is closely connected with international labor standards, while the labor legal system of each country has more influence on FDI, which responds to the practical demand of protecting the public interests of the host state. For

economic and social development, the promotion of a high level of labor protection in IIAs is conducive to the domestic labor market, employment conditions, and a more favorable working environment for young people.⁸⁵

1. The Labor Protection Provisions and Characteristics of the Bilateral Investment Treaties (BITs) Concluded by China

China's early signatories to BITs contained few provisions on labor protection. In recent years, however, provisions for labor protection have begun to appear in newly concluded BITs (Annex 1). On the one hand, the preamble to some BITs concluded by China in recent addresses broader objectives such as sustainable development. Even though these provisions do not explicitly mention the issue of labor protection, they also imply the importance of investors abiding by the domestic labor protection legislation of one contracting party and efforts to coordinate investment with economic prosperity and social development.⁸⁶

On the other hand, some BITs have added labor protection-related content to the most-favored-nation clauses, such as the China–Singapore BIT (Article 5). In general, China's provisions on labor issues in BITs are still more conservative than the US and the EU countries. Not only has the issue of labor protection not been directly specified in the text of BITs, but the contracting practice also lacks a clear understanding of the relationship between investment activities and labor protection.⁸⁷

2. The Labor Protection Provisions and Characteristics in Free Trade Agreements (FTAs) Concluded by China

Since beginning the construction of the free trade zone in 2004, China has included clauses on the protection of labor rights and interests in five free trade agreements (Annex 2). Among the FTAs signed, the China–Chile FTA, China–New Zealand FTA, and China–Peru FTA all stipulate labor rights protection in the form of a memorandum of cooperation, aiming to promote communication and cooperation in labor services, social security, and environmental issues. The China–Switzerland FTA, for the first time, has signed an “intergovernmental agreement” on labor and employment cooperation, which is at a higher legal level than the “memorandum” and provides for labor issues in the form of a more binding additional cooperation agreement (Article 13.5). The China–Iceland FTA only mentioned the need for

parties to strengthen collaboration on labor rights but did not make further in-depth provisions (Article 96).

In general, the provisions on labor rights in the FTAs signed by China have the following characteristics. First, all agreements recognize the purpose of the ILO, but different FTAs have different degrees of acceptance of the ILO Convention.⁸⁸ For example, the China–Chile FTA only stipulates that both parties agree to its purpose, while the China–New Zealand FTA more specifically requires parties to abide by the obligations of the ILO’s core labor standards (basic human rights standards such as the rights of association and collective bargaining, the prohibition of forced labor, the abolition of child labor, and the prohibition of employment discrimination).⁸⁹

Second, it is emphasized that the contracting parties should strengthen exchanges promptly.⁹⁰ The China–New Zealand FTA believes that, in addition to the communication between the two parties, if necessary, a coordinator can be set up to promote consultations and sustainable development activities between the contracting parties.⁹¹ Third, the dispute settlement methods are all soft clauses, which have less binding force on the contracting parties limited to consultations. No more powerful mechanisms have been introduced yet.⁹²

Although the contents about labor protection is beginning to appear in China’s IIAs, these labor clauses are mostly promotional and declarative provisions for international cooperation in the field of labor employment and social security, without setting up corresponding specific labor standards. They explicitly stipulate the means of trade sanctions, let alone stipulating labor rights dispute settlement mechanism.

IV. CURRENT CHINESE LAWS AND POLICIES FOR PROMOTING YOUTH EMPLOYMENT

A. Drawbacks of the Employment Promotion Law

The main law on the employment promotion of college graduates is the Employment Promotion Law,⁹³ based on the Labor Law and Labor Contract Law. Among them, some provisions regulate the employment promotion of young people such as highly effective graduates, but there is no law specifically aimed at the employment promotion of college graduates. After the outbreak of the pandemic, the State

Council, as well as some local governments, issued policy documents regarding the employment promotion of college graduates.⁹⁴

The Employment Promotion Law can no longer meet the specific requirements of current social employment promotion. Its content has several provisions on advocacy, guidance, and encouragement. For example, Article 10 stipulates that if units or individuals actively play their role in employment promotion, then government departments should be commended by way of recognition or encouragement.

In this regard, however, none of these matters are specified: Which departments are responsible for these issues?; and How are the outstanding units or individuals recognized and rewarded? If the governments at all levels do not comply with the provisions of the law, what legal consequences will arise then? There are nine chapters in the Employment Promotion Law, and soft law terms such as “encourage,” “support,” and “guide” are covered in each chapter except for legal responsibilities and by-laws. Since the government is responsible for promoting employment and citizens have the right to realize employment, the government is required to guide socio-economic development rather than regulate employment. Therefore, the Employment Promotion Law provides for non-mandatory and policy guidance norms, rather than mandatory norms.⁹⁵

The Labor Contract Law and the Labor Law focus on regulating the labor relations between workers and employers. They only deal with the employment promotion of college graduates simply, which cannot be used as the main basis for employment promotion. For example, Article 10 of the Labor Law⁹⁶ intends to promote the employment of college graduates through the principled provisions, but there is still a legislative gap about how to specifically promote and encourage the employment of college graduates. As the form of labor employment in China is changing profoundly various new employment opportunities are provided transitionally for young workers. Among the new online taxi drivers on the Didi platform, the proportion of young workers aged 20–29 is over 40%.⁹⁷ Compared with traditional employment, the new forms of employment for young workers are closely integrated with the Internet data using production factors. They are obviously “platformed” and “decentralized” labor form which are more flexible and autonomous than traditional ones.⁹⁸ The added value of labor output is also significantly increasing. Multi-unit and multi-platform employment are common.

Their forms of participation are not only different from regular employment with fixed employers, but also more complex than traditional self-employment.⁹⁹

However, since there is no clear organizational relationship between workers and the platform, the identification of workers' labor behavior, the protection of economic rights and interests, and the implementation of social security rights and interests have encountered certain difficulties. Young workers cannot participate in pension and medical insurance as enterprise employees, but only participate in the way of individual workers.¹⁰⁰ Some social insurance programs such as work injury and housing funds are not open to flexible workers, which puts young workers in a difficult situation of "no protection."¹⁰¹ All these issues need to be updated and clarified in the Labor Law.

B. Lack of Coherence in Domestic Labor Law and Policies

Under the influence of the pandemic, the State Council and some local governments have issued a series of policy documents to alleviate the problem of difficult employment. Although there are seemingly many different kinds of policies and ways to promote the employment of college graduates in multiple departments, they still lack coordination and unity.

On the one hand, there are various subjects for the formulation of policies on how to promote the employment of college graduates around the world, but they fail to form coordination and cooperation among various departments.¹⁰² For example, although the national college student employment service platform has been established, it is just opening up employment information channels and increasing the employment matching of college graduates. Due to the insufficient publicity of the platform by universities and local governments, however, a large number of college graduates are unaware of the website's existence.¹⁰³ As the number and quality of colleges in different regions vary, they cannot form a coordinated and unified normative system. In addition, who is responsible for employment promotion is unclear in China's current laws and regulations.¹⁰⁴ Moreover, the supporting implementation rules of the policy are not perfect, so that the employment policy is not being fully implemented.¹⁰⁵ For example, because the network platform for the employment of college graduates is not publicized enough and the number of enterprises introduced by colleges and universities is low, the synergy between employers and college graduates is reduced and college graduates' successful career

selection and employment are restricted.

On the other hand, the employment promotion policy is not systematic.¹⁰⁶ For example, the government implements entrepreneurship support policies, relaxes loan conditions, and issues entrepreneurship subsidies to college graduates who start their own businesses but without professional and systematic entrepreneurship education for college graduates. College graduates have neither entrepreneurial experience, nor sufficient capital reserve; they are weak in risk resistance. As a result, unsupported entrepreneurship support policies will inevitably produce business failure, which is contrary to their goal.¹⁰⁷

C. Labor Rights Protections in China's IIAs are weak

Under the trend of economic globalization, the main purpose of early IIAs was to protect the interests of foreign investors and international investment liberalization. This tendency of investment liberalization restricts the exercise of national sovereignty in host countries to some extent and weakens the supervision of foreign capital by sovereign countries.¹⁰⁸ It also impedes the implementation of national sustainable development policies, detrimental to the protection of labor rights in host countries.¹⁰⁹

IIAs aim to attract foreign investment. These agreements mainly stipulate the standards for various investment protection and pay more attention to foreign investment and economic development rather than labor protection. It was reflected in the fact that the BITs signed by China in the early days did not require labor protection.¹¹⁰ Actually, China's rapid economic growth is still based on competitive advantage of low-priced labor. Therefore, high-standard labor environment terms will increase domestic production costs and reduce the advantages of foreign companies investing in China.¹¹¹

China took a negative attitude toward labor protection clauses included in IIAs and the level of domestic labor protection. Without direct provisions on labor rights, however, these IIAs cannot create a fair and equitable labor market, nor are they conducive to solving the employment problems including young workers. In addition, the wording related to the labor rights protection are relatively mild, mostly encouraging or advocating provisions, such as the principled expression like "enhance their cooperation on labor and employment."¹¹² It is thus necessary to provide codes of conduct and enforcement mechanisms to protect labor rights.

Finally, the IIAs signed by China do not specify the scope of labor rights, nor do they indicate the difference between the labor standards accepted by China and the internationally recognized ones. Also, there are few specific regulations on the labor obligations that both the host country and investors have to comply with. It is a factor to hamper labor protection practices, especially when disputes arise.¹¹³

V. CHINA'S MAJOR PATHS TO EMPLOYMENT IN THE POST-PANDEMIC ERA

A. Promoting the Digital Transformation of the Real Economy and Developing Green Economy and Digital Economy

Today, the digital and creative sectors offer more potential for high-quality employment of young people. However, policymakers should ensure that “decent jobs” need to meet ILO standards.” In recent, the digital economy has created a large number of new jobs in China, especially in the consumer-oriented industrial digitalization field. It has also attracted many rural and urban laborers to move to big- and medium-sized cities for low threshold and wide coverage.¹¹⁴ It may accelerate China’s urbanization and create new employment space for labor mobility across regions.¹¹⁵ However, the scale of digital economy jobs is not balanced across China, but highly correlated with the level of economic development.

Provinces and municipalities with more job openings include Guangdong, Beijing, Shanghai, and Zhejiang. Among them, Guangdong and Beijing’s digital economy jobs accounted for 25.74% and 17.79% of the whole country’s total jobs, while Shanghai and Zhejiang accounted for 12.25% and 8.46%, respectively.¹¹⁶ The demand for jobs is highly correlated with the level of local economic development.¹¹⁷ As for the overall regional distribution, the number of jobs gradually decreases from eastern China to western China, while the demand for digital economy jobs in eastern coastal areas is relatively high. Demand in central and western regions and Northeast China was relatively low, and the number of recruitment in the three eastern provinces accounted for 1.59% of the total number of recruitment in China.¹¹⁸

Additionally, China’s education system focuses on training specialized talents, resulting in a serious shortage of complex abilities, that is, people who not only understand the technology, business, and traditional industries, but also master

digital technology.¹¹⁹ The digital talent gap in China was close to 11 million in 2020. With the promotion of digitalization in the whole industry, a wider range of digital talents is required, and the talent demand gap is still expanding.¹²⁰ China should take the development of the digital economy as an opportunity to closely link the digital talent demand gap with youth employment.

B. Promoting the Orderly Development of Flexible Employment and Improving Supporting Laws and Policies

The ILO's regulation of informal employment is combined with the promotion of decent work. It advocates that informal employment should eventually be transformed into formal employment. To promote the orderly development of flexible employment, informal employment also plays multiple functions.¹²¹ First, it provides a large number of job opportunities for those who need to be employed or unemployed during the pandemic, reducing the pressure of "stabilizing employment." Second, it responds to the changing pattern of China's economic development; adapts to the needs of new employment patterns; and enhances the flexibility of China's labor market. Third, flexible employment can meet people's needs for a better life; break the barriers of household registration; narrow the gap between urban and rural areas; and meet the aspirations of contemporary young people for flexible and free working hours and work tasks.¹²²

C. To Conclude IIAs with High Standards of Labor Protection

China's accession to the WTO is an important step towards multilateral trade liberalization. It shows that China should not only conform to international trade rules, but also globally recognized labor standards.¹²³ This trend is inherent in China's desire to protect the rights and interests of its workers. Due to its advantage in labor force and some sensitive issues in the protection of labor rights and interests, China is often accused by other countries for, such reasons as "social dumping or labor dumping," causing unfair trade.¹²⁴

China should improve its legislation and policies on the protection of labor rights and interests following the international labor standards referring to the laws and experience of other countries. When concluding international treaties, China should pay more attention to the protection of labor interests, put more emphasis on the balance and coordination between economic benefits and social justice, and provide

a fair and good labor market environment for youth employment.

Previous analysis shows that the protection of labor rights in China's IIAs is weak. It not only affects labor protection substantially, but also damages the right of Chinese investors to initiate international arbitration to protect the labor rights of workers.¹²⁵ In addition to the preamble of investment treaties, developed countries used to stipulate independent labor protection clauses in the main body of investment treaties, to confirm and maintain labor protection standards.¹²⁶

When the US, Japan, and other developed countries stipulated labor protection content to the bilateral investment agreement, they chose the "preamble+independent clauses" model to coordinate investment protection and labor protection and realize the balance of interests between investors and host countries.¹²⁷ China can also adopt the above-mentioned model. First, the principle of labor protection is stipulated in the preamble. Second, in the substantive clauses or subsidiary agreements, contracting parties should regulate labor rights protection with operational standards and mechanisms. Finally, the standards for labor protection should be specified in the agreement. China can first draw a bottom line for labor rights protection from the aspect of "not lowering" the standard, leaving the room for the country's regulatory power, and then introduce the standards recognized by all parties such as the adoption of the ILO's core labor standards as *de facto* ones.

VI. CONCLUSION

The employment is the barometer of the national economy and the foundation of people's livelihoods. In the context of the COVID-19 pandemic, youth employment has been a serious problem around the world. The employment is closely related to labor standards. As an important part of human rights protection, labor standards appear in IIAs more than before. Although developed and developing countries face different development tasks, all governments have recognized the importance and urgency of sustainable development. This political consensus of "sustainable development" has become a substantive guiding principle of international law. The SDGs provide an opportunity and practical recommendations for strengthening youth employment action.

Although China has a large number of labor forces, youth employment is not

optimistic after the COVID-19. In the time of the digital economy, young workers have become obviously “platformed” and “decentralized” labor force. However, China’s labor laws and policies do not yet protect youth’s legal rights in employment. Although China has gradually included provisions on protecting labor rights and interests in IIAs signed in recent years, trying to coordinate the conflicts between international investment and labor protection, the contents are general and unclear. These problems are not beneficial to solving Chinese current employment dilemma for young workers.

The digital economy and informal employment are providing opportunities for China’s youth to work in the post-COVID-19 era. The digital industries, however, has brought about a huge talent gap, especially in the developed coastal areas of China. Considering China’s position with a great deal of labor resources, it should urgently ratify the international labor conventions; conclude high-level international treaties; and improve domestic legislation. If China takes advantage of the industrial digitalization, it could provide more decent jobs and better labor rights protection for young people, in a fair and benign employment environment.

Annex 1: Labor Protection Provisions in Part of Chinese BITs

Inclusion Mode	Parties	Clauses	Content
Mentioning labor rights in the Preamble	China - the Republic of Trinidad and Tobago	Preamble	“Agreeing that these objectives can be achieved without relaxing health, safety and environmental measures of general application...”
	China - the Federal Republic of Nigeria	Preamble	“Recognizing investor’s duty to respect the host country’s sovereignty and laws...”
	China - the Republic of Guyana	Preamble	“Agreeing that these objectives can be achieved without relaxing health, safety and environmental measures of general application; Respecting the sovereignty and laws of the Contracting Party within whose jurisdiction the investment falls.”

Mentioning labor rights in the Preamble	China - the Republic of Uzbekistan	Preamble	“Desiring to promote a healthy, stable and sustainable development of economy, and to improve-welfare of the peoples of the Contracting Parties.”
	China - the United Republic of Tanzania	Preamble	“Encouraging investors to respect corporate social responsibilities”, “Desiring to promote healthy, stable and sustainable economic development.”
	China - Canada	Preamble	“Recognizing the need to promote investment based on the principles of sustainable development.”
Mentioning labor rights in the most-favored-nation clauses	China - Singapore	Article 5	“The provisions of this Agreement relating to the grant of treatment not less favorable than that accorded to the nationals and companies of any third State shall not be construed so as to oblige one Contracting Party to extend to the nationals and companies of the other Contracting Party the benefit of any treatment, preference or privilege resulting from: ... (2) any arrangement with a third State or States in the same geographical region designed to promote regional cooperation in the economic, social, labor, industrial or monetary fields within the framework of specific projects.”
	China - the Kingdom of Thailand	Article 8	“The treatment not less favorable than that accorded to the nationals and companies of any third State mentioned in this Agreement shall be accorded unconditionally and without undue delay, but shall not be construed so as to oblige one Contracting Party to extend to the nationals and companies of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting party virtue of: ... (3) any arrangement with a third country or countries in the same geographical region designed to promote regional cooperation in the economic, social, labor, industrial or monetary fields within the framework of specific projects.”

Source: United Nations Conference on Trade and Development, International Investment Agreements Navigator, <https://investmentpolicy.unctad.org/international-investment-agreements>.

Annex 2: Labor Protection Clauses Included in Chinese FTAs

FTA Contracting Parties	Effective Date	Inclusion Mode	Labor Protection Provisions
China-Chile	2006	Memorandum of Understanding	Article 108 The Parties shall enhance their communication and cooperation on labor, social security and environment through...
China-New Zealand	2008	Memorandum of Understanding	Article 177 The Parties shall enhance their communication and cooperation on labor and environment matters through...
China-Peru	2010	Memorandum of Understanding	Article 161 The Parties shall enhance their communication and cooperation on labor, social security and environment issues through...
China-Iceland	2014	No Memorandum of Cooperation or Intergovernmental Agreements on Labor Protection	Article 96 The Parties shall enhance their communication and cooperation on labor matters...
China-Swiss Confederation	2014	Both Memorandum of Cooperation and Intergovernmental Agreements	Article 13.5 The Parties shall enhance their cooperation on labor and employment according to...

Source: ILO, Labour Provisions in Trade Agreements Hub, <https://www.ilo.org/LPhub>.

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