



CCCL Young Scholar Forum: Who is actually protected by labor provisions in FTAs and BITs? A comparative study of China, the EU, and the US (27 Mar 2022)

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Katy Ng

On 27 March 2023, the Centre for Chinese and Comparative Law (CCCL) of the City University of Hong Kong's School of Law hosted a virtual seminar to assist students in understanding labor provisions in FTAs and BITs. Dr. Yueming YAN, an Assistant Professor at the Chinese University of Hong Kong has been invited as our awesome speaker to explain her argument.

The seminar kicked off with a welcoming speech by **Dr. Martin LAI Sin Chit**, Assistant Professor at the City University of Hong Kong School of Law.

Dr. Yueming Yan is an Assistant Professor at the Faculty of Law, The Chinese University of Hong Kong (CUHK). She has been researching and teaching in areas of international trade law, international investment arbitration and policy, dispute resolution, sustainable development, China's laws, comparative law, and empirical legal studies. Her articles have appeared in the *Journal of International Economic Law*, the *Asian Journal of WTO & International Health Law and Policy*, and in the edited collections published by Routledge and Edward Elgar.

In the seminar, she presented her recent research on labor provisions, especially in the rise of the FTAs as well as the BITs. The core issue Dr. Yan wants to object to is to see whether the insertion of labor provisions in the FTAs or in the BIT's bilateral investment treatment could be a tool of the new colonialism between the developed countries. To begin with, she gave a brief introduction of the historical negotiations on the debate about whether we should have a trade, labor, or investment labor linkage in international investment contracts. On the one hand, developing countries such as the United States and European Union have very strong positions to say that we must establish trade labor linkage and one of their proposals is using WTO as a mechanism and resolution to enforce labor protection. As they believe labor rights as a universal nature of human rights, they have to make sure that our customers in respect the human rights of labor. On the other hand, one of the major concerns of developing countries is that if we improve labor standards, developed countries can impede their own competitive advantage, and in this sense developing countries refused to link labor with trade, especially under the multilateral trading system. Then, she introduced what is happening recently and what is the new

development in this area. We now have seen the rise of not only the free trade agreements but also the BITs, where labor provisions have been included. It also occurred in the main text, which may include very strong obligations or weak obligations. Furthermore, labor provisions can be attached to the main investment or trade agreement, which is incorporated as a corporate agreement or stand-alone agreement. In addition, she introduced the typology of how many kinds of labor provisions we have so far. In recent years, the United States works incorporated in the USMCA (The United States, Mexico, Canada Agreement), which is very innovative, a quick and effective way against individual factories. In other words, if we have an industry or factory in Mexico, and someone believes this factory in Mexico has abused or failed to comply with the labor provisions, then the international organization can report this situation to the US government which can initiate some investigation. It may lead to the US government prohibiting the importation of the products by this factory. She also talked about what are the concerns and what is the effectiveness of all those labor provisions. Last but not the least, she presented some of her own concerns with regard to labor provisions.

Following Dr. **Yueming YAN**'s thought-provoking speech, we moved on to a discussion conducted primarily by **Yizhi Wang**, Ph.D. Candidate, Queen Mary, University of London, and **Yi Tang**, Ph.D. Candidate, University of Hong Kong Faculty of Law, presented her insightful views on the topic. The majority of those in attendance took the opportunity to voice their opinions, many of which were thoughtful and innovative. **Dr. LAI** concluded the seminar with a closing speech in which she thanked the speakers for their valuable contributions and all of the participants for their attendance, which made the seminar a success.



Dr. Yueming YAN and Dr. Martin LAI.



TANG Yi and Yizhi WANG.