

Platform Economy in China

Platform-based production under the Tik-Tok economy: garment manufacturing in South China

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Foreword

Digitalization has changed life and work in breath-taking speed. Products and services are increasingly traded on digital marketplaces, also known as platforms. Digital platforms can already be found in diverse areas of the economy and will find their way into almost all areas of society, not least in production (Industrial Internet of Things). In China, the platform economy has developed particularly dynamic. Chinese internet firms such as Alibaba, Tencent or Meituan can be seen as world leaders in platform technology and management.

The platform economy is a business model enabled by the digitalization of the economy that has changed lives and economies and will change them even more. It has profound impact on work and employment. Large numbers of jobs have been created by the providers of digital marketplaces and their suppliers of goods and services. Whether it is delivery or transport services, in the form of gig providers or home-based work in the garment industry, the types of employment in the platform economy are diverse. But many of them only pay low wages, employment is precarious, and workers are hired as private contractors with no social insurance and other benefits. Therefore, the conditions of work and employment in the platform economy have become an important topic of public policy in many countries. In China, the regulation of platforms has emerged as a key issue to develop common prosperity.

For the customers, the platform economy means above all an expansion and flexibilization in the supply of services and goods. For the providers, it means new employment and earning opportunities. At the same time, the model of the platform economy endangers many achievements of the welfare state. While employers bear social responsibility for their employees in traditional employment relationships, the large platforms usually “outsource” this responsibility to the employees, who are supposedly self-employed and have to take care of their own social security. The principle of the platform challenges the traditional definition of “employee” and “employer”.

However, the landscape of business models in the platform economy is very diverse. There is no such thing as “the” model of the platform economy. Employment structures and conditions are extremely different depending on the sector and provider.

To address the diversity of platform employment and the complexity of the resulting social problems, Friedrich-Ebert-Stiftung (FES) Shanghai Office has been commissioning case studies to empirically investigate the concrete situation and possible solutions in the most important sectors of the platform economy in China.

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Introduction

The platform economy has profound impact on work and employment. Large numbers of jobs have been created by the providers of digital marketplaces and their suppliers of goods and services. But many of them only pay low wages, employment is precarious, and workers are hired as private contractors with no social insurance and other benefits. Therefore, the conditions of work and employment in the platform economy have become an important topic of public policy in many countries. In China, the regulation of platforms has emerged as a key issue to develop common prosperity.

A new phenomenon is the manufacturing of consumer goods for live-streaming platforms. This new model emerged during the Covid-19 pandemic as platforms like Douyin (Tik-Tok) or Kuaishou rapidly became new channels for the marketing of large volumes of consumer products by influencers. The Chinese fast-fashion retailer SHEIN became the most successful example of a company that created a global brand based on this new form of sales. SHEIN and other low-cost retail platforms have been criticized for the environmental costs of ultra-fast fashion and labor abuses among its suppliers. In 2023, the company became subject to investigations by U.S. government agencies that seek to ban the platform along with Tik-Tok and other China-based live-streaming venues. Our question here is, whether ultra-low-cost export models like SHEIN fit into China's strategy to develop the domestic market and promote high-quality development, especially with regard to social and environmental sustainability.

The first section of this report introduces livestreaming-related manufacturing as a new model in China's platform economy. The subsequent sections describe the various aspects of SHEIN'S platform architecture in detail: the production model of "real-time

fast fashion, the global design network based on a vast network of gig-workers, localized manufacturing under sophisticated algorithmic control, and a massive global logistics network based in South China. The third part discusses the public criticism of the SHEIN model and the challenges of economic and social control, related to current discussions about platform regulation in China.

1. Livestreaming industrial platforms – the latest model of platform capitalism?

Large e-commerce and livestreaming platforms form an important part of the Industrial Internet of Things (IIoT), since they connect large numbers of manufacturing companies under a unified system of data protocols, pricing, market rules and supply chain arrangements. E-commerce platforms such as Ali Baba have developed various schemes to control and coordinate the manufacturing activities of their suppliers and to submit industrial chains to the quality and logistics requirements of e-commerce (e.g. Xinxifactory, Tao Gongchan, etc.). Livestreaming platforms such as SHEIN go one step further and build a global brand-name business on large-scale networks of dedicated factories in specific locations in China and on a pool of fashion designers in different countries, who are “self-employed” gig-workers. The activities are coordinated in real-time through a sophisticated platform-software developed by SHEIN.

SHEIN is a company founded in Nanjing in 2008 by Xu Yangtian (in English Chris or Sky Xu), a Chinese specialist in search engine optimization. According to Chinese business magazine Caixin, the online clothing retailer “has come from nowhere in recent years to penetrate almost every major market around the globe”. In the four years through 2022, the company’s gross merchandise value grew 40%, 140%, 208% and 98% respectively, according to data acquired by Caixin, a China business magazine. SHEIN competes head-on with global fast-fashion leaders like Zara and H&M. SHEIN overtook them both as the largest fast fashion brand by sales in mid-2021 with a 28% share of the fast fashion market, according to a report from leading U.S. online-market consultancy Earnest Research.

The phenomenal growth is massively driven by financial speculation. Major global private equity

(PE) funds, such as Sequoia, Tiger Global, Jingling Capital and IDG Capital, have invested substantial amounts into SHEIN. The company is vying for an IPO, probably in the U.S. In 2021, during the height of its explosive growth during the pandemic, SHEIN had secured investment pricing it at 15 billion US-\$, ranking it among the world’s most valuable technology startups. In its funding round in April 2022, the company was valued at 100 billion US-\$. After slower sales in the second half of 2022, the valuation has been estimated at 64 billion \$ (Financial Times, February 17, 2023).

At the end of 2023, SHEIN announced to prepare an IPO in 2024. It had filed confidential paper work with the U.S. Securities and Exchange Commission, aiming at a valuation of slightly less than 90 billion \$ (Financial Times, December 1, 2023).

The company is hardly known in China, since it does not produce for the Chinese market. Its global brand name has mostly been built on livestream marketing on Tik-Tok in the U.S. and Europe. Recent moves by the U.S. government to ban Tik-Tok in the U.S., therefore, represent an existential threat to SHEIN. The company itself has come under scrutiny from U.S. congress in 2023, obviously with the aim of excluding SHEIN from the U.S. market. In preparation of the IPO (and anticipation of political pressure from the U.S.) SHEIN changed its headquarters to Singapore in 2022.

SHEIN’s success is attributed to its capacity to anticipate fast-moving fashion trends by analyzing vast quantities of consumer data. Over the years, the company has built up a business model that leans heavily on collecting the data and search history of shoppers and turning it into insights aided by

machine learning algorithms. These insights help SHEIN manufacture and deliver clothes to market ahead of competitors. The company uses artificial intelligence (AI) algorithms to discern emerging fashion preferences and patterns. With these rapid insights, Shein can begin manufacturing and delivering clothes to market ahead of competitors. To aid its data collection, the company's APP also requests that users share their data from a large spectrum of personal activities.

Shein's business model hinges on its ability to deliver products to consumers on a compressed timeline and at low cost. The company's integrated supply chain enables it to bring clothes to market in about five to seven days, when its competitors may take three weeks or longer. While Shein initially marketed products it purchased from third parties, it has built a sizeable exclusive supplier base in Guangdong Province. According to Chinese industry observers, SHEIN relies on a network of 300-400 suppliers concentrated in Panyu District of Guangzhou City. These suppliers deliver to a large warehouse complex located in Sanshui District of Foshan City. The activities are coordinated from SHEIN's manufacturing headquarters in Zengcheng District of Guangzhou City.

2. Real-time retail: Shein's global production model

This control over its own supply chain enables Shein to produce small batches of apparel quickly, rather than the typical practice of placing bulk orders, as traditional global brand-name firms and retailers do. Shein may produce as few as 50 pieces of clothing in its first production batch and ramp up volumes, if the product turns out to be successful. This practice is conducive to livestream marketing, since the individual influencers mostly generate small to medium-sized orders, which change quickly according to the sentiments of buyers and fans. The supply model is similar to traditional e-commerce platforms such as Taobao or Pinduoduo, which also generate smaller order volumes independent from the seasonal fashion cycles of large brands. In the case of SHEIN, however, permanent changes in product design are incorporated into the model and time cycles are even more compressed.

According to a well-known U.S. industry expert based in China, the model may be called “real-time retail”. According to this expert, the company has created a “unified system whereby the activity that happens on the website globally is monitored and comes into a centralized system. ... Although they don't own their factories, they are so well integrated that it's almost as if they do.” (Caixin Global, 2021-06-02).

Among SHEIN's suppliers, the manufacturing model is characterized as “small orders, quick turnaround” (小单, 快返), and it is called a “soft supply chain”. It relies on a concentrated cluster of small and medium sized enterprises in one “industrial village” in Panyu District of Guangzhou City, and on the highly developed supply and logistics infrastructure of this megalopolis, including its large garment trading and supply markets. The main manufacturing location has a history as supplier to e-commerce platforms and had been named a “Taobao village” several years

ago. As has been explained by the relevant academic research, such villages within a city have become the main base of e-commerce-related manufacturing in China.

SHEIN's production system can be characterized as a model of “digitalization without automation”. The supplying factories are traditional small enterprises with low levels of automation, most workers are migrants paid at low or very low wages. Most operations are performed on traditional semi-automated equipment, such as sewing machines. However, the control over the factory becomes highly digitalized. According to local industry experts, SHEIN's suppliers have to use digital devices that feed the data from workplaces, supply inventories and delivery warehouses into the SHEIN platform and creates transparency of the workflow similar to Manufacturing Execution Systems (MES) used in advanced big factories.

However, the SHEIN production system is evolving rapidly. The diversification of the product portfolio into non-garment items in the race with Pinduoduo's Temu has broadened the supplier base, including the purchase of non-SHEIN branded products from third-party suppliers. This has also increased the need for warehouse capacity in major markets in the U.S. and Europe, including a warehouse with 1400 employees in Indiana (Financial Times, November 28, 2023).

3. Shein's global design network

A distinctive element of Shein's production model is its global design network. Whereas production is highly localized within the company's manufacturing cluster in the south of Guangzhou, design work for Shein is carried out within a network of approximately 30.000 designers around the world. Most design jobs are awarded as gig work in a global database, requiring very fast turnaround and low salaries. As will be explained in detail below, this system invites permanent infringements on designers' copyright and competitors' intellectual property.

Shein's global design network is organized as a multi-source supply system with algorithm-empowered design assistance. It is based on the four design production models which are generally used throughout the garment industry:

- FOB (Free on Board), in which Shein employs or cooperates with designers and produces a sample dress which is provided to garment factories for manufacturing.
- ODM (Original Design Manufacturing), in which a factory designs a sample; Shein chooses what it deems profitable, and the factory produces.
- OEM (Original Equipment Manufacturing), in which a supplier manufacturer produces according to a photo of clothing provided by Shein.
- OBM (Original Brand Manufacturer), in which a supplier takes care of the entire production procedures, including design, engineering, manufacturing, supply-chain management and marketing.

Type of partnership	Cooperation partners	Requirements on supplier
FOB	Factories with sufficient production capacity	SHEIN provides designs and garment samples, stable order volume and fast payment for deliveries to orders Supplier responsible for material sourcing (at designated bulk fabric providers) and production
OEM	Factories with or without their own distribution channels	SHEIN provides designs, stable order volume and fast payment for deliveries to orders Supplier responsible for garment samples, material sourcing (at designated bulk fabric providers) and production
ODM	Factories, traders or factories with their own distribution channels that have the capacity for: <ul style="list-style-type: none"> • Independent product design. • Professional visualisation of products (photo shooting). • Reliable technical capacity and quality management. 	SHEIN conducts product screening and guarantees fast payment for deliveries to orders Supplier responsible for product design, visualisation, processing and inventory
OBM	Suppliers with their own brands and trademarks: Traders and factories with their own distribution channels / supply chains	SHEIN guarantees fast payment for deliveries Supplier responsible for product design, screening, visualisation, processing and inventory
VMI	Suppliers for non-garment products	SHEIN guarantees fast payment for deliveries Supplier responsible for inventory

Source: Dathe, Müller and Helmold (2023: 169) ¹

1. Tracy Dathe, Volker Müller, and Marc Helmold (2023) Business Opportunities and Risks in China: Strategies and Recommendations from a European Perspective, N.Y.: Springer.

As for now, the FOB model covers over 50% of Shein's business. According to Shein, "FOB suppliers" need to deliver within 7 to 11 days and have the ability to quickly return 100 to 500 small-scale orders. The FOB model refers to the design and production of the first sample garment on the SHEIN platform, and then the supplier completes the production by contracting labor and materials.

Shein's designers, on average, are not at the same level as top fast-fashion brands (like Zara and H&M) in terms of their degrees and their network in the fashion world. However, these designers can do their work faster than those of other fashion brands, with the help of Shein's data collection system and an AI-powered design assistance system. Designers make their design in a given limited framework including the fabric, the pattern and the style.

In order to prevent human designers from copying the designs of rival firms and to alleviate the company from direct lawsuits against it or its manufacturer, Shein automates its design process using software. In a recent lawsuit in the U.S., it was claimed by one of the plaintiffs² that Shein has an algorithmically fueled operation ("secretive algorithm" or "algorithmical stealing") that is designed to "knowingly accept, tolerate and even encourage and facilitate such misappropriation."

The plaintiff went further and asserted that when the company's automated processes hit on a copy of a large manufacturer such as Nike, it is more likely to be sued and then reach a larger financial settlement. Hence when Shein copies a boutique designer or an

independent artist, it has more leverage to settle the possible "disputes". Four companies related to Shein via stock-holding and other links own at least 66 software patents or copyrights.³

Obviously, Shein has given great strategic importance to owning algorithmic competence since it set out to establish its empire of online shopping. For example, one of its patents is called "The hyperparameter determination method, device, equipment and storage medium for deep learning model."⁴ This patent of applied computer technology is for offering tailor-made and individualized shopping suggestions and promotions for shoppers from all over the world. It enables AI-based deep learning of consumer behaviors and preferences analyzing online shoppers' location and cultural backgrounds.

Shein cooperates with suppliers with their own brands and designs in the OBM partnership model which enables it to acquire profitable designs with low (or no) risk of copyright infringements. Shein's data collection system uses big data (including Google Trends Finder and other sources) to help their designers follow the newest fashion trend. The design assistance system is provided as software-as-a-service (SaaS) that turns the original design work into a workflow process on an assembly line.

The core systems that facilitate Shein's success include its user APP, supply-chain management system, AI-aided online shopping, internet-driven trend analysis system, warehouse and logistic systems, data mining, fabric management, garment visualization and marketing system. These systems

2. Krista Perry v. Shein Distribution Corporation (July 11, 2023).

3. Their Chinese names are: 南京希音电子商务有限公司 (Nanjing Xipu Electronic Commerce Ltd.), 深圳库尚信息技术有限公司 (Shenzhen Kushang Information Technology Ltd.), 广州希音供应链管理有限公司 (Guangzhou Xipu Supply Chain Management Ltd.), 广州希音国际进出口有限公司 (Guangzhou Xipu International Import-Export Ltd.)

4. 复刻SHEIN, 中国跨境供应链大突围 Replicating SHEIN, China's big breakthrough in cross-border supply chains <https://finance.sina.com.cn/tech/2022-06-30/doc-imizirav1308503.shtml>

interact in multiple ways. The design part, for example, benefits largely from trend analysis and data mining. Some YouTubers or TikTok influencers' claims regarding Shein's IP theft seem to suggest that the data mining and trend analysis practice may be targeting social-media influencers' video clips and their on-line store listings.

4. Sub-contracted manufacturing and algorithmic control

When the design is finished under FOB or other models, Shein's suppliers produce each piece at a small quantity, and Shein puts the piece on the market to test its appeal to consumers. If it performs well, Shein will expand its production. Other fast fashion brands also have adopted this practice, but Shein does it faster.

This makes the manufacturers of smaller and medium size willing to cooperate with Shein. If they would make the pattern themselves, the cost would be much higher compared to the net profit of a small order. In this way, the Shein system provides some stability to small manufacturers, but reduces the incentive for a firm to upgrade to Original Design Manufacturing or to develop its own brand name.

In order to manage its supply chain better, Shein has established an internal online system to synchronize information through the whole process from factories and workers to products and selling, and a manufacturer assessment standard to normalize its suppliers' performance.

- **The online system:** Almost all quantifiable data are accessible in the online system. Shein's algorithms use big-data techniques to analyze user preferences, predict its sale performance, optimize its production, make new orders and adjust existing orders; suppliers will be updated with all relevant real-time information. Besides, the system also normalizes the workers' behavior inside their factories. For example, workers of Shein's suppliers should check in every working

day, which is not a normal requirement for garment workers in China). This makes Shein's production efficient.

- **The manufacturer assessment standard:** Shein's suppliers are assessed monthly and quarterly by the manufacturer assessment standard.^[6] The monthly assessment will determine the number of orders of new pieces a supplier can get, and the quarterly assessment determines if a supplier can keep staying in Shein's supply chain. In a quarterly assessment, suppliers are ranked into 5 levels (SABCD) according to the amount of purchase and their performance in terms of four KPIs — time-delivery rate of urgent purchase, time-delivery rate of prepared stock, low-quality product rate, and new-product hit rate. Those ranking the last 30% in the D level will be eliminated from Shein's supply chain. For well-performing suppliers, Shein will provide some preferential treatment, like a shorter payment period, a loan to help them expand their production, or simply a cash prize.⁵

Meanwhile, SHEIN is exploring ways to increase the digitalization of product manufacturing, which up to now has been mostly manual. A factory in Shunde near Guangzhou produces fabric for SHEIN garment suppliers in a highly digitalized fashion, including design, cutting, printing and quality control. The sewing firms receive the fabric in the required quantity directly from the factory and are connected digitally to exchange production information with the fabric supplier. In addition, SHEIN provides training

5. KYSEC Research, Analyst Lu Ming (2021): SHEIN商业模式解析：敏捷供应链叠加数字化运营，SHEIN模式高速增长--开源可选消费 (SHEIN Business Model. Agile Supply Chain Overlaying Digital Operations)
 Analysis: https://mp.weixin.qq.com/s?__biz=MzI5MDA4MTE1Mw==&mid=2650149784&idx=1&sn=855e8250733942415feae13700496bd8&chksm=f427e376c3506a606002a58e0a511456fc4388c8113626b0438a39f5c0f29c1c7f7a6c38a9ec&scene=0&xtrack=1#rd&cid=1798306116554294

to its sewing firms for lean production and digital factory management. According to Chinese business media, SHEIN has set up its Apparel Manufacturing Innovation Center, which has supported the construction of more than 90 new supplier factories between March 2022 and June 2023.⁶

6. Jiupai Caijing 九派财经 September 6, 2023. SHEIN供应链里的秘密：串珠成链，抱团出海|探厂，记者：郭梓昊 Secrets in the Supply Chain: Stringing Beads into Chains, Embracing the Sea|Factory Visit, Reporter: Guo Zihao <https://mp.weixin.qq.com/s/xEURapOq5FbMvUuQPNkEWg>.

5. Logistics and storage

Most of Shein's goods (95%⁷) are stored in and delivered from its central warehouse in Foshan, Guangdong, and only 5% of its orders are delivered from its warehouses outside China. This is because the number of Shein's SPU (standard product unit) is quite large and the storage would cost much, if it were to keep in stock some pieces of each SPU in abroad warehouses. These abroad warehouses deal with refunds and returns. After cleaning and disinfection, the returned goods can be resold.

To make this integrated supply-chain management work, it is extremely important to connect the upstream supply chain with the downstream supply chain within one system. It is called the GMP system ("Give-Me-Product"). Shein launched its improved inventory management system GMP for mobile device in 2019. Utilizing social media WeChat and its platform, the system connects upstream fabric suppliers, designers, garment pattern makers, factory managers, etc. with downstream warehouse managers, order coordinators, etc. This carefully engineered, digitalized system enables the principle of "small order, quick response" and diminishes storage and logistic costs.

In recent years, Shein has expanded its business to non-garment categories. It established some sub-brands in other categories – e.g. Sheglam for makeups and Petsin for pet supplies. For both garment and non-garment categories, Shein cooperates with its suppliers by purchasing the products provided by the suppliers. The non-garment category is mainly based on the VMI model (Vendor Managed Inventory),

i.e. small orders, quick response, sell-to-settle and independent stocking by the merchant.⁸

For example, most of Sheglam's cosmetic products are at a low price at around 5 US-dollars on average. Sheglam claims to set high standards in choosing suppliers. In fact, it shares most of its suppliers with top make-up brands, such as Estee Lauder, Huda Beauty, Stila, Tarte, ABH, Morphe, and Urban decay. The reason why it can keep such a low price is that Sheglam saves the costs in the package design and the delivery process.⁹ Sheglam says that it spends substantially less on package design than other brands, and its products can be delivered together with Shein's garment products at low costs.

7. KYSEC Research 2021, see above

8. Ibid.

9. Baijing Global Traffic Conference, Lisa Zhao (Analyst) (2023): 推出低价美妆品牌SHEGLAM, SHEIN能在美妆赛道再造一个神话吗? (Launching low-priced beauty brand SHEGLAM, can SHEIN recreate a myth in the beauty circuit?) <https://www.baijing.cn/article/31828>

6. Criticism and controversies

There are three major criticisms Shein is often faced with—labor exploitation, copyright infringement, and the lack of environmental sustainability.

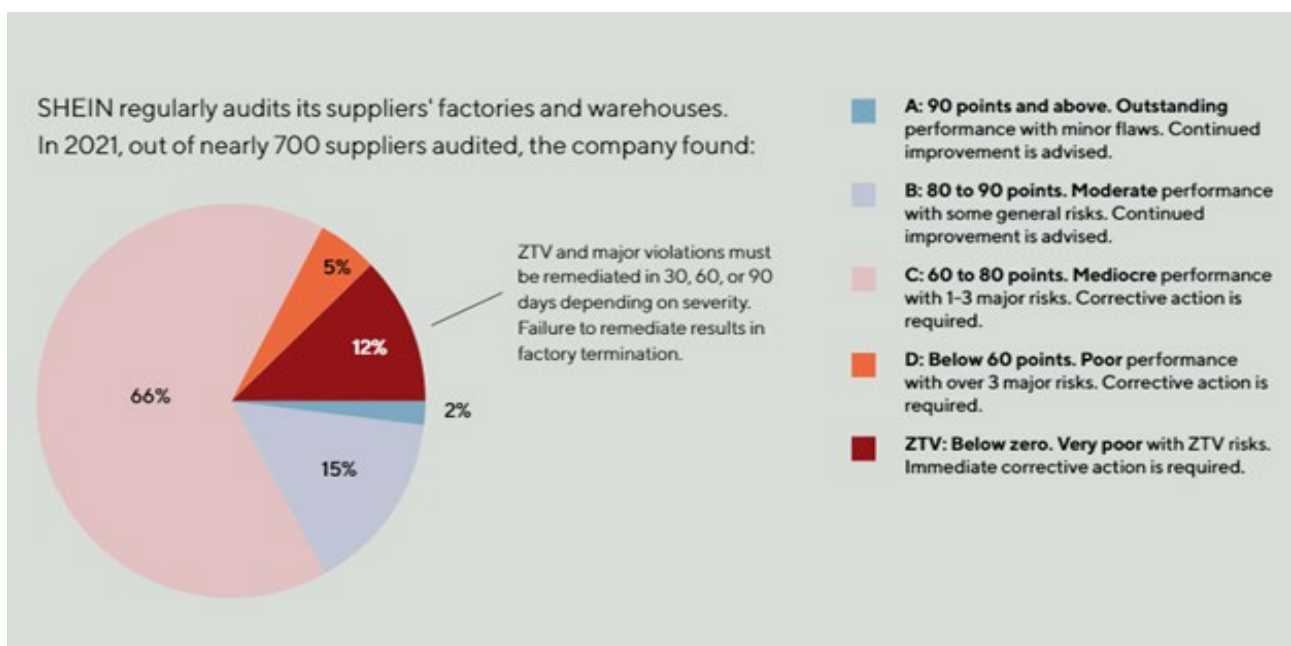
6.1 Labor exploitation

Since Shein's products are so cheap and fast, it raises the question whether the workers of its supply chain get fairly paid and if they work overtime. Some media and researchers have given a critical view.

A British Channel 4 documentary released on 17 Oct 2022, *Untold: Inside The Shein Machine*¹⁰, sent an undercover worker with hidden cameras inside two factories in Guangzhou that supply clothes to the fast fashion machine. It says the workers there are treated inhumanely in the following aspects:

- **Excessive working hours.** Workers work 18 hours per day, with shifts starting at 8 am and finishing in the early morning hours.
- **Low income (and possible violations of legal minimum wages).** The workers in the documentary earns only RMB 150 (about 20 USD) per day, get only one day-off per month. Given the long overtime the factories in Shein supply chain may violate Guangzhou's legal minimum wages at RMB 2,300 per month for 8-hour-per-day, 21.75day per month, or RMB 22.2 per hour.
- **Involuntary stay at work.** Workers cannot get off work, if they do not finish the products, or get fined if they need more days off.
- **Excessive punishment.** If workers made a mistake on an item of clothing, they were penalised two-thirds of their daily wage.

Note that involuntary stay at work and excessive punishment are usually considered as modern slavery violation and Shein announce its Modern Slavery Statement on its UK site [22].



10. <https://www.channel4.com/programmes/inside-the-shein-machine-untold/on-demand/73730-001>

In the Shein 2021 Sustainability and Social Impact Report¹¹, Shein audits 700 suppliers and found only 2% perform with minor flaws, marked as outstanding, while 83% at least had 1 major risk and needed corrective actions.

- **Underage Worker.** It is reported that 1% of Shein's suppliers audited use underage labor. According to the Shein Supplier Code of Conduct¹² and Chinese Labor Law, this exploitation of workers is not allowed.
- **Poor working conditions.** One of the most frequent violation detected in Shein's report is insufficient fire and emergency preparedness. 8 out of 13 top violations detected are related to working conditions. They are: fire and emergency preparedness, general working environment, workplace safety, electrical safety, medical and emergency services, chemical management, occupational health, and worker housing.

The Swiss organization Public Eye's research in 2021 found something similar.¹³ This research says workers of Shein's suppliers are staying in a dangerous working condition with a single emergency exit. They also found most of those workers working without an employment contract or insurance — which is a bare violation of the law. Such conditions are common in industrial villages in Guangzhou and other cities.

In addition to problematic conditions in its immediate supplier factories, Shein and its fellow fast-fashion retailing competitor Temu have been scrutinized and accused of being involved in the human-right issues in Xinjiang, China. Such allegations have been raised in a U.S. congressional interim report released in June, 2023. According to this report, Shein and Temu are "doing next to nothing to keep its supply chains free from slave labor."¹⁴ However, the reports do not provide any viable proof for this allegation. Shein responded that "it has



11. <https://www.sheingroup.com/protecting-the-environment/people/2021-sustainability-and-social-impact-report/>

12. <https://us.shein.com/Supplier-Code-of-Conduct-a-1096.html>

13. Public Eye (2021), Timo Kollbrunner (Analyst): Toiling Away for SHEIN. November 20 <https://stories.publiceye.ch/en/shein/>

14. <https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/fast-fashion-and-the-uyghur-genocide-interim-findings.pdf>



The exit at a Shein supplier in Nancun Village

‘zero tolerance’ for forced labor and has implemented a robust system to ensure compliance with U.S. law.”¹⁵

6.2 Copyright Infringement Controversies

As has been explained above, copyright problems are endemic in Shein’s real-time fashion model. These problems have been reported in international media. We only quote a few here, for example the British Channel 4 documentary mentioned above. One interviewee, Fern Davey, an independent lingerie designer from Bournemouth, found Shein selling replicas of her designs online at only £4, while her original price was £65. Shein eventually took down the pieces when Davey spoke of the infringement claim online.

Many designers, brands, and even consumers have noticed similarities between Shein’s products and existing designs. Some brands, including Dr Martens and Levi Strauss, have tried to sue the company for trademark infringement. As of 2022, despite being valued at more than 100 billion USD (671.4 billion RMB), Shein still faces dozens of lawsuits from alleged design theft.¹⁶

Another reason for the difficulty to bring Shein to court for design theft accusations is that Shein’s business model intentionally makes it hard to pin down a defendant, as the company is a “decentralized constellation of entities, designed to improperly avoid liability” (phrased by the plaintiff lawyer from the Perry v. Shein case).¹⁷ It should be noted that the business model of Shein’s flexible and

15. <https://apnews.com/article/temu-shein-forced-labor-china-de7b5398c76fda58404abc6ec5684972>

16. Daxueconsulting (2021): Shein’s marketing strategy conquers the west. <https://daxueconsulting.com/shein-market-strategy/>

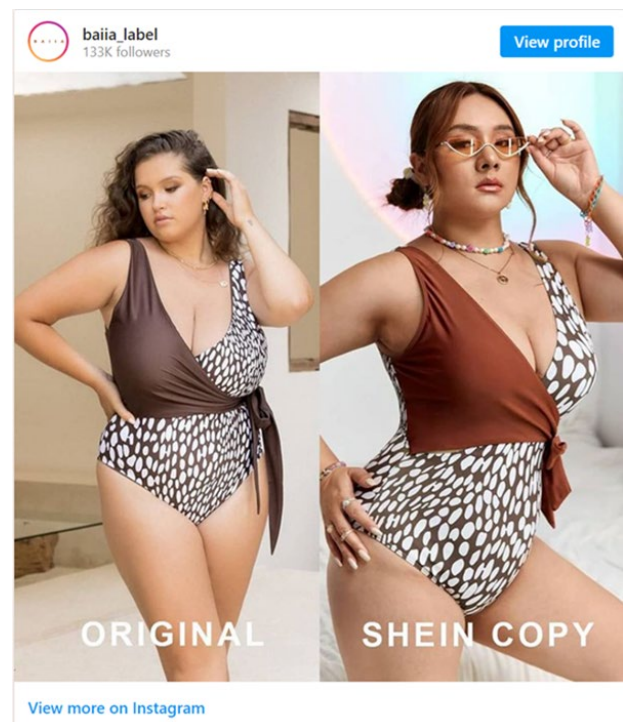
17. <https://www.courtlistener.com/docket/67598942/perry-v-shein-distribution-corporation/>

multi-source supply chain is as important as its multiple ways of acquiring fast/trendy fashion designs (including utilizing AI-driven software).

Ironically, Shein has recently found itself to be victim to violations of property rights. PDD (Pinduoduo), one of the largest e-commerce giants in China, launched its U.S. shopping site “Temu” in September 2022. Upon launching this new online shopping website, according to Bloomberg, PDD benchmarked Shein and set the goal of doubling Shein’s sales in one year. The goal was achieved in May 2023, and the monthly sales went triple of Shein’s in November 2023.¹⁸

In response, Shein filed lawsuits against Temu over infringements of its trademark and copyrights in December 2022. Shein also accused Temu of misleading consumers into believing that these two brands are of the same company and selling copyrighted (by Shein) products while displaying the word “Shein” in search ads that linked to Temu’s online shop.

Temu counter-attacked by filing an anti-trust lawsuit in the U.S. against Shein for forbidding its suppliers from working with Temu. Temu claimed that Shein “forces manufacturers to sign ‘loyalty oaths’ certifying that they will not do business with Temu.” It also claimed that the alleged “valuable trademark and copyrights” of Shein were not yet properly registered as these “copyrighted” items were being accused of violating the copyrights of the third party Youtubers or freelance designers. The legal confrontations between the two Chinese low-cost e-commerce giants in U.S. courts are still going on likely to continue.



6.3 Lack of environmental sustainability

Researchers and public policy groups have raised serious issues of quality and environmental friendliness of Shein’s products. Public Eye showed some Shein clothes to aspiring fashion creators and covered up the Shein label in an attempt to get an unbiased assessment. The results were not positive.¹⁹ A report from ABC News accuses Shein of “creating 20 million tons of waste”²⁰.

Shein advertises “free returns” of these low-quality products, but, in practice, the researcher of Public Eye found it hard and costly to return the goods (at least from Switzerland). Still, it is said that Shein packages would come to customers with an instruction sheet with QR code and instructions on hassle-free return policies.

18. Bloomberg Business News (2023): Temu Extends Lead Over Shein in US as Shoppers Embrace a Bargain. <https://www.bloomberg.com/news/articles/2023-12-07/temu-extends-lead-over-shein-in-us-as-shoppers-embrace-a-bargain>

19. Public Eye 2021, see above

20. ABC News (2022), Shein is the new darling of China’s fast fashion industry – but at what cost? <https://www.abc.net.au/news/2022-04-05/shein-is-the-new-darling-of-china-s-fast-fashion-industry-but-at/100964524>

Of course, unsustainability (in terms of over-production and climate change) is not a problem specifically of Shein but a general problem of the fashion industry. Fast fashion, in particular, has been under increased attention in recent years for the significant impact it has on the environment and climate. For years, environmental groups and activists have been raising awareness about the fashion industry's carbon footprint, which is responsible for 8 - 10% of global emissions. And yet, large brands continue to produce clothing at breakneck speed to keep up with an endless trend cycle, and Shein now tops the list.

7. Live-streaming industrial platforms and labor standards

In our opinion, SHEIN clearly represents a model of platform-based production and work, which needs to be regulated accordingly. SHEIN is seen as a pioneer for AI-based supply-chain organization, which now is being adopted by a growing number of e-commerce and manufacturing companies. The SHEIN model replicates the competitive pressures by monopolistic platforms on their suppliers, as known from e-commerce platforms. But it seems to establish a system of algorithmic control over companies and workers that includes essential elements of the internal manufacturing process and organization as well as order and financial data. Such systems need further detailed investigation, which should be considered by China's government in its policies to regulate the platform economy. This must include employment and work practices of "real-time fashion" platforms.

China's attempts to regulate platform work have mostly focused on the legal status of service platform workers, such as food delivery or mobility services. For a long time, the Chinese government only took prudent steps to regulate work in this sector, accommodative to the interests of platforms. Platforms were primarily seen as promoters of employment, especially for lower-paid workers in urban labor markets.

Since 2020, the perspective changed to protection of labor rights, mainly in response to an increasing number of reports on poor and dangerous working conditions at major service platforms. At the same time, the Chinese government began to promote more stringent regulation and supervision of the business practices of platforms, including the promotion of a platform anti-monopoly law.

The relevant policies on platform employment have been outlined in a number of documents by the State Council and the Ministry of Human Resources and Social Security (MoHRSS). The most comprehensive one is a declaration of 8 ministries from July 2021, published as MoHRSS document No.56. The key provisions are the following:

- Platforms must establish fair employment systems: this includes compliance with local minimum wage standards, regular and timely payment of remuneration, guaranteed holidays and personal leave, limitation and supervision of the workload of individual employees, improved workplace safety and health.
- Platforms must support employees to join social and health and insurance regardless of their employment status.
- Platforms must develop substantial measures to improve safety and workplace health, especially in the areas of mobility, food delivery, and parcel/small cargo services.

The guideline does not define a new category of employees on platforms, but Chinese labor law experts see it as a major step to regulate employment conditions. The application of the above provisions to all groups of employees and the inclusion of algorithm-based work systems into the regulation can be seen as a de-facto recognition of independent contractors and gig workers as employees. Under this perspective, the guideline creates opportunities for a relatively comprehensive approach, also compared to many other countries in the industrialized and developing world.

However, the guideline is not a law and it falls short of proposing law reforms. As a guideline, the regulations are not legally mandatory for employers, and lower-level governments have ample space to develop diverging local policies. Employees cannot claim their rights in court, and it can be expected that differing and contradictory court rulings will continue. Therefore, inclusion of the basic regulations of the guideline into existing labor and civil laws seems necessary.

Different conditions prevail in different sectors of the platform economy. For non-regular workers on service platforms, the regulation of their legal status, indeed, is a key question to establish a framework for stable employment and industrial relations.

E-commerce-related manufacturing creates a spectrum of new or aggravates existing problems of low-wage work. The problem in such industries is to develop collective standards of low-paid work in small enterprises and of independent private contractors. A key issue is to regulate the remuneration for standard products, such as piece rates in the garment industry. Some approaches of collective standard-setting for piecework rates have been developed by local trade unions in China, e.g. in the clothing industry of Wenling City in Zhejiang province. Such experiences could also be applied to production platforms for small producers in industrial clusters.

8. High-quality development: connecting economic and social regulation

The regulation of new types of services and production platforms has been defined as a key challenge for high-quality development, as promulgated by the Chinese government today. Common prosperity requires an integrated regulation of both the economic and the social aspects of the platform economy. Decent and harmonious labor relations are a key element, which can only be achieved in the context of the regulation of the economic and social organization and behavior of platforms through relevant laws and policies in the respective fields, namely competition and anti-monopoly rules, financial and monetary policies, stock markets and investors behavior, social and cultural standards, and consumer protection.

The Chinese government has launched a series of policies since 2021, which together represent a fairly comprehensive approach to regulate platforms – certainly more ambitious than the scattered attempts in the U.S. and other industrialized countries. However, these policies need to be integrated and coordinated with the regulation of platform work, as spelled out in this report.

As a first step, the policies in the MoHSS guideline should become law with strong and transparent standards. As we have outlined above, such regulations could be added to the Labor Contract Law and other labor laws. Sanctions and fines under this law should be fully applicable to platform providers and subcontractors. Termination of employment should be regulated according to the Labor Contract Law, including severance payments for contract terminations. At the same time, platform workers - both regularly and indirectly employed - must have the right to establish a trade union under the All China Federation of Trade Unions, and to conduct collective bargaining.

The basic principles of the guideline, i.e. the obligation of the platforms to provide decent work and fair employment conditions for direct and indirect employees, must also be incorporated into laws proposed to regulate the economic behavior of platforms, namely the platform anti-monopoly law. Low wages, unsafe and unhealthy working conditions, and violations of social safety and health insurance requirements should be classified as anti-competitive, monopolistic behavior and forbidden by law.

The prices for platform-based services and products must be calculated on the basis of fair wages and include legally required payments for social security and health insurance. Wages and labor-related fees must be subject to regular reviews through the market-regulating authorities.

As platform organization is rapidly penetrating manufacturing industries, similar regulations must be considered for production platforms that employ large numbers of smaller firms with mostly low-wage working conditions. Equally, e-commerce platforms must be held liable to allow fair prices for factories and traders that allow a living wage for frontline workers.

As we have explained above, the regulation of algorithms controlling the behavior of service workers and subcontractors is a key problem in platform work environments. Basic labor and competition laws must provide adequate standards. China lacks legal standards and regulations for workplace data protection, as known from most industrialized countries. A comprehensive workplace data protection law should be considered as a major legislative project for the future.

Further research on these essential questions of public policy is definitely needed. Social protection of platform workers is an integrated part of common prosperity.

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