

The Feasibility of Incorporation of Labor Standards in the WTO

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Abstract: With vigorous international trade development, cheap labor cost has become a concrete factor in gaining a competitive advantage between states. However, in reality, it has gradually caused labor protection standards to deviate from the track of human rights protection and create great difficulties in the enforcement mechanism. Through a discussion of cheap labor costs and its resulting low labor standards, this paper argues that the WTO should incorporate labor standards to counter the labor costs' "race to the bottom" in developing countries.

Keywords: Social Equality, Worker's Abuse, Labor Standards, WTO

1. Introduction

In the twenty-first century, the world has entered an unprecedented era of globalization, where technological advancements significantly reduce the costs of international trade. In the exposure to the trade opportunities, developing countries, like the People's Republic of China (PRC), Indonesia, and India, are looking to enter the lucrative international trade system to accelerate their development further and serve their nationalist goal of improving their state in general. Nevertheless, these developing countries are at a severe disadvantage. To be viable, they have to sacrifice wages and social protection of the workers to ensure their products are the cheapest on the market [1]. To do so, they need to bridge the gap, where cheap labor costs become the solution. Unfortunately, cheap labor costs most of the time lead to low labor standards. By discussing the causes of cheap labor costs and its resulting low labor standards, this paper argues that the WTO should incorporate labor standards to counter the labor costs' "race to the bottom" in developing countries.

1.1. The Imbalanced Development of International Trade and Labor Costs

The lack of advanced knowledge has forced the developing countries out of the profitable high-end, high-tech fields but permitted them a share in the manufacturing and exporting sector [1]. However, as the share is limited (there are only a certain amount of factory contracts available), the developing countries and their business owners will compete to reduce their labor costs to draw in more transnational companies, like Apple Inc., to contract with them.

Noticeably, the job creation stimulated by international trade and its following wage raises is essential to developing countries' stability and economic development. If they lose their share of the

international trade, many will be unemployed, sometimes amounting to half of their labor force. According to WTO's report on "the impact of trade on labor market outcomes," export production has created about "15 million [jobs] in the United States, 66 million in the EU, and 121 million in PRC" [1]. The United States had 153.5 million workers during that same year, the EU 151.1 million, and the PRC 925 million [2-4]. This means export production single-handedly increased 10.8% of the US job market, 77.55% of the EU job market, and 15.04% of the PRC's job market in 2011. If states, like the PRC, lose their share of international trade, they may face a dramatic financial crisis and a massive wave of unemployment. Also, regarding wages, Aunty and Davis documented an eight percent increase in wages for the exporters than domestic producers in Indonesian manufacturing from 1991 to 2000 [5]. Losing that share again will create dissatisfaction within the domestic community with the government.

1.2. Resulting Low Labor Standards and Lack of State Regulations

The cheap labor costs directly result in low labor standards because to cut down the costs is to cut down the living standards of workers and increase their amount of work without compensation. In a famous local Chinese journal called VOA, Hong, an undercover NGO member, talked about the abusive situations of the baseline workers. Working in the various factories in Pearl River Delta, which supplied goods to several transnational corporations, like Disney, Walmart, and Apple Inc., he consistently encountered toxic environments, workers' abuse, and underpaid overtime hours [6]. The average working time that he observed often exceeded a hundred hours without much compensation [6]. Additionally, there is strict repression of labor NGOs, where members of the organization are consistently "visited" by members of the Inland Revenue Department and National Municipal Administration of State land to be invited for "tea" and investigation [7]. So, even after Hong reached the headquarters of companies, such as Apple Inc., and the local government for such issues, he only received ambiguous responses without any substantial punishments on the factories nor any clear resolutions and compensations for the workers [6]. In this case, the appearance of Labor law, Labor Contract law, and Labor Dispute Mediation and Arbitration Law of the People's Republic of China in 1995 and 2008 did not improve the conditions of workers by 2016 due to the conflicting economic interests with the labor standards. Such abuses are also not alone in the international stage. In other developing countries, like India and Indonesia, there are work abuses like child labor and sexual coercion as well [8,9].

Government officials can hardly ignore all of these workers' abuses if they consistently face the brought-up claims of abuses. But it happens that most baseline workers are informally employed and work in the local market's most unregulated and unsupervised part. In 2005 PRC, a survey found a massive mismatch between the number of documented, contracted workers and the total number of the labor force. The missing piece is the number of undocumented, informally employed workers, which accounted for 46 percent of the Chinese labor force [10]. These undocumented workers are most vulnerable to manipulation and work abuse because the local government or its system hardly recognizes the existence of such a group. So, it seems that if both the local government and the international community realize such informalization of employment, they can alleviate the workers' dilemma.

2. Theoretical and Practical Dilemmas of Workers' Protection

When developing countries compete at the bottom in the international market, cheap labor cost has become a concrete factor in gaining a competitive advantage. However, in reality, labor protection standards gradually deviate from the track of human rights protection, and there are great difficulties in the enforcement mechanisms.

The Universal Declaration of Human Rights preamble highlights “the recognition of all members’ rights to freedom, justice, and peace in the world”[11]. However, if workers are constantly abused of their labor and their living conditions without the means to bring up the claim, the state is not promoting the freedom and justice of all members, but few members who benefit from international trade, such as the business owners: something that will harm the wellness of a state in the long term. Instead, if the states promote the living standards of baseline workers, the group will, in turn, stimulate the economy more with their inputs in spending and creating more jobs.

More importantly, the practices of work abuses are clear violations of the International Labor Organization (ILO)’s conventions and protection of human rights in the Charter of the United Nations. In the ILO Hours of Work (Industry) Convention (No.1) of 1919, article 2 states that “the working hours of persons employed in any public or private industrial undertaking..., shall not exceed eight in the day and forty-eight in the week” with few exceptions, which include the voluntary agreement between employers and employees [12]. In the case of Hong’s investigation in China, his and his fellow workers’ working hours consistently going above a hundred hours per week only to meet minimum standards of wages set by the national government does not fall in the category of admissible exceptions [6]. Besides, in the case of India and Indonesia, practices like child labor are prohibited in the ILO’s convention and the UN charter [13,14].

Such a prevalence of violations proves the lack of binding power of state regulations and ILO’s conventions. According to an ILO report in 2005, such failures could be attributed to “the failure to supply reports on unratified Conventions, on Recommendations and Protocols for the past five years” and non-compliance of the state members. In other words, enforcement mechanisms of ILO, such as complaints, are powerless in making its state members comply [15]. The failure of complaints in ILO can also be attributed to states shared economic interests in the manufacturing sector of the trade where no interstate complaints will be brought up or that violations of conventions, such as working hours, can hardly be traced at a national level. Whatever the underlying reason might be, the system is lacking.

3. The Feasibility of Labor Standards’ Incorporation in the WTO

Incorporating labor standards in the WTO will address developing countries’ dilemma of the race to the bottom. One of the key provisions of the WTO is the national treatment, which requires the same domestic and foreign regulations towards similar products. Therefore, while incorporating the labor standards into the WTO, the policymakers can refer to the experience of enforcing the national treatment through mechanisms, such as reciprocity, to ease the process. In addition, even if states are unwilling to comply, the powerful enforcement mechanism of WTO, which includes panels and consultations, will keep labor standards intact.

The incorporation of labor standards within the WTO can sound contradictory to the core of the organization’s belief to promote trade liberalization and eliminate potential barriers. Nevertheless, suppose every developing country has to comply with the labor standards regulation. In that case, the rule itself does not endanger the economic survival of each country because every individual of the state faces higher costs. Furthermore, the concerns of labor standards being the smokescreen of developed countries’ protectionism—to steal away developing countries’ share in the manufacturing sector— can also be addressed if more lenient labor standards are given to developing countries[16]. The only concern is that developed countries might reject such proposals due to the possible higher prices of imported products resulting from the higher labor costs of developing countries.

In the end, the efficient WTO enforcement mechanism, which includes economic countermeasures and sanctions, will create financial incentives for the developing states to comply in the face of potential economic losses without interfering with the sovereignty of individual states.

4. Discussion

In the light of the twenty-first century, the world has entered an era of open trade, where domestic producers compete against local and international competitors to gain their share in the market. The benefits of working in a global business are felt and seen tangibly through substantial job creation and wage raises. However, the alluring international trade and its intensive interstate competition have forced employers in developing countries, such as the PRC, India, and Indonesia, to reduce labor costs and lower the working conditions of their workers to remain competitive and profitable in the global economy. The incorporation of labor standards in WTO addresses such a conflict by setting up a rigid bottom line of labor standards without harming the states' benefits.

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