

The Dilemma of Workers' Rights and Its Legal Protection: Based on the Background of Economic Globalization

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Abstract: With the deepening of economic globalization, its impact on labour law has attracted increasing attention, bringing with it both opportunities and challenges, and this article focuses on some of the issues that arise. Based on the Rana Plaza collapse case in 2013, the authors use a combination of economic and legal literature to analyse the causes and consequences of failing to address three issues: unfair treatment, supply chain expansion, and the new form of work, “gig work”. The study found that the causes of the three problems are strongly related to the neglect of labour rights by multinational enterprises in the pursuit of maximum profits in a globalized economy. If the world does not address this in a timely manner, it will have a significant negative impact on labour mobility and on the future of labour-enabled economic development. The paper therefore suggests that countries can achieve a healthy and sustainable workforce by strengthening international cooperation, leveraging the role of international organizations while empowering civil society trade unions, and continuously improving labour laws, thereby contributing to sustainable economic development and social justice.

Keywords: Law, economic, globalization, social problem

1. Introduction

With the deepening of “globalization”, a powerful force has facilitated the integration of countries in many areas, including the economy, capital and technology, a phenomenon commonly referred to as “economic globalization”. This theme is gradually becoming a hot topic of discussion on the world stage, so is this trend good or bad? According to Gupta, the above trends present great opportunities for global development, however, at the same time, challenges that cannot be ignored also arise [1]. In order to satisfy revenue maximisation, multinational corporations are often desperate for the lowest cost, and they shift production to countries with lower labour costs. This transfer, while providing jobs and generating significant returns for companies, often ignores the rights of the majority of workers, not only in terms of unreasonable labour remuneration but also in terms of their health and lives. A stark case in point is the Rana Plaza building collapse that occurred in Bangladesh on 24 April 2013, when an eight-storey commercial building collapsed, killing and injuring a very large number of people. Through a full 17 days of rescue and search, 2,438 people were evacuated, but over 1,100 people lost their lives forever, with multiple parties expressing concern following the incident [2]. Learning from this sad lesson, the authors will

discuss in detail in this paper on the four issues identified from it. Firstly, in this case, the treatment of workers in terms of protection of their rights and interests (especially in terms of safety standards) was grossly unfair compared to developed countries, and the safety of workers was absolutely disregarded; Secondly, many international brands under globalization are manufactured in Bangladesh, but the expansion of the supply chain has led to disruptions in employment relations; Furthermore, the tragedy has exposed the difficulties of cross-border regulation that make it easier for transnational corporations to avoid legal liability in underdeveloped countries; Lastly, the rise of non-traditional forms of work (gig work) has given rise to new problems not covered by previous legislation. Focusing on the pressures of economic globalization on labour law, it seeks to shape healthier and more sustainable international labour relations, starting with the problems exposed above.

2. Analysis on the Problems

2.1. Types of Fundamental Labour Rights

2.1.1. Human Rights

First of all, laborers, as human beings, have the most basic human rights enshrined in the Universal Declaration of Human Rights, namely, the fundamental right to liberty and security of the person, the right to life, and employment, remuneration for work, culture and education.

2.1.2. Labour Law

In China, for example, article 12 of the Labour Law, among others, stipulates that workers have the right to equal employment; Articles 10, 14 and 82 provide for the right of workers to conclude written labour contracts; The Labour Code also provides for the rights of workers to remuneration, benefits, rest and leave; they have the right to maintain stable labour relations and enjoy labour protection.

2.1.3. Tendencies

With the development of society, the third and even the fourth generation of digital human rights are hotly debating the right to development for all in the context of economic globalization, stressing that the right to development of labour includes both individual and collective components. From the United Nations Declaration on the Right to Development, it is clear that the right to development is a fundamental and inalienable right. From one generation to two to three and four, it is easy to see that labour rights have become increasingly comprehensive and well-established.

2.2. Unfair Labour Rights

The author argues that in the global economy, labourers from different countries suffer unfairly. According to the International Labor Organization, due to the different national conditions and economic development of different countries, although there are national labour laws governing minimum wages, maximum working hours, etc. to safeguard labour rights and interests, and these laws are intended to protect workers from exploitation and enjoy fair treatment, these standards (minimum wages) actually vary greatly among different countries in the global context [3]. For example, in the case of China, according to article 36 of the Labour Law of the People's Republic of China, normal working hours shall not exceed eight hours per day and 40 hours per week, and overtime pay shall be paid for any excess. The Bangladesh Labour Act, on the other hand, sets the standard weekly working hours at 48 hours, beyond which overtime is payable. In the case above,

the minimum wage in Bangladesh is one of the lowest in the world, which has attracted countless multinational apparel brands to produce in Bangladesh because of the significantly lower labour costs compared to producing in China or in the brand's home country, which is mostly a number of developed countries. In addition, as an underdeveloped country, Bangladesh has very weak labour regulation and weak enforcement of labour laws, and multinational corporations suppress trade union activities by offering jobs, making it difficult for workers to take the initiative to defend their rights without due protection. Moreover, in reality, apart from the two obvious subjects, namely enterprises and workers, labour rights and interests, there is also the implicit influence of the government. Bangladesh's textile and garment industry was its largest export sector, and the national Government was very welcoming and supportive of multinational enterprises and hoped to attract more foreign investment. In order to maintain their competitiveness in the global market, their governments may sometimes sacrifice labour rights and interests, especially in terms of wages and hours of work, working conditions, and so on. These unfair treatments will lead to many problems in the long run. For laborers, long working hours and inappropriate working environments can increase the risk of work-related injuries and occupational diseases and even the tragic mass casualties mentioned above; For the society, labour discontent has been accumulating, as in 2010 when a number of Foxconn employees jumped to their deaths within a short period of time after being overwhelmed by the pressure of intense work and unimpressive pay and benefits [4]. They may start protests or even strikes, which seriously affects social stability and the economy. According to Keynes, ensuring that workers are paid a fair wage increases their purchasing power, which in turn stimulates demand and the economy [5]. It is difficult to avoid the problem of inefficiency for companies with high-pressure laborers who use their inaction as a silent protest against unfair treatment by the companies. In the long run, not only will a company's low productivity affect its profitability, but its international reputation will naturally be affected as well, which is detrimental to a company's healthy long-term development.

Indeed, even if TNC (hereinafter referred to as "TNC") meet the minimum wage in the developing countries where they produce, it does not mean that the wages are sufficient to sustain the daily lives of the workers. Minimum wages are often determined by tripartite negotiations between the Government, trade unions and employers, in which, as studies have shown, trade unions are weak and constrained by the other two parties, and workers' interests are neglected. Coupled with the fact that the reality of development is always inflationary, wages that have not been adjusted for a long period of time will also greatly increase the pressure on workers' living expenses and reduce their purchasing power.

2.3. Global Expansion of the Supply Chain

2.3.1. Subcontractor

In traditional labour law, labour relations focus only on the relationship between the direct employer and the employee, and the responsibilities of subcontractors in the supply chain are not sufficiently clearly defined. In the process of economic globalization and the global division of labour, developing countries such as India and Vietnam are often responsible for labour-intensive and less technologically demanding work, so enterprises often expand their supply chains to minimize costs and maximize profits to maintain their competitiveness globally, which is often referred to by transnational corporations (TNCs) as supply chain optimization. In addition, the expansion of the supply chain is not only for the purpose of production, it enables TNCs to better understand the culture and consumption habits of various regions, which will help them in possible market expansion in the future, and invariably expand the consumer market. It is for these reasons above that this trend is gradually coming into view. Yet this new, optimized way of doing business

poses new challenges for labour law. As ILO's report Decent Work in Global Supply Chains points out, many workers are subjected to rights violations in expanding supply chains, especially in manufacturing, agriculture, etc [6]. Expanding supply chains bring ambiguous employment relationships. Firstly, it is impossible to find the responsible party to bear the workers' rights and interests, and secondly, if labour disputes arise, not only is it very difficult to regulate the labour law, but it is also difficult for workers to find the real party responsible for them, and it is difficult for them to defend their rights.

2.3.2. Cross-border

At the same time, the expansion of the supply chain not only involves difficulties in defining the responsibilities of various subcontractors, but also inevitably crosses several countries. For example, if a Thai suffers a work-related injury in a factory in Vietnam, where should he turn to to defend his rights and claim for compensation? Furthermore, there is a lot of resistance to enforcing labour law regulation in the country due to cross-border. There are multiple reasons for this, starting with the sovereignty issues involved between countries; cross-border regulation is a politically sensitive issue, and national regulators cannot come and go as they please and act without pressure on another territory unless there is a specific agreement between the parties. Secondly, even if it is enforced, due to the distance, it is more convenient for enterprises to conceal the information, and it is difficult to obtain complete and timely evidence in the process of defending rights or regulation. Furthermore, due to language and cultural issues, there is more room for play and increased difficulty in interpreting labour laws. In addition to triggering the various consequences in 2.2.1, all this would be very detrimental to the long-term development of the global market as a whole. As a result of the rights and benefits problems mentioned earlier, regulation is suffering and it is even more difficult for workers to defend their rights, and so on and so forth, the voice of cross-boundary labour disputes is getting louder and louder, and the mobility of workers will be weakened, and they will be inclined to avoid which countries they are going to.

2.4. The Rise of Non-traditional Forms of Work

With the globalization of the economy and the rapid development of various industries, in addition to the optimization of the supply chain as mentioned in 2.2, a new form of work called "Gig Economy" has also emerged [7]. One of the main reasons for its emergence is closely linked to the expansion of the supply chain, which has given rise to the economy of casual labour, as optimized forms of work are more considered flexible and efficient and traditional forms of work are unable to meet this demand. Secondly, the instability of the global economy, for those who are employed, has led to an increase in unemployment, both in the financial crisis of 2008 and later in the new crown epidemic. In order to survive, many people will choose the odd job economy to support their lives; For companies, which continue to improve their global competitiveness in response to the economic situation, the use of casual labour reduces long-term fixed costs while combining flexibility with the use of traditional permanent jobs. Moreover, as the relevant labour regulations for casual workers are not yet clearly regulated, multinational companies have room for flexible manipulation. Finally, economic globalization has increased the mobility of the global labour force, providing a wide range of job opportunities and adequate conditions for workers to choose casual work as a form of work. The economy of casual labour can be regarded as a natural product in line with the development of the times, but for workers, it infringes on their rights and interests while providing employment opportunities. Traditional labour law, which focuses on full-time and permanent employment relationships and provides protection for workers' rights and interests, is therefore overstretched in the face of the casual economy. A form of work such as casual labour is in an

ambiguous work situation, not being a traditional employee nor a freelancer. Many odd-job platforms use this to pass the buck, refusing to recognize the employment relationship and describing it instead as a business partnership. It is difficult for workers to obtain a guarantee of their rights and interests. Article 16 of the Labour Law of the People's Republic of China stipulates that an employer and an employee must conclude a written labour contract specifying the rights and obligations of both parties. However, the contracts signed by casual laborers are often short-term and simple contracts that do not include insurance, bonuses and other benefits. The challenge to traditional labour law posed by the zero-work economy is bound to have serious consequences if not properly addressed. The prolonged lack of protection for the rights and interests of casual workers, who are under great pressure both economically and psychologically, may lead to social instability and reduce the purchasing power of this sector of the population, which, in turn, has a negative impact on both the economy and society.

3. Suggestions

3.1. Strategies for Mitigating Unequal Rights and Benefits

3.1.1. Help from International Organizations

As entitlement standards differ from country to country (e.g. minimum wage), in the case of the minimum wage, an international organization could take the lead (e.g. UN, ILO, WTO, Fairtrade International ...) to Establish a globally applicable minimum wage standard. As shown by Virginia , international organizations have a wealth of financial, intellectual and statistical resources, including databases (TiVA, EORA, AMNE), which have the capacity not only to generalize and compare a large amount of macro- and micro-data, but also to carry out “ground-breaking” research, whereby minimum wage standards need to take into account, in an unbiased manner, the cost of living in each country, the global economic environment and so on. International organizations are well placed to help in this task globally [8]. In addition, in the process of discussion, one party should not dictate the standard-setting, but the state, enterprises and trade unions should discuss jointly. In order to avoid one party dominating, international organizations should pay attention to give more power to trade unions when organizing the discussion, and publish the results of the discussion after the preliminary discussion to show to the whole world, in order to collect the opinions of all countries to make further reasonable improvement. There are precedents for this approach and ILO has developed several international conventions related to labour rights and interests, such as the Minimum Wage Fixing Convention of 1970, the Convention concerning the Abolition of Forced Labour of 1957, the Convention concerning the Worst Forms of Child Labour of 1999, and so on. While the implementation of these conventions varies from country to country, they provide a basis for the development of global standards. In addition, the European Union (EU) has included social clauses in trade agreements with certain third world countries, and signatory countries are required to raise wage standards and improve labour conditions. This task requires full global co-operation and active participation in the pursuit of an appropriate standard.

3.1.2. Empowering Civil Society Organizations such as Trade Unions

Enhancing the power of regulation by strengthening the rights of civil society organizations such as trade unions and increasing their voice, and raising the minimum wage to ensure that workers' rights are protected. From previous experience, these civil society organizations have the inherent advantage of keeping an eye on workers' dynamics and being more responsive to workers' needs, as in the case of the “fair trade” movement, where consumers' choices and pressures were used to force companies to improve the treatment of workers.

3.2. Cross-border Supply Chain Labour Rights

3.2.1. Supply Chain Issues

Expanded supply chains, where the responsibilities of multiple “employers” are not clearly defined, need to be made more transparent. As report showed that increased transparency in the supply chain signals ethical production, and nowadays consumers are demanding more ethics from companies, and increased transparency can increase competitiveness for companies. Companies should proactively disclose the composition of the supply chain, the process of supply, so that workers understand who they are responsible for [9]. Previously, companies such as Apple have proactively published lists of suppliers on their official websites and regularly publish relevant social responsibility reports. In addition, some countries, such as the United Kingdom, have enacted the Modern Slavery Act, which requires companies to disclose risks to labour rights in their supply chains and the measures taken to clarify supply chain responsibilities. As well as the U.S. California-Fort Worth Supply Chain Transparency Act of 2012, and the EU’s Non-Financial Reporting Directive of 2014, all of which are human rights due diligence legislation based on disclosure obligations. The human rights due diligence process, which requires companies to identify, prevent, mitigate and account for human rights risks, can monitor companies’ improved behaviour to prevent human rights abuses. However, it has to be noted that corporate disclosures need to be verified by a third-party independent auditor to ensure authenticity.

3.2.2. Transnational Issues

In order to resolve the difficulties posed by cross-boundary, it is actually most important to strengthen international co-operation. Given the multinational nature of TNC operations, it is clear that regulation by a single national legal system is not sufficient. At this point, it is necessary to rely on international organizations to play an important role, and they can issue agreements to give guidance to laborers in defending their rights across the border, as well as providing a basis on which laborers can be justified. Strengthening the enforcement of these agreements could put greater pressure on transnational corporations as a means of safeguarding labour rights.

3.3. Reinventing Labour Security in the Casual economy

3.3.1. Improvement of Labour Laws

The author argues that countries should adjust and update their labour laws to ensure that casual workers have the rights and benefits they deserve. In order to avoid the problem of platforms shirking their responsibilities and making excuses, as mentioned in 2.3 above, perhaps States could consider recognizing a new type of work, a “third type of work”, which would legitimize the recognition of casual workers and change the public perception completely. This way everything about the standards for casual labour can be clearly defined, drawing on traditional permanent employees, such as a suitable minimum wage, casual labour benefits and so on.

3.3.2. Strengthening Training

Many of the casual laborers have low skill levels and the economic level is not very promising. In order to fundamentally change this issue, According to a White House briefing, the government should undertake skills training in small businesses such as hotels and retail as an incentive to help millions of low-wage workers, empowering the casual laborers themselves and strengthening their competitiveness in the marketplace [10].

4. Conclusion

Through its research, this paper finds that with the increasing integration of the global economy, the relationship between multinational corporations and labour has undergone major changes that have directly impacted the framework and implementation of labour law. In this article, the author identifies three main challenges to labour law arising from economic globalization: unfair labour rights between countries, the global expansion of supply chains, and the emerging form of work known as “Gig work”. The essence of labour law is to safeguard the rights and interests of workers, so with regard to the first issue, the authors believe that national cooperation should be strengthened and international organizations should be used to accomplish a uniform standard that is agreed upon by the whole world. At the same time, civil society organisations should be empowered to give trade unions a greater voice in fighting for the rights of workers and ensuring that they are treated fairly; For supply chain issues, this paper argues that transparency should be increased or even companies should take the initiative to disclose their suppliers and be audited by relevant independent organizations. The transnational challenge is also to strengthen international cooperation to make the cross-border enforcement of labour laws more feasible; Finally, with regard to the problems posed by casual labour, the authors’ study concludes that labour laws should be updated in this regard and that the government could organise free training to improve the skills of casual workers. These studies identify the challenges of labour law in the context of a globalized economy and offer sound advice on how to shape a healthy and sustainable employment relationship for the betterment of the global economy. For the future, only by constantly strengthening international cooperation, maintaining justice and constantly improving labour laws will the world be able to ensure that the rights and interests of workers are truly safeguarded and that sustainable economic development is achieved. The author believes in a better future for the world.

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