

# ***Challenges and Legal Response to Human Rights Protection: A Case Study of Foxconn***

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**Abstract:** This essay is a discussion of human rights issues based on the Foxconn suicide jump and the judicial system in China today regarding the protection of human rights of workers. This essay will analyze the reasons behind the Foxconn incident, and at the same time, it will deeply study the factors that human rights protection laws and regulations are not well enforced from different perspectives, as well as give feasible solutions. This essay uses both case study method and literature analysis method. Using the Foxconn incident as a case study, this paper enters into an in-depth analysis of the societal problems that existed within the company and offers solutions. By collating and studying the existing literature, drawing on the research ideas and findings of scholars, and analyzing the omissions and shortcomings of their research logic and methodology, this essay aims to provide an in-depth analysis of the Foxconn incident. This paper finds that even though there are existing laws in China on the protection of workers' human rights, the judicial system does not adequately regulate this area, and the enforcement of existing laws is also inadequate, which can be attributed to the attitudes of enterprises, the actions of the government, and the development trends in society.

**Keywords:** Foxconn, Law-enforcement, Government, Human rights protection.

## **1. Introduction**

Human rights are fundamental and inalienable rights and freedoms that every human being is entitled to and should enjoy, including civil and political rights, such as the right to life, and economic, social and cultural rights, such as the right to health. Companies may not violate the rights of workers in the conduct of their business. MNEs, in particular, must pay attention to the protection of the human rights of workers in their operations in the host State. Because it is a matter of company reputation, production, and in serious cases may face legal liability.

In the context of state of economic development in the world today and international attitudes towards the protection of human rights. Nowadays there are already a number of international legal instruments, or treaties, on the protection of human rights and the fight against labour exploitation, which have been accepted by a wide range of countries. The problem of labour exploitation has indeed improved considerably, relative to last century's society.

However, in practice, even with the legal provisions in place, there is still a lot of labour oppression going on. Foxconn is a typical example. Many workers and the media have exposed the fact that Foxconn has been oppressing the labour force. These kinds of cases show that today's legal system is still inadequate.

At present, China's judicial system has developed a relatively complete system of labour laws, but what leads to incidents of labour oppression continue to occur is that these laws are not well enforced. Based on this, this paper will explain the underlying causes behind the Foxconn incident and analyse why these laws have not been well enforced, as well as give some potential solutions.

## **2. Case Study: In-depth Analysis of the Foxconn Incident**

### **2.1. Background Information on the Foxconn Incident**

In 2010, 18 workers producing iPhones and iPads at a Foxconn factory in China attempted suicide by jumping off buildings. The Foxconn suicides were a series of suicides linked to low wages and harsh working conditions at the Foxconn City Industrial Park in Shenzhen, China.

Foxconn implements a rotating shift system that alternates between day and night to ensure continuous operation of production machines for 24 hours. Day shift workers operate from 8 AM to 8 PM, while night shift workers work from 8 PM to 8 AM the following day. Among them, 73.3% of workers average more than 10 hours of work per day, with a monthly average of 83.2 hours of overtime. The existence of "dragging shifts" and "voluntary overtime" to meet excessively high production targets leads to some workers exceeding 10 hours of daily work [1].

Foxconn incident is not just a single isolated incident, but a holistic and brand-new fact that can be analyzed. Therefore, the following sections will analyze the causes from business, social and government perspectives.

### **2.2. Causes of Foxconn Incident**

#### **2.2.1. Labor Exploitation**

Labor exploitation is the abuse of people in the workplace for profit. The abuse can be direct and brutal or much less obvious. But its impact is devastating for victims; psychologically, physically, emotionally and financially. Including excessive working hours, forced labor, poor welfare and inhumane management practices.

##### **2.2.1.1. Extremely Poor Working Conditions**

According to the World Health Organization (WHO), guaranteeing the right to health refers not only to timely, quality and accessible medical care, but also to guaranteeing the conditions for realizing the right to health [2]. Health does not mean the absence of physical illness or a weak mental state, nor does it mean being physically healthy and mentally happy at the same time, but it means that as a social human being, his or her physical and mental states are able to meet and adapt to the basic requirements of sustainable development in the social environment in which he or she lives [3].

The Labor Law of the People's Republic of China provides for a maximum of eight hours of work per day, not exceeding 44 hours per week, with extended working hours generally not exceeding one hour per day and 36 hours per week [4].

However, from the news reports, it is clear that the daily working hours of Foxconn employees greatly exceed the statutory hours, and at the same time require employees to absolutely obey the inhumane management regulations gradually break the psychological defense of the workers, long hours of work so that employees do not have the time to rest, the pressure is constantly adding up, and ultimately overwhelmed by the pressure to choose to end their lives.

In addition, Foxconn's employee welfare system is very poor. Some employees have said in interviews that they can only support the most basic health conditions while working at Foxconn.

Also, Foxconn will deduct employees' bonuses for various reasons, resulting in workers receiving very low salaries.

#### 2.2.1.2. Dehumanizing Management Models

In the Foxconn management model, they often take extremely harsh disciplinary norms to control employees. When an employee first joins the organization, managers will warn them that the requirement is "Obey, Obey, Absolute Obey", and to train the new employees as a submissive body by way of military training, so as to realize the paramilitary management requirements centered on "obedience" [5]!

Such a model of management is violent and oppressive of workers' rights. Under the high-pressure discipline, the meaning of the employees' labor is to serve the "highest mission" of the work, i.e. to serve the product and the production target. In order to maximize production, the culture of "obedience" has become the core value of Foxconn [6].

Foxconn, as a large multinational enterprise whose main source of profit is production, has increased its productivity to a great extent under such a high production management model, although it has also exacerbated the degree of labor alienation.

#### 2.2.2. Social Stress

In China, where the population base is huge and there is a relative surplus of labor, the pressure to find a stable job in today's society is not small.

Most of the employees of Foxconn are migrant workers, belonging to the low-education group, and most of them need to rely on manual labor for labor remuneration. The phenomenon of overwork among low-skilled labor groups, such as rural migrant workers, has not only become apparent in recent years; a 2005 survey showed that the average monthly working hours of rural migrant workers exceeded the average working hours of the local urban labor force by 20 hours.

Many of the jobs that require advanced degrees, relative to the more accessible jobs, are only related to manual labor. This is one of the reasons why so many people still work at Foxconn today, even if they are being oppressed.

China's economic development has come about through a series of gradual, incremental transformations. This transformation is also typical of the "East Asian model": export-led industrialization, a strong sense of economic construction and a strong guiding role for the government economic construction and a strong guiding role [6]. Successful export-led industrialization in East Asian newly industrializing countries and regions relies on a low-wage, hard-working labor force.

#### 2.2.3. Government's Attitude

Underpinned by the idea and normative basis of corporate human rights responsibilities, there has been a growing call for the protection of workers' human rights in the field of labor relations, and the prevailing view is increasingly in favor of the responsibility of corporations to protect human rights, including labor human rights. However, the effective implementation of this human rights responsibility cannot be achieved overnight. This essay argues that the responsibility of enterprises to protect human rights.

This paper argues that the responsibility of enterprises to protect human rights is faced with a double conflict: one is the conflict between the profit-seeking nature of capital and the value of human rights in the pursuit of the goal of economic development, and the second is the conflict between different countries, and even different geographical regions within a country, in terms of the value of the right to a different standard.

Currently, in its pursuit of economic growth, the Chinese Government has actively implemented a series of policies and subsidies to promote business development. However, this strong focus on economic benefits may have led, to some extent, to inadequate protection of the human rights of the labour force. When there are human rights violations or labour oppression, the government may appear to be insufficiently proactive in its response, aiming to minimise the impact on economic interests. This phenomenon reflects the Government's cautious attitude in dealing with the relevant issues and may also be a reason for insufficient enforcement of laws and regulations.

#### **2.2.4. MNEs' Lack of Social Responsibility**

The International Organization for Standardization (ISO) has identified organizational management, human rights, labor practices, the environment, fair operating practices, consumer issues, community involvement and development as the seven themes of social responsibility in ISO 26000 document, and has stated that States should take measures to encourage organizations to respect human rights even when operating extraterritorially.

Foxconn enterprises, as economic individuals that exist to maximize profits, evade social responsibility in practice, especially the assumption of social obligations with regard to the protection of labor human rights, wander around the edges of the legal red line, disregard responsibility under soft or promotional laws, evade responsibility for peremptory norms, and ignore the rights and interests of workers at the bottom of the hierarchy.

Various theories on CSR, including stakeholder theory and corporate citizenship theory, are unable to fundamentally resolve the paradox between the behavior of enterprises in pursuit of profit maximization and the resulting social contradictions, the root cause of which lies in the instrumental value orientation of CSR theories, as well as in the lack of a legal regulatory system and mandatory responsibilities.

### **3. Analysis: Factors Hindering Enforcement**

#### **3.1. Lack of Regulation and Supervision**

Regulation in this context means, non-legally, that China today has more complete laws on human rights protection, but they are only poorly enforced in practice. This point is directed at the government, and arguably, it can also be argued that this is because of a lack of supervision. In other words, in practice, the intensity of law enforcement is inadequate, so much so that it allows some people to exploit the loopholes in the law and evade legal responsibility. The reasons for this result are manifold and can be divided into objective and subjective aspects.

Objectively, in terms of the overall trends in the world today, at the level of legal regulation, among the several types of United Nations legal normative documents relating to labor human rights, the constituent documents of the International Bill of Human Rights are more binding on United Nations member States and States parties to the Convention, providing basic human rights values and emphasizing the purpose of human rights themselves. However, their content focuses mainly on the provisions of basic human rights, and compared with the implementation of specific labor issues, they only form a relatively rough framework, making it difficult to regulate in detail the complex and changing situations of human rights violations. In addition, the binding force of the International Bill of Human Rights rests primarily on the responsibilities of States and Governments with regard to human rights, and non-State organizations, such as businesses, cannot be the subject of such norms [6].

Subjectively, the government, as a law-enforcement agency, does not strictly carry out its duties in practice, and in serious cases, it even connives at the occurrence of incidents like Foxconn without making any move, and the government's decision-making greatly affects the mechanism of the

operation of laws and regulations in the society. The Government's negligence is a major reason why the regulations are not well enforced.

### **3.2. Lack of Clarity in the Concept of Collective Labor Rights**

Collective labor rights refer to rights enjoyed by groups of workers, four sections are included: Freedom of association, Collective bargaining, right to strike, Co-determination, right to information. Collective labor rights are the fundamental guarantee for the exercise of individual labor rights, and they are a powerful tool for workers to protect themselves when the management infringes on the interests of labor.

Under Foxconn's management system, workers are independent individuals, and the strict system puts obstacles in the way of establishing connections between people, leading to fragmented social relations. This makes it very difficult for workers to seek help when they are abused, and the power available to each individual is very small, and in the face of a large company such as Foxconn, which has already formed a complete system of management, their power of resistance is almost non-existent, and the weakening of workers' bargaining power further contributes to the existence of such unfair practices as the oppression of labor, which are still in existence.

Collective bargaining is at the heart of the right to work and is the ultimate guarantee of the fulfilment of workers' rights; it should be understood as the negotiation between two parties on an equal footing on certain points of conflict, with neither party being able to compel the other to take a decision that is contrary to its own wishes. However, in China's legal practice, the design of the current law is more inclined to the collective consultation system, and lacks the true meaning of 'collective bargaining': firstly, the Labor Law and the Trade Union Law only provide for 'non-confrontational' collective contract signing procedures (i.e., collective bargaining) from the point of view of the purpose and result of the negotiation, but also for 'non-confrontational' collective bargaining. First, the Labor Law and the Trade Union Law only provide for a 'non-adversarial' procedure for the signing of collective contracts from the point of view of the purpose and outcome of the negotiations (i.e., part of the institutional framework for collective bargaining), and 'de-conflict' collective bargaining [7].

As a result, Foxconn's trade unions now have less clout, making it impossible for lower-level employees to assert their legal rights. Because of these institutional deficiencies in collective bargaining, workers under the "Foxconn factory regime" are unable to defend themselves through the right to collective bargaining, which has been reduced to a "declaratory right" under the current legal system.

### **3.3. Contradictions between the Pursuit of Capital and Human Rights Guarantees**

As Foxconn's presence in the Midwest grows, it represents the expanding power of capital under the process of globalization. The expansion of global capital is aimed at maximizing economic and trade development, which coincides with the pursuit of production profit maximization by asset owners, while the comprehensive construction and implementation of labor human rights protection may lead to lower profitability, which is contrary to the value of pursuing profit in business. Behind the frequent violations of labor rights in China is a degree of economic development brought about by the comparative advantage of low labor costs. Due to the high mobility of capital, and in order to rely on capital to drive economic growth, developing countries compete with each other to gain access to capital by keeping wages and working conditions low, leading to a "race to the bottom" ("race to the bottom") [8].

Competition in the handmade market is fierce, so enterprises want to seek profit, need to rely on constantly squeeze labour costs, so as to provide customers with cheaper prices compared to other



competitive industry rivals, so the 'Foxconn-like enterprises' through the compression of labour costs, mainly relying on a large number of cheap labor inland to reduce the cost of labour, and make considerable profits at very low prices. They are able to make substantial profits at very low prices [9].

### 3.4. Intervention of External Factors

Some scholars have pointed out that "Foxconn's monopoly position has been achieved through deep alliances with local governments and capital accumulation" [10]. As Foxconn brings great benefits to both the government and the economic development of the region, its role is extremely important and many local government administrators are "extremely enthusiastic" with Foxconn CEO Guo Taiming.

With such a macro-trade background, the regional economy, as a local economic growth entity, will also do its best to develop the economy, and the main body that guides this trend and operates it into social life is the government. Because of the imperfect information gap, it is sometimes difficult for the government to balance high economic performance with human rights protection in its decision-making, and the upper echelons of the leadership see only fast-growing profits and not the exploitation of labor, which is obscured by a variety of factors. Or perhaps some local governments are intentionally pursuing the goal of economic growth, relaxing their supervision of enterprises like Foxconn, which can bring huge benefits, and deliberately condoning their violation of morality and the law.

Local governments have invariably become an umbrella for Foxconn's "evil", intervening in the collective behavior of workers on the grounds of maintaining social order, production order, and the protection of other people's lives and property, and subjectively ignoring the need to intervene in terms of the manner of the collective behavior of the workers, the scope of the impact, and the question of whether the parties expect or agree with the government's intervention. It also subjectively ignores the question of whether intervention is necessary in terms of the manner and scope of the impact of the collective behavior of the workers, and whether the parties concerned expect and agree with government intervention.

Local governments, which should administer according to the law and correct the misconduct of employers, often consider the regional investment environment and enforce the law negatively in the name of "protecting enterprises", lowering the intensity of labor inspection and law enforcement standards in order to safeguard the interests of employers in labor disputes, which directly leads to "Foxconn-like enterprises" and "low cost of labor violations". "The cost of labor violations is too low [11]."

## 4. Viable Governance Pathways to Rule of Law

In this section, for the sake of logical consistency and relevance, guidance will be provided on each of the four factors mentioned above that affect the lack of implementation of human rights protection laws in practice. Similarly this part will be analyzed in terms of the different subjects, both at the macro level and at the micro level, with the macro level starting with the improvement of the judicial system and the regulatory system, strengthening the public's conception of collective labor rights, and providing avenues for workers at the bottom of the hierarchy to exercise their rights. Correction of behavioral deviations in government and business, starting at the level of social practice.

### 4.1. Sound Law Enforcement and Monitoring System

At its 19th Congress, the Party set out two goals for future construction, to basically realize socialist modernization by 2035; and to build China into a rich, strong, democratic, civilized, harmonious and

beautiful modern socialist power from 2035 to the middle of this century. The State should continue to support the development of new forms of employment. However, development should not be premised on sacrificing the rights and interests of those engaged in new employment forms, and problems should be solved continuously in the process of development, rather than using development to cover up problems.

Firstly, a good foundation for legislative practice will be laid through the establishment of legal pilots, starting at the local level with the promulgation of mandatory regulations to implement the implementation of human rights protection regulations, and pilot practice will be used to explore and validate the legal norms applicable to the new forms of employment, in order to provide valuable experience and feedback for subsequent legislation. Pilot implementation will help to gain a deeper understanding of the needs of this group for protection of their rights and interests, and to examine the problems that may arise in practice from the existing laws, while at the same time providing strong support for the formulation of more specific and targeted legal measures [12].

On the other hand, the Government should proactively assume the regulatory responsibility of ensuring that the law can be well enforced, which needs to be driven by both internal and external forces. Some new laws and regulations could be discussed and introduced into Chinese judicial practice, such as those with the mandatory power to supervise and enforce the law, in order to avoid malicious harboring in practice, while the part of the judicial system on human rights protection needs to be further clarified in the definition of human rights, i.e., the scope of the protection, so as to prevent the existence of the phenomenon of conceptual substitution and confusion of the facts in the judicial practice.

#### **4.2. Strengthening Social Forces for Collective Labor Rights**

The existing law needs to further clarify the formal and procedural provisions of the right to collective action on the basis of the affirmation of the legality of the right to collective action, so as to add the necessary prerequisites for the legitimization of the right to collective action.

Specifically, the concept of collective bargaining, its procedures, the main participants, the mechanism for the output of representatives, and the penalties for preventing or hindering collective bargaining need to be clarified in the law [13].

Labor-intensive enterprises are at the low end of the global industrial chain, and their main competitiveness comes from cheap labor; in a sense, raising the wage level of workers means compressing the profit margins of such enterprises, and excessively high wage costs may force them to move out of the country.

However, as society develops and the quality of the new generation of migrant workers improves, the pattern of low wages and low rights cannot be maintained, and legitimate labor rights and interests, including wages and working conditions, should be improved. The legitimate rights and interests of workers should not be confused with the issue of employment; on the premise of guaranteeing employment, the legitimate rights and interests of workers should be safeguarded, working conditions should be improved, working hours should not be too long, overtime work should be paid for, and labor protection should be provided. When the legitimate rights and interests of workers are harmed, the relevant authorities and trade unions should come forward to protect them [12].

#### **4.3. Building Harmonious Labor-Capital Relations**

The relationship between labor and capital under the capitalist production model is highly antagonistic, focusing on the distribution of surplus. In the context of the socialist market economy with Chinese characteristics, there is both an antagonistic and cooperative aspect between labor and capital. However, they must ultimately align with the goal of common prosperity, which serves as the

final aim of socialism with Chinese characteristics [14]. The core solutions focus on establishing harmonious labor-management relations.

In practice, the functions of the government in labor relations continuously weaken. The oversight of labor relations is inadequate. Therefore, it is necessary to promptly address the gaps in labor relations, clarify government responsibilities, and ensure that labor relations can develop in a coordinated manner.

Through government intervention in labor relations, promote the mechanism of collective bargaining. This aligns with the previously mentioned reinforcement of the concept of collective labor rights. Simultaneously, enhance social oversight responsibilities to safeguard the legal rights and interests of both labor and management. Furthermore, increase monitoring efforts and enforce strict and fair law enforcement. It is essential to ensure comprehensive supervision of workers' labor hours and intensity while improving productivity. Labor inspection agencies must not overlook or compromise on violations by platform companies. They should effectively exercise their role in overseeing the labor market [15].

From a corporate perspective, it is essential to strengthen the legal framework for labor in enterprises, cultivate new labor relations, and grant workers equal status. Furthermore, traditional labor laws only apply to conventional labor relations and fail to address the significant changes in employment forms during the platform economy era. Therefore, it is necessary to enhance labor laws, labor contract laws, and related regulations and policies. Given the complexity of employment models in the platform economy, after establishing labor standards, a differentiated and tiered rights protection system should be created for workers across different industries, positions, and employment models to meet the needs of various workers [16].

#### **4.4. Strengthening Corporate Social Responsibility**

Enterprises must change the management concept, adjust the management mode, to assume certain social responsibility. 2005 revision of the People's Republic of China Company Law, Article 5 proposed: “companies engaged in business activities must comply with the laws, administrative regulations, comply with social morality, business ethics and honesty and trustworthiness, to accept the Government and the public to assume social responsibility for the supervision.” Therefore, enterprises should take the initiative to assume certain social responsibility while pursuing profit maximization.

The lack of self-regulation of private enterprises has led to the prevalence of a responsibility gap between corporate social responsibility and the needs of employees, and from the current situation, the gap between corporate social responsibility and the needs of employees is widespread, and from the current situation, the gap is large.

According to Luhmann, systemic “regulation is always systemic self-regulation” [17]. And systemic evolution can only occur in one way: within the system-- “aiming to change the power within the subsystem under discussion and requiring strong power support from the outside”, developing self-limiting and internally democratizing normative forms and strong power support, developing normative forms of self-limitation and internal democratization [18]. In the case of economic systems, the preferred solution to the issue of corporate responsibility for human rights lies within the economic system itself.

Enterprises can only be socially responsible if they actively adapt to the democratization movement in the “spontaneous sphere”. This relies on the fact that “reflection can only be realized in social subsystems if the structure of negotiation is generated in them [19]”. Enterprises need to establish mechanisms for communicating with workers on an equal footing, and communication is a ‘structure of opportunity’ that provides a normative basis for the law to define the bottom line, the procedures and the basic guidelines for communication when enterprises are directly confronted with



the pressures of consumers, laborers and other stakeholders. At the same time, the enterprise itself also needs to be transformed internally, sound and more perfect decision-making mechanism, should not just focus on the pursuit of economic interests, but should look at the long term, pay attention to the labor hardship.

In addition, the government must pay attention to the leadership of the development trend of enterprises, regulate the behavior of enterprises through legislation, and promote healthy competition among enterprises in the practice of social responsibility.

## 5. Conclusion

In conclusion, this essay outlines the reasons behind the Foxconn mass suicides and discusses the human rights of workers, analyzing in depth that such incidents occur due to ineffective law enforcement. This essay explores the factors behind the impact of law enforcement and also gives some feasible options. This essay highlight that China should implement rigorous and transparent enforcement mechanisms for its labor and human rights protections.

Under this incident, it also reflects the real face of the grass-roots workers in today's society, whose rights are not well protected. The issues reflected in the Foxconn incident highlight the current state of human rights protection. Workers remain in a significantly vulnerable position compared to capitalists. This disparity underscores the urgent demand for enhanced human rights safeguards. To prevent similar occurrences in the future, it requires not only the adjustment of the workers but also the collaborative efforts of the state, corporations, and other societal forces.

Moving forwards, there is still a long way to go to improve the human rights protection system in China's judicial practice, The traditional subject of human rights guarantees is the State, yet it is often difficult for the State to regulating and safeguarding human rights violations on specific grounds. This is the result of a combination of forces, including business, government, and decision-making leaders. In terms of long-term interests, in addition to generating profits and maximizing profits, they should take the initiative to assume social responsibility in accordance with the law, eliminate negative externalities as far as possible, and create social welfare.

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