

Analysis and Application of Labor Standard in Countries along the "Belt and Road Initiative"

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Abstract: As the initiator and host of the "Belt and Road Initiative" Economic Zone, China is increasingly aware of the importance of international labor standards in today's increasingly developed international trade. In order to promote economic and trade cooperation among countries along the "Belt and Road Initiative", this paper summarizes the current situation and dilemmas of the application of existing international labor standards including the soft-law barriers and institutional dilemmas of existing international labor standards. This paper also points out that some countries take advantage of the complexity and political nature of labor standards to impose trade sanctions and tariffs on developing countries and other blue trade barriers. In addition, the paper also identifies feasible ways to improve international labor standards and apply them to the "Belt and Road Initiative" Silk Economic Belt. China should develop international labor standards with the characteristics of the "Belt and Road Initiative" economy. China should establish a preventive mechanism for blue trade barriers, align the "Belt and Road Initiative" rights protection system with international standards. China should also refine the rules for the use of social provisions under the "Belt and Road Initiative" coordination mechanism, improve trade cooperation with countries along the "Belt and Road Initiative". Finally, China should improve national labor standards, and seek better welfare for laborers along the "Belt and Road Initiative".

Keywords: labor standards, "Belt and Road Initiative", blue trade barriers

1. Introduction

With the rapid development of economic globalization and the continuous adjustment of the world's industrial structure, emerging developing countries have gradually changed from exporting primary agricultural products to exporting labor-intensive and low-technology products. Labor-intensive industrial chains have also shifted from developed countries to developing countries with low labor costs. As some developed countries are unable to absorb the low-skilled labor left behind in the shrinking labor-intensive industries, this in turn leads to the emergence of a large number of structural unemployment groups. In order to alleviate such unemployment, some developed countries started to use "labor standards" to achieve their own trade protection purposes. In addition, due to the imperfect and unsound labor legal system in most developing countries, developed countries often use the "assembly", "association" and "strike" in labor standards to protect their trade. As most developing

countries have perfect labor laws, developed countries tend to use "assembly", "association" and "strike" in labor standards with political tendency to achieve "political dumping" on developing countries. Therefore, the power standards originally considered for the majority of international labor become political tools of some countries.

As the initiator of the "Belt and Road Initiative" Initiative, China should play a leading role in the "Belt and Road Initiative" trade. Therefore, China should actively explore to rationalize, legalize and depoliticize labor standards. Every country should apply labor standards to the oppressed and exploited civilians in sweatshops. To make "labor standards of the "Belt and Road Initiative" Initiative" a real weapon to defend workers' rights and a cornerstone for the development and growth of Chinese and foreign enterprises. At present, there are three ways to classify labor standards in the academic field. One is to classify labor standards into "political", "economic" and "social" according to the degree of acceptance of labor standards by the international community [1]. The second is to classify the labor standards of developed and developing countries based on "whether international labor standards are linked to international trade" [2]. Thirdly, labor standards are classified into "preamble", "special provisions" and "subsidiary documents" according to the compulsory power and flexibility of labor protection provisions [3]. This paper mainly adopts the literature research method and comparative analysis method to investigate and analyze the labor standards model exploration and application of the countries along the "Belt and Road Initiative" in investment, and on the basis of which the following conclusions are drawn. In the face of the issue of whether labor standards should be linked with trade, China should adhere to the united front with the majority of developing countries to protect their own interests. In the face of the different national conditions of different countries, the labor standards formulated in the process of "Belt and Road Initiative" cooperation can be legalized by adding annexes and other forms to increase their legal enforcement. In the implementation of the "Belt and Road Initiative" labor standards, enterprises should take more social responsibility, and labor supervisory organizations with long-term conversation mechanisms should be established between the two countries to correct or fight against enterprises and some violations of labor standards.

2. Difficulties in the Application of Labor Standards in the Countries along the "Belt and Road Initiative" Investment

2.1. Soft Law Obstacles to the Implementation of International Labor Standards

The soft law nature of the international labor law established by the International Labor Organization makes it difficult for it to intervene strongly in the member countries of the convention. Most of the labor provisions in the relevant treaties are vague primary rules dealing only with basic human rights, and rarely involve more specific secondary rules [4]. In other words, the rules of international labor law cannot solve many problems faced by the majority of workers in various countries including poor working conditions, low wages, and lack of labor protection conditions in high-risk operations, etc. Nearly 90% of the existing labor provisions cover only the most basic four core labor standards.

In addition, the effectiveness of labor standards set by the International Labor Organization often comes from the supervision and investigation of countries that have signed international conventions. However, there is a lack of enforcement power in the process of monitoring and investigation. For instance, it is not possible to impose strong disciplinary measures on natural or legal persons who violate labor laws, as governments and their enforcement agencies do. Moreover, the ILO's supervision often lacks effective channels, and international organizations have no way to know the real situation of labor's working environment and work content, and labor has no way to know how to use international organizations to defend their rights. Among the countries participating in international conventions, few domestic workers or legal persons have filed complaints with the ILO. This results in international labor standards having little effect on protecting workers in member countries.

2.2. Institutional Dilemma of International Labor Standards

When international labor standards are formulated, it is difficult to take into account the actual situation of developed and developing countries. In the process of practical application, there is often a mismatch between labor standards and national systems. If lower labor standards are set, international labor standards that merely provide for basic human rights are nothing for workers in developed countries based on their higher wage levels and welfare benefits. Therefore, the labor disputes faced by workers in developed countries should be better suited to economic labor standards. Because it provides for more detailed and specific working conditions, working conditions and welfare levels. However, higher labor standards are better for workers in developing countries due to their own economic conditions. The higher labor standards are difficult for developing countries to achieve in a short period of time due to their own economic development constraints. For example, in some backward countries in Southeast Asia and Asia, Africa and Latin America, the children in their families work to maintain the basic needs of their families. If they are restricted by the abolition of child labor, the children in these regions are likely to lose their safe and legal jobs to illegal and more dangerous jobs. This dilemma, based on the economic system, makes it difficult to promote and apply uniform labor standards, which is referred to as the institutional dilemma of international labor standards.

2.3. The Problem of Blue Trade Barriers that Developed Countries Use Labor Standards to Restrict Developing Countries

As the labor cost in developed countries is higher than that in developing countries, developed countries lose the competitive advantage of cheap labor, and a large number of manufacturing enterprises and multinational companies choose to leave developed countries and move to developing countries with cheaper labor cost. The loss of a large number of labor-intensive industries in developed countries has led to a sharp increase in the number of unemployed people. Followed by the encroachment and crowding of the market by labor products made by developing countries that are cheaper than their own products. This result in the developed countries completely loss the competitive advantage of their cheap labor products. As a result, developed countries believe that developing countries are dumping their labor products, so they impose certain labor standards in trade agreements to limit the advantage of cheap labor in developing countries.

In contrast, developing countries are experiencing the economic growth stage of rapid upgrading and development of the manufacturing industry, and it is difficult for developing countries to part with the manufacturing industry as a boost to their economic development. It is difficult to solve the large-scale labor rights problems in a short time due to the imperfect legal system in their countries. Once the countries to which they export impose economic sanctions on them for violating labor human rights, or set up obstacles in trade, it will be a devastating blow to the industrial chain of developing countries.

In addition, the labor clause inevitably contains a certain political color because it involves human rights and other factors. For example, the Xinjiang cotton labor human rights case in China. This example shows that once a certain country sets a certain labor standard, this is used as an interface to accuse low-labor cost countries of importing products for oppressing labor attributes. They force exporting countries to accept the value system followed by the importing country, interfering in the politics of other countries [5]. Then labor standards may be transformed from a provision for the protection of labor rights into a political tool for developed countries to promote hegemony.

3. Analysis and Development of the Problem

3.1. Exploring the Importance, Rationality and Possibilities of National Labor Standards Models

In terms of importance, it is reflected in three aspects. Firstly, it is conducive to improving the treatment of labor in countries along the "Belt and Road Initiative". Different countries have different legal origins and different applicable laws, and the welfare treatment of laborers varies from country to country [6]. To general speaking, non-welfare countries or countries with imperfect labor laws usually have a lower treatment of labor. Taking Vietnam as an example, the signing of CPTPP and EVFTA has promoted the reform of Vietnam's labor law, and the reformed Vietnam has strengthened the protection of workers in labor contracts, working hours, protection of women's rights and interests, freedom of association and collective bargaining rights [7]. Secondly, it is conducive to protecting the labor treatment of China's overseas workers working abroad. Take Singapore as an example. The main labor rights dilemma faced by Chinese workers working in Singapore is the "work permit system tied to specific employers". This system hinders the flexibility of workers and restricts them to working with employers; and the collusion between the supervisory unit and the agency to obtain agency fees [8]. If corresponding regulations on labor rights and interests are included in the relevant trade cooperation treaties, it will be conducive to alleviating the labor hardship faced by China's overseas workers. Thirdly, it is conducive to the development of China's foreign investment trade. According to the research, the capital of the investing countries tends to flow into countries with a more similar system and culture or with higher labor standards. China, as a major country of "Belt and Road Initiative" investment, is more likely to drive the labor participation rate of the members of the invested countries by stipulating certain standard labor terms through trade agreements, which will improve national productivity and promote the increase of international trade volume.

As for the rationality, this paper believes that it can be divided into two points. One is that labor standards protect the basic rights of workers as human beings. The purpose of labor standards is to protect the basic rights of workers including the prohibition of forced labor, the prohibition of child labor, the right to association and collective bargaining, and the prohibition of discrimination in employment. Some labor standards also include the protection of other labor conditions, including employment policies, working hours, pay and benefits, occupational safety and health, and social welfare protection [9]. Secondly, economic development should be people-oriented. As a responsible country, China should shoulder the people-oriented governance concept. China should know the implementation of labor regulations is not only conducive to enhancing China's international image abroad, but also conducive to China's foreign investment business. A reasonable labor protection provisions can effectively prevent countries in economically underdeveloped regions from enhancing their competitiveness by lowering labor human rights protection.

Regarding the possibility of implementing the "Belt and Road Initiative" labor standards, it mainly comes from the opportunities brought by the development of economic globalization. With the continuous development of globalization, various countries have joined many international economic organizations and signed many international trade treaties in order to actively engage in international trade. The developed countries, led by Europe and the United States, tend to agree on labor clauses in the treaties, not only to protect both sides of trade, but also to prevent developing countries from achieving vicious competition by depressing labor costs. Therefore, the application of certain labor standards to countries along the "Belt and Road Initiative" can promote a virtuous cycle of international trade.

3.2. Specific Analysis of the Reasons

In this paper, the reasons that make the existing international labor standards difficult to implement, difficult to apply and easy to be politically exploited by a few countries are mainly the following two points. Firstly, the International Labor Organization (ILO) does not have an enforcing power to enforce the law. The International Labor Organization is still only an ordinary international organization, which has no right and obligation to enforce national measures, so it can only monitor, recommend and condemn countries that violate certain labor standards. Even if the organization has enforcement organs, the large scope of countries is beyond the reach of the ILO.

The second point is the lagging nature of international labor standard provisions. Most of the international treaties containing labor provisions signed and adopted by most countries only agree on core labor standards, and very few countries are willing to agree to ratify international treaties containing economic labor standards. This has forced international treaties to make deletions and changes in the content of their provisions in order to be accepted by most countries. These redacted treaties often regulate only the most basic violations of human rights, such as forced labor and child labor. In addition, it is difficult for the International Labor Organization to conduct country visits to set labor standards according to the country's situation when establishing labor provisions.

4. The General Path to Improve Labour Standards

4.1. Establishing Labour Standards with the Characteristics of "Belt and Road Initiative"

First of all, China should take the four core labour standards as the main body, and actively play a leading role in the "Belt and Road Initiative" cooperation. According to the different levels of economic development of the countries along the route, cultural differences, differences in laws and regulations, and other special circumstances, and adhere to the principle of cooperation, and establish a labour standard model with the characteristics of the "Belt and Road Initiative" through the formulation of multilateral trade agreements. China should also adhere to the principle of cooperation and establish a labour standard model with the characteristics of the "Belt and Road Initiative" through multilateral trade agreements, so as to ensure that our labour standards model can be accepted and observed by all parties. Secondly, the agreement should reflect the importance of core labour standards. In the current process of labour provisions in global trade, respect for labour standards in trade agreements is seen as a sign of fair trade [10]. Therefore, in order to create a favourable international political environment for Chinese companies overseas, China should explicitly pay attention to local labour, environment and other social issues when signing terms and conditions with countries along the "Belt and Road Initiative", and proactively include core labour provisions in future negotiations. This will demonstrate that the "Belt and Road Initiative" adheres to the core labour standards of the International Labour Organisation. Finally, labour standards should be based on the principle of cooperation as advocated by the "Belt and Road Initiative" Initiative. The principle of cooperation should be integrated throughout the labour provisions. Two factors need to be taken into account. Firstly, there are many developing countries along the "Belt and Road Initiative". An excessive focus on the relationship between labour standards and international trade may make negotiations more difficult and may lead to interference in the legislative sovereignty of other countries and trade protectionism [10]. Secondly, according to the spirit of the "Vision and Action for Promoting the Construction of the Silk Road Economic Belt and the 21st Century Maritime Silk Road", the "Belt and Road Initiative" should adhere to the principle of "common consultation" and "common construction" and "The principle of "sharing". Therefore, when formulating specific labour provisions, China ought to take into account the actual situation of the "Belt and Road Initiative" cooperation and develop labour standards with special characteristics. Especially in view of the fact that most of the countries

along the route are still at a developing level and the inadequate labour legal systems of developing countries, this kind of approach will help ensure the fairness and feasibility of labour provisions. Such an approach will help ensure the fairness and viability of labour provisions.

4.2. Strengthening the Supporting Mechanisms for Labour Standards in the "Belt and Road Initiative"

Firstly, China should draw on the labour provisions of free trade and investment agreements (FTAs). The labour provisions of free trade and investment agreements and their application reflect the "community of human destiny" in which countries and regions share a common destiny and "build, negotiate and share together". The "community of human destiny" has a profound connotation. At the same time, a people-centred view of trade is established, and the labour provisions of FTAs aim to promote "social justice" and "equity", which is in line with the continuous improvement of labour rights protection around core labour standards [11]. Therefore, in the "One Belt, One Road" cooperation, economic interests and workers' rights and interests should be closely integrated. At first, the state should actively take measures to protect workers, improve labour conditions in the country, and adjust the domestic Labour Law in accordance with international labour standards and the actual situation in China to strengthen enforcement. Moreover, enterprises should implement the concept of labour protection and strictly comply with national labour laws and regulations, while recognising that compromising labour rights and interests to reduce costs is not the way to sustainable development. Secondly, China should build a blue trade barriers system for the "Belt and Road Initiative". Specifically, one is to establish a preventive mechanism for blue trade barriers. Relevant departments should make full use of various channels to collect and track information on blue trade barriers in countries along the "Belt and Road Initiative". At the same time, they ought to take advantage of international institutions to establish information centres and databases on blue trade barriers along the "Belt and Road Initiative", and between the government, industry associations and enterprises. The government, industry associations and enterprises should share and communicate information, reflect the situation in a timely manner and improve the relevant measures. Secondly, China should improve the research and coordination management mechanism of anti-blue trade barriers [12]. China should strengthen the publicity, training and popularisation of the SA8000 standard, speed up the training of specialists, and summarise the experience and lessons learned by domestic and foreign enterprises in breaking through the blue barriers. Thirdly, China must establish a standard system that is in line with international standards, such as organising specialised agencies to study international labour standards, including the SA8000 standard. Combine the specific conditions of the countries along the route and apply a practical system.

Secondly, China should establish a system for the protection of rights along the "Belt and Road Initiative". As the leading country in the "Belt and Road Initiative" cooperation, China should work with other member states to clarify and refine the rules for the use of the "social clause" under the coordination mechanism of the "Belt and Road Initiative". It should be stressed that there should be no abuse and no country-specific discrimination. The foreign trade sector should actively participate in the development and improvement of the SA8000 standard. In the light of the economic and social development of each country, it is important to actively participate in the discussions of the International Labour Organisation (ILO) on labour standards and economic globalization. Try to resist the discriminatory policies of developed countries in order to protect the smooth development of trade in the "Belt and Road Initiative" cooperation. It is also important to avoid labour standards becoming a tool for developed countries to restrict the economic development of developing countries. The appropriate approach for developing country governments is, first and foremost, to link labour standards to international trade. In this process, the governments of developing countries along the "Belt and Road Initiative" will receive support from a variety of sources, including trade unions, enterprises

and workers, which will be crucial in reaching agreements that are favourable to developing countries. At the same time, developing countries should also negotiate with their trading partners along the "Belt and Road Initiative" to ensure cooperation and support for the implementation of the four core labour standards. In addition, developing countries should take concerted action to achieve common goals and improve labour standards in the context of the "Belt and Road Initiative" cooperation.

5. Conclusion

This paper examines the issue of labour standards in countries along the "Belt and Road Initiative". It focuses on the difficulties of applying international labour standards in developing countries including the difficulty of balancing the realities of developed and developing countries, and the problems of avoiding the use of labour standards by developed countries to create blue trade barriers.

In response to these problems, this paper suggests that the lack of enforcement power of the ILO and the lagging nature of international labour standards provisions are the causes of these problems. The paper also proposes the following solutions. The first measure of establishing labour standards with the characteristics of "Belt and Road Initiative" with the core labour standards as the main body and cooperation as the basic principle should be taken. Furthermore, a labour rights protection system based on the labour provisions of free trade and investment agreements should be established to strengthen the supporting mechanism of "Belt and Road Initiative".

The significance of this paper is to explore the dilemmas of labour standards in the "Belt and Road Initiative", and to develop a universal labour standard model for "Belt and Road Initiative" investments in response to these dilemmas to provide a more comprehensive model of labour standards for countries along the "Belt and Road Initiative". This will provide a reasonable reference for countries along the "Belt and Road Initiative", and enable the government, enterprises and labour to participate in the process of cooperation in different areas of the "Belt and Road Initiative".

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