Reasons and Suggestions of Human Rights Violations Committed by MNEs

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Abstract. Throughout the years, there are more and more businesses have been violating human rights, specifically Multinational Enterprises (MNEs)-businesses that operate in many countries. MNEs have been violating human rights in host countries by making labours work for many hours with a low wage, abusing and employing children, there have been more and more cases that have been recognised, and more and more people are speaking up. This paper aims to discover the problems of MNE violating human rights. It will analyze the reasons for MNE violating human rights, efforts on regulation, and suggestions on how the issue of violating human rights could be solved. This paper could allow people to recognise the problem, which helps to solve the problem of MNE violating human rights. It is originating that MNEs are violating human rights because there is no obligation in this area which it should be, and there should be due diligence law in place to allow people to access justice easily and quicker.

Keywords: Obligation, MNE, Human Rights.

1. Introduction

"[My] batch supervisor came up behind me as I was working on the sewing machine, yelling, 'You are not meeting your target production.' He pulled me out of the chair, and I fell on the floor. He hit me, including on my breasts. He pulled me up and then pushed me to the floor again [and] kicked me." [1] This is from a woman working in the supply chain for one of the biggest multinational enterprises - H&M in India, reported by the Guardian newspaper. A MNE (Multinational Enterprise) - is a whole organisation that has multi-companies under a different law. They have enterprise that produce goods or sells goods in another country other than its home country. For example, GAP and H&M are multinational clothing enterprises because they are producing their clothes in multiple countries' factories and selling their clothing in multiple countries. In recent years, newspapers have exposed different multinational enterprise mistreating their labours in the supply chain, such as the case that has been mentioned. MNE is violating labour rights. Because there is no obligation in this area, not putting money into the supply chain and hard to access justice in the home country. Though there are guidance from United Nations, OECD (Organization for Economic Co-operation and Development), ILO (International Labour Organization) to help in this area, and European lawmakers working with EEC (European Economic Community) to balance out MNE's power. The way to solve the problem is by having obligations in this area.

This paper will explore on problems causing MNE to contravene labour rights, efforts to protect human rights, and suggestions to solve the problem. It is essential to understand the underlying reasons for the refusal of multinational companies to comply with relevant regulations on Labour rights, to better solve the problem of labour interests, when conducting relevant research, researchers need to understand what violations of labour rights have been done by multinational companies, or what potential processes are underway that may violate labour rights. Only when the researchers have sorted out the above problems can they better carry out the follow-up improvement measures to ensure labour rights. In the following part, it will analyze the problems such as no obligation in the area and employing vulnerable people. Moreover, the efforts that the world organisations have made and the future suggestions regarding the regulations on MNEs' labour rights responsibility will be discussed.

2. Reasons for Labour Rights Violation

2.1. Deficiencies in Legislation

The problems causing multinational enterprises to violate labour rights lies in the deficiency in legislation. One of the biggest issues is that there is no obligation in this area which means that labour rights are not adequately protected by the government, and if MNE violates labour rights there is no punishment. For example, forcing labour to work for longer hours but giving them the same pay is violating labour rights but because there is no obligation in this area means that it is not illegal to do it, thus MNEs may take the loophole in the law.

2.2. MNEs' economic interests

The second reason is that they are not investing more money in the supply chain. The MNE is employing vulnerable people from rural areas that need money. There are 190 million women working in the supply chain [2, 3] and over a 168million children working in the supply chain as child labours which is illegal [4]. These people working in the supply chain have two characteristics — low educated and poor, so they will grab on to any opportunity to earn money. Even if it's not that much they will still do the job for their family. This causes when the supply chain gives them such a little amount of money and wants them to work a large amount of time, mistreating them. They will not speak up because they want to hold on to the opportunity to earn money and because they are the minority group, so they are afraid to speak up. For example, in Palestine, hundreds of children that are only 13 or 14 years old or even younger work in farms that have extremely hot weather and dangerous equipment to earn 19 US dollars a day. To earn this money, many of them drop out of school. They pick and clean asparagus, tomatoes, onions, and other vegetables, which will be exported to the USA or Europe. They start working from 5:30 AM or 6:00 AM in the morning, working around 8 hours a day, 6 to 7 days a week, and when it is peak harvest period, a lot of them work up to 12 hours a day, over 60 hours a week [5]. The supply chain is employing children that are only around 12 years old, that need to work for 8 hours a day and sometimes to 12 hours a day, only earning 19 dollars a day. They are not speaking up for themselves because they come from rural areas, and they need this money for their family. Also, an H&M factory in India Tamil Nadu, a 21-year-old woman called Jeyasre Kathiravel was murdered and found on a field near her house. Before her death, there was much pressure on her because she needed to finish about 1000 items which was much work, and she faced a lot of sexual violence and verbal abuse. A lot of other women working for the H&M supply chain experienced the same situation, but they are afraid to speak up because they do not want to lose their jobs since they need to earn money for their family and relatives [6]. At the same time, it will also benefit the multinational enterprise as they can save money. They do not need to pay high wages to their labours and have people working for them. This is a reason why they like to set up factories in undeveloped countries and rural areas.

In addition, MNE's are not investing money in the supply chain can also cause bad working conditions. A lot of MNE do not put a lot of money in the supply chain, so the factories that workers work in have safety hazards. For example, on 24th April 2013, the Raza Plaza building, which have factories producing clothing for a clothing business that is MNE in Dhaka, Bangladesh, collapsed, killed 1132 people, and injured more than 2500 people [7]. Not putting money into the supply chain led to the bad working condition causing all of this. Most factories did not meet the standards that are required by the building and construction legislation.

2.3. Host countries' regulation

The third reason is that there is limited access to justice in the home country; it is a problem because it is very expensive for people to do so, which makes people not choose to do so and due diligence law — the home country controls the MNE when they do something bad in another country only France has this law so it is very hard to do and the law is not popularised yet [8].

3. Efforts in Regulation

3.1. The European lawmakers are working with the EEC to balance the power of MNE's

Firstly, the European Lawmakers are working closely with the EEC (European Economic Community) to regulate a structure to balance the power of MNE making decisions and the responsibility of its workforce. The proposed legislation is the procedures to employ and consult the employee. They need to reveal relevant information that is to do with labour rights and must inform the EEC before making any changes or decisions on workers' job [9]. This is a very good way to prevent MNE from invading labour rights because they need to show everything that they are doing with their labours so it can stop them from doing anything harmful to their labours, and the EEC is in the middle of stopping anything bad happening since they need to consult what they are doing if they are doing anything bad the EEC can stop them.

3.2. The UN made the "The UN Guiding Principles on Business and Human Rights"

Secondly, on 16 June 2011, the United Nations had guidance to protect human rights in business - "The UN Guiding Principles on Business and Human Rights" it contains three parts that it wants businesses to do — protect, respect and remedy [10]. Protect is that under existing international human rights law to protect human rights in business, which means the state needs to punish a business that is violating human rights. The state should set standards when they register that they need to protect human rights and have a suitable environment for humans to work. Respect human rights, the state should check if the policies are functioning, the state should give out instructions to companies. When there is conflict, the state should guarantee there is no violence. Lastly remedy, when human rights are violated, the government should step in and take appropriate actions such as taking it to court, and there should not be any barriers, such as fees that could stop victims from speaking up [11]. Overall, this guidance shows what states need to do to businesses to protect labour rights which is very helpful because states can follow the guidance to restrict businesses and help human rights.

3.3. OECD guidelines

Thirdly, there are OECD guidelines to ensure MNE are following the policies and social expectations in the country that they are running their business. These guidelines are suggested by countries that adhere to the guidelines, there are 33 countries that adhere to the guidelines, so they will ensure all MNE's in their country are following the guidelines. The guidelines aim to prevent any misunderstanding and to make a healthy and confident space for business, and labour [12]. This is very helpful because it can make sure MNE is following the human right laws in the country they are running their business, and because there are guidelines that show what rights labour have, it can reduce the number of companies interfering with human rights since they must follow the guidelines.

3.4. The Tripartite Declaration

Lastly, there is the Tripartite Declaration, which is the only global instrument in this area, the only instrument that governments use. It was formed 40 years ago, and the most recent change to the guidance was in 2017 [13]. It is for the MNE's, the government in the home country and host country [13], and employers. It offers guidelines in employment, training, workers' life, condition, and the relationship between MNE and workers. The aim of it is to give everyone an everyday work life and all the rights at work which is essential for humans [14]. Overall, it is a beneficial declaration because it can give instructions to the government on how to protect labour rights, give instructions to the MNE on how to not violate labour rights, and how to protect labour rights.

4. Suggestions

4.1. Have international organizations to set up obligation

First, it is believed the most critical step in protecting human rights is to have international organizations set up obligations in this area because having obligation in human rights means that when MNE's contravene the employees labour rights, the employee can bring the case to court and the problem can be solved. For now, there is no obligation in this area which means that MNE will not be punished by the state even though they violated the employee labour rights. The problems such as abusing workers, employing children, and factories collapsing can all be sorted out because there will be an obligation, MNE would be forced not to employ children, putting more money in the supply chain if they do not do so, they could be punished so MNE would work hard to prevent any of this happening.

4.2. Host countries should set up obligations

Secondly, host countries should include more and more laws to protect human rights to prevent labours from getting exploited by MNE. Not only laws but easy to get justice, host countries should have equal rights to protect human rights, to allow citizens to access justice not only in the host country but also easy to access justice in their home country.

4.3. Home countries should introduce Due Diligence law

Next, home countries should introduce Due Diligence law so everyone can access justice easily when the MNE violates labour in the host country, the people can get justice from a home country, which can protect labours because MNE would know they should not exploit labours.

4.4. Companies should invest more money on the supply chain

For the final potential solution, companies should invest more money in the supply chain and have full control of the supply chain. Hire more people when there is a load amount of work, and have a safe factory for people to work. Not only invest more money but also have complete control because the factories are in the host country, so other people in the host country take over and manage, so they will exploit labours and abuse them since MNEs might choose to acquiesce for profit reasons. For the company, they should regularly check on the factories to prevent the managers in host countries from abusing labours.

5. Conclusion

To conclude, the problems in labour rights are that there is no acknowledged obligation in this area. MNE not investing money in the supply chain, thus will be challenging to get access to justice in the home country. However, what has been applied is that the ILO has written the tripartite declaration, United Nations have written the "THE UN Guiding Principles on Business and Human Rights", and European lawmakers have been working hard they have been working closely with the EEC to balance out MNE power and OECD guidelines they are all trying to help in all kinds of ways such as giving guidelines out in how to protect labour rights. The most sufficient way to protect labour rights in MNE is to have an obligation. This is one of the ways to prevent all the problems and having due diligence law in place is helpful to protect human rights. At the same time, international, host and home countries should work together to improve the relevant laws and strictly enforce them in order to protect the rights and interests of the people.

References

[1] Hodal, Kate. “Abuse Is Daily Reality for Female Garment Workers for Gap and H&M, Says Report.” The Guardian, 5 June 2018, www.theguardian.com/global-development/2018/jun/05/female-garment-workers-gap-hm-south-asia.

[2] University, Stanford. “Reimagining More Just, Equitable Global Supply Chains.” Stanford News, 20 Dec. 2021, news.stanford.edu/2021/12/20/reimagining-just-equitable-global-supply-chains/.

[3] “Gender Equality in Global Supply Chains | Ethical Trading Initiative.” Www.ethicaltrade.org, www.ethicaltrade.org/issues/gender-equality-global-supply-chains.

[4] “Human Rights in Supply Chains.” Human Rights Watch, 30 May 2016, www.hrw.org/report/2016/05/30/human-rights-supply-chains/call-binding-global-standard-due-diligence.

[5] “Ripe for Abuse.” Human Rights Watch, 13 Apr. 2015, www.hrw.org/report/2015/04/13/ripe-abuse/palestinian-child-labor-israeli-agricultural-settlements-west-bank.

[6] Kelly, Annie. “Female Workers at H&M Supplier in India Allege Widespread Sexual Violence.” The Guardian, 9 Mar. 2021, www.theguardian.com/global-development/2021/mar/09/female-workers-at-hm-supplier-in-india-allege-widespread-sexual-violence.

[7] International Labour Organization. “The Rana Plaza Accident and Its Aftermath.” International Labour Organization, 21 Dec. 2017, www.ilo.org/global/topics/geip/WCMS_614394/lang--en/index.htm.

[8] Kryvoi, Yarik, Enforcing Labor Rights Against Multinational Corporate Groups in Europe. Industrial Relations: A Journal of Economy and Society, 2007, 46(2): 366-386.

[9] Pultz, George, Multinational Regulation of MNE Labor Relations. Boston College International and Comparative Law Review, 1981, 4(2): 409-451.

[10] “A. United Nations Guiding Principles on Business and Human Rights.” Privacy International, privacyinternational.org/key-resources/4895/united-nations-guiding-principles-business-and-human-rights.

[11] OHCHR, “THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS”, https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf.

[12] The OECD Guidelines for Multinational Enterprises and Global Instruments for Corporate Responsibility BACKGROUND and ISSUES PAPER the OECD Guidelines for Multinational Enterprises and Global Instruments for Corporate Responsibility BACKGROUND and ISSUES PAPER. 2001.https://static.us.edusercontent.com/files/Sb5okumxQCJZsdQTIZVVcCIr.

[13] “Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration) - 5th Edition (2017) (ENTERPRISES).” www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm.

[14] Diller, Janelle M. “ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.” International Legal Materials, 2002, 41(1): 184-201.