

IMPACT OF NEW-GENERATION FREE TRADE AGREEMENTS FOR HUMAN SECURITY IN THE LABOR SECTOR IN VIETNAM

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Abstract -The world's political, economic, and social situations are constantly changing, which has a significant impact on guaranteeing human security today. In the realm of labor, employer activities of violating, using force, or threatening to use force have a detrimental influence on employee human security, particularly when Vietnam implements new-generation Free Trade Agreements (FTAs). The author explains the broad issues of human security and human security in the realm of labor in this paper, focusing on two obligations relating to forced labor and child labor in the new-generation FTAs. Analyze the present scenario and provide remedies to these contents from there.

Keywords: Human security; Forced labor; Child labor; New-generation FTAs.

INTRODUCTION

Human security and human security have become one of the topics that have grabbed the attention of many countries throughout the world in recent decades. Vietnam is not immune to this overall trend. Human security is linked to other issues such as national stability, wealth, and progress. Globalization has increased the number of dangers to human security that affect a significant number of people (such as financial crises, epidemics, and environmental damage).

Human security presents challenges for each population group so that the state and society can construct a political, social, and cultural framework... to ensure that basic human rights are legal under international and national law. Employees are concerned about guaranteeing human security in a variety of contexts, including labor migration, the right to collective bargaining, and the absence of harassment or forced labor at work.

Particularly in the context of globalization, when new-generation free trade agreements are negotiated between nations, the issue of providing human security in the labor field is regarded as one of the most critical points that signatory countries must address. The nations participating in the agreement shall establish a roadmap to evaluate national legal laws to ensure consistency with the signed content, so contributing to better ensuring employees' legitimate rights and interests.

Vietnam has also participated in the negotiation and signing of numerous new-generation free trade agreements. In the context of global labor migration becoming a trend, this is a crucial foundation for Vietnam to integrate into the world economy, defend the rights of workers in particular, and contribute to maintaining human security in general. The writers mainly focus on defining the legal provisions and the real situation on the subject of forced labor and child labor through comparison with international law in this article. Propose some appropriate remedies to the aforementioned challenges in terms of the legal corridor and law enforcement.

CONTENTS

1. Human security and labor-related human security

Diseases, natural disasters, wars, conflicts, pollution, and climate change have all posed new hurdles to human survival and development in recent decades. The impact of these elements is especially obvious and influential in the contemporary setting. Human security studies have been hotly debated around the world since the Cold War's end, owing to the powerful impact of the scientific-technological revolution and the quick and unpredictable changes in global and regional international relations.



Despite numerous definitions, the most general meaning of "human security" in the United Nations Human Development Report 1994 is still cited and utilized as the foundation for human security. The most study is on this subject. This paper clarifies how human security is defined in two ways: First and foremost, people's safety from constant threats such as poverty, disease, and oppression. Second, being shielded from exceptional hazards in everyday life, such as those encountered in the family, at work, or in society. Such risks can exist at various stages of development and income [13, p.23].

The United Nations also highlights in this Report that everyone should be able to meet their most basic needs and earn a living. This will help to liberate capacity and fully contribute to their individual development as well as the development of the society and country. As a result, "human security" is not a term, according to the UN. A complex concept that mostly conveys the sense of interpersonal solidarity. "It cannot be done by force... It can only happen if we agree that everyone must be involved in development" [13, p.24]. Human security necessitates that countries make reasonable measures to guarantee the necessary conditions for everyone's development in all facets of social life. In the 1994 Human Development Report, the United Nations identified seven key areas of human security, including: (i) Economic security; (ii) Food security; (iii) Health security; (iv) Environmental security; (v) Personal security; (vi) Community security and (vii) Political security.

In the current context of globalization and extensive international economic integration, one of the issues attracting the attention of researchers and policymakers is ensuring human security in the labor field, because the labor force is always a key factor contributing to the socio-economic development of the locality and the country. If this crew is not provided with the required working circumstances, breaches basic human rights, or is forced to labor, it will have a significant impact on the production cycle. The Forced Labor Convention of the International Labor Organization (ILO) of 1930 defines forced labor as "all work or service for which a person is forced to do under the threat of any penalty and are works and services for which the person has not voluntarily performed." Simultaneously, the ILO has identified 11 symptoms of forced labor to help identify persons who may be caught in forced labor and require immediate assistance, including: a) Abusing a worker's situation; b) Deception; c) Restricting travel; d) Isolation; e) Physical and sexual violence; f) Threatening; g) Keeping identification papers; h) Retention of wages; i) Debt dependency; j) Abusing living and working conditions; k) Working overtime in excess of regulations [10].

Aside from forced labor, another worldwide issue that the ILO is warning about is the growing risk of child labor. According to a report by the United Nations International Children's Emergency Fund (UNICEF) and the International Labor Organization (ILO), the number of children aged 5-11 years old who are involved in labor has increased dramatically compared to the previous period, accounting for more than half of all children globally. Furthermore, the number of children aged 5 to 17 who labor in dangerous conditions (employment that endangers their health, safety, or moral development) has climbed by 6.5 million during 2016 to 79 million [8]. The heavy effects of the economic slump, as well as the closure of schools due to the Covid-19 outbreak, may exacerbate the problem of child labor, since many children will confront harsher forms of labor or work for longer periods of time as many families lose jobs and finances [5]. The pandemic has increased the number of children in low-income homes by an estimated 142 million in 2020, a 582 million rise from 2019 [14]. This demonstrates that families might use kid labor as a coping technique in the face of financial and life insecurity [6].

It is clear that, in the face of considerable global economic downturn, natural disasters, epidemics, and conflicts, human security in general, and human security in the labor field in particular, must be maintained. Support and implementation of necessary rules to guarantee that individuals are not injured against threats at any time or place. Human security in the field of labor, in particular, can be defined as the recognition, protection, and assurance of employees' basic rights against the risks of being violated or threatened in the workplace; from there, gradually eliminating forms of forced



labor and child labor in order to contribute to ensuring the life and opportunities for sustainable development of workers.

2. Ensuring human security in the labor sector in the context of new-generation FTAs implementation and the current scenario in Vietnam

In recent years, Vietnam has signed a number of bilateral and multilateral free trade agreements, including two new-generation FTAs, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Free Trade Agreement between Vietnam and the European Union (EVFTA). These new agreements include provisions that go beyond the traditional framework, such as competition policy, the environment, sustainable development, investment, capital movement... and the labor sector, in addition to broader commitments to areas under the jurisdiction and management of the World Trade Organization (WTO).

Many new generation FTAs address labor issues. The main focus of this chapter is the parties' commitment to accept ILO labor standards and a variety of other principles to maintain and enhance working conditions and environments, particularly in developing countries [9]. For example, Chapter 13 of the EVFTA on trade and sustainable development, Article 13.4 on labor standards, and multilateral agreements primarily refer to ILO obligations and the ILO Declaration on Principles and Fundamental Rights at Work and Consequential Actions, which was adopted by the International Labor Conference at its 86th session in 1998. Furthermore, Article 13.4 of the EVFTA requires member states to respect, promote, and effectively implement fundamental rights principles in the workplace, such as: (a) freedom of association and substantive recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labor; (c) the effective elimination of child labor; and (d) the elimination of employment and occupation discrimination. It might be argued that implementing labor obligations in FTAs is not only an opportunity to strengthen domestic policies and regulations, but also a significant task to overcome labor market limits and inadequacies. The present labor legislation in Vietnam, particularly in the sphere of forced labor and child labor, strives to effectively safeguard workers' rights in accordance with international standards, contributing to security, economic stability, and personal security in the workplace.

Concerning the topic of forced labor, up to now, the content of forced labor has been properly and comprehensively regulated in Vietnamese law. In instance, legislators made important modifications to the Labor Code in 2019 when it was revised. Notably, in the situation of forced labor, Article 35 of the present Labor Code gives the employee the right to unilaterally end the labor contract without prior notice. However, when compared to ILO rules, existing labor legislation still has certain discrepancies. For example, Convention No. 29 uses the phrase "forced labor" conceptually, whereas the Vietnam Labor Code 2019 uses the term "exacting forced labour". The distinction between these two names can result in varying interpretations of the material. As a result, "forced labor" as defined by the ILO refers to any work or service that a person is forced to undertake under threat of penalty. Meanwhile, "exacting forced labour" is the use of force, the threat to use force, or other means to induce a worker to work against their will. Furthermore, the current law is still ambiguous, particularly when it comes to recognizing forced labor acts. This will make it harder for law enforcement teams to identify persons who are subjected to forced labor and provide immediate and prompt assistance.

Although there have been many beneficial changes in the recent status of forced labor in Vietnam, there are still a number of incidents of laborers being duped into being sold abroad to work lightly, for large wages, but they are not good enough. During the first six months of 2022, Vietnamese functional forces collaborated with Cambodia to recover about 250 Vietnamese people who had been duped into being sold to Cambodia to work illegally [11]. Furthermore, the condition of nautical labor fraud and forced work on ships persists [12].

Concerning child labor, the present Labor Code does not define "child labor," but it does define "minor workers," as follows: "A minor worker is a worker who is under the age of 18" (Article 143, Vietnam Labor Code 2019). Furthermore, Article 144 of the law specifies the principles of employing juvenile workers, one of which is that juvenile workers can only conduct labor that is



good for their health in order to ensure their physical, mental, and emotional development. Furthermore, the labor legislation specifies a list of light jobs that people between the ages of 13 and 15 can accomplish [2] and forbids the hiring of workers between the ages of 15 and 18 working in environments such as: undersea, underground, caves, tunnels; construction sites... (Article 147, Vietnam Labor Code 2019)

The reality of recent years has revealed that the condition of minor workers working in heavy, hazardous, and dangerous occupations or businesses where minors are barred from employment persists. Many establishments that employ teenage workers do not register with the local labor management agency, making monitoring and supervision difficult [3]. According to the ILO, the General Statistics Office, and the Ministry of Labour, Invalids, and Social Affairs' 2018 National Survey on Child Labor (published in 2020), Vietnam currently has 1,031,944 minor workers aged 5-17, accounting for 5.4% of the total number of children aged 5-17 and 58.8% of children aged 5-17 participating in economic activities. Simultaneously, up to 198,505 children, representing for 19.2% of those working in self-sufficiency, were designated as child laborers because they worked in jobs with heavy, hazardous, and dangerous aspects, which have a negative impact on children's development [7].

3. Some ideas for ensuring human security in the workplace

Recognizing the importance of human security and ensuring human security against negative consequences in the current moment, the Communist Party of Vietnam maintains its theoretical thought on this topic from Congress XII and will pay more attention to it in Congress XIII. This is evident in several of the passages of the Document of the XIII Congress. In particular, our Party determined in the 10-year national development orientation from 2021 to 2030: "Manage social development effectively and clearly, ensure social security and human security" [4, p.116]. The following development tasks and solutions for the country's next five years (2021-2025) are identified: "Strengthening management of social development, ensuring social progress and equity, and sustainability in social policies society, particularly social welfare, social security, and human security" [4, p.147]. Our Party continues to emphasize, in particular, the six key tasks of the term: "Implement well social policies, ensure social security, human security, create strong changes in development management social development, realize social progress and justice, improve the quality of life and happiness index of Vietnamese people" [4, p.202]. To further concretize the Party's ideas and policies on protecting human security in general, and labor security in particular, in the context of implementing new-generation FTAs, the following topics must be addressed:

Firstly, continue to completely comprehend and promote awareness of cadres, party members, officials, and the entire People about the position, role, and meaning of human security, as well as safeguarding human security in the framework of globalization of human security. Human security has been addressed internationally for more than two decades, but in Vietnam, it has only been brought up frequently since the 12th Party Congress. As a result, it is necessary to propagate, disseminate, and introduce content related to human security against global threats such as epidemics, poverty, natural disasters, and so on to all people in society, particularly the heads of Party committees, authorities, and mass organizations.

Secondly, formalize human security issues in each relevant field through programs, policies, and regulations. As previously stated, the United Nations has selected seven areas of attention for global human security. This is regarded as the cornerstone for our Party and State in developing guidelines and policies in each specific subject in the contemporary environment of international integration. Concretization of human security issues is not only the State's role in the process of safeguarding and ensuring human rights and citizens' rights in practice, but also an opportunity to send good messages to the world community in support of a safe, stable, and compassionate national image.

Finally, in order to continue to effectively ensure personal and economic security for employees in the context of implementing new-generation FTAs, Vietnam must continue to review and correct labor-related legal provisions in general, and forced labor and child labor in particular. Implementing labor commitments in new generation FTAs is not only a member state obligation,



but also a requirement for our country to improve working conditions, stabilize incomes, and gradually reduce and eliminate all forms of forced or compulsory labor and child labor throughout the country. Therefore, it is necessary to pay attention to the following specific issues:

- (i) It is necessary to study and amend regulations on the concept of forced labor to be in line with ILO international labor standards;
- (ii) It is recommended to specify and strictly regulate employee overtime limits for some jobs and services in order to limit the situation of labor exploitation and forced labor due to employee threats;
- (iii) Clear regulations on the difference between child labor and children participating in economic activities should be in place to identify and handle appropriately in practice;
- (iv) Review and amend regulations related to administrative sanctions and criminal sanctions in order to limit acts of forced labor and violations of child labor regulations.

CONCLUSION

Forced labor and child labor are just two of the numerous challenges that will continue to jeopardize workers' rights and human security in the context of globalization. As a result, each state and society must have a correct recognition of human security in the sphere of labor, adopting appropriate policies and laws to safeguard workers' rights and contributing to the creation of a team of high-quality human resources to serve the country's development.

Participating in new-generation free trade accords, in particular, is both an opportunity and a challenge for nations like Vietnam. As a result, the State of Vietnam must seize this chance to enhance the domestic working environment, raise worker wages, and implement pay policies to recruit high-quality human resources.

Ensuring human security in general, and labor security in particular, necessitates the engagement of numerous parties, with the State taking the lead in developing a legal framework and ensuring an enforcement mechanism. Labor migration flows are becoming increasingly mobile as a result of globalization. This disrupts each country's demographic condition in terms of living space, population composition, and so forth. Along with difficult-to-control external influences (such as epidemics, environmental degradation, poverty, and so on), each country must improve efforts to effectively govern security, bring material and spiritual stability to the people, and promote mutual development.

REFERENCES

- [1] Viet Nam Labor Code 2019.
- [2] Circular No. 09/2020/TT-BLĐTBXH dated November 12, 2020 of the Minister of Labor, War Invalids and Social Affairs detailing and guiding the implementation of a number of articles of the Labor Code 2019 on juvenile workers.
- [3] Ministry of Labour, Invalids and Social Affairs (2018). *Summary report on the implementation of the Labor Code 2012*. Hanoi.
- [4] Communist Party of Vietnam (2021). *Document of the 13th National Congress of Deputies (Volume 1)*. National Political Publishing House of Truth. Hanoi.
- [5] Human Rights Watch (2021). "I Must Work to Eat": COVID-19, poverty, and child labor in Ghana, Nepal, and Uganda. New York. <https://www.hrw.org/report/2021/05/26/i-must-work-eat/covid-19-poverty-and-child-labor-ghana-nepal-and-uganda>, accessed 13/8/2022.
- [6] International Labor Office and United Nations Children's Fund (2021). *Child Labor: Global estimates 2020, trends and the road forward*, ILO and UNICEF. New York.
- [7] ILO, General Statistics Office and Ministry of Labour, Invalids and Social Affairs (2020). *National Survey on Child Labor 2018*. Hanoi.
- [8] Khanh Linh (2021). *Warning about child labor in the world*. Communist Party of Vietnam Online Newspaper, <https://dangcongsan.vn/the-gioi/nhung-van-de-toan-cau/canh-bao-Tinh-trang-lao-dong-tre-em-tren-the-gioi-582805.html>, accessed on June 01, 2023.
- [9] Nguyen Ngoc Ha (2021). *New Generation Free Trade Agreement - Theory, international experience and practice in Vietnam*. Hanoi National University Publishing House, Ha Noi



- [10] International Labor Organization (2022). *Signs of forced labor by the International Labor Organization, Special Action Program Against Forced Labor*, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_243517.pdf, accessed 13/8/2022.
- [11] Tran Cuong (2022). *The leaders of Vietnamese forced labor in Cambodia, demanding ransom are Chinese subjects*. Youth Electronic Newspaper. <https://thanhvien.vn/cam-dau-cuong-buc-lao-dong-viet-nam-tai-campuchia-doi-tien-chuoc-la-cac-doi-tuong-nguoi-trung-quoc-post1474852.html>, accessed on August 14, 2022.
- [12] VTV24 News Center (2022). *A series of forced laborers on offshore fishing boats*. Vietnam Television. <https://vtv.vn/chuyen-dong-24h/hang-loat-lao-dong-bi-cuong-buc-tren-cac-tau-ca-danh-bat-xa-bo-20180822154007127.htm>, accessed on August 14, 2022.
- [13] UNDP (1994). *Human Development Report 1994*. New York: Oxford University Press
- [14] United Nations Children's Fund and Save the Children (2022). *Children in Monetary Poor Households and COVID-19: Technical note*. UNICEF, New York, November 2020, <https://data.unicef.org/resources/children-in-monetary-poor-households-and-covid-19>, accessed August 13, 2022.