

Globalisation, Occupational Disease and Workers' Abuse in Turkey: A Case Cluster Study Analysis

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Abstract

In the globalized world, occupational health problems continue to appear in the working environment, while new health problems are also being discovered mainly due to low-quality jobs with minimal chance for advancement, precarious employment conditions, high production quotas as well as weak national regulations and lack of monitoring by the state actors. For instance, Turkish legal framework on the protection of the health and safety of employees has significant shortcomings hampering workers' enjoyment of their "rights-to-work". This article analyses a case cluster study conducted on workers in export processing zones (EPZs) who were exposed to subdued employment conditions in their workplaces and abandoned to their own fates subsequent to dismissals by their employers due to their diagnosis of occupational diseases by the occupational health specialists.

Keywords: Developing countries, Occupational Health and Safety, Dismissals, Legal Enforcement, Labour Rights, Human Rights, Multinational Companies, Turkey, Export Processing Zones, Turkey

A. INTRODUCTION

When we evaluate the distribution of income and welfare of more than twenty countries over the last 200 years, it can be easily observed that there is an increasing gap between developed and developing economies, which seem inevitable without major policy changes (Lucchini & London 2014). The globalization, which is proposed as a new model capable of stopping this formidable (Anwar 2003), is defined as a new context for and a new connectivity among economic actors and activities throughout the world, this became possible by dismantling barriers to trade and capital mobility together with fundamental technological advances and by steadily reducing costs of transportation, communication and computing (Annan 2000).

The issue of occupational health and safety (OHS) is strictly linked to the dynamics of the economic globalization (Lucchini & London 2014) and it was suggested that the global economy will be an incentive tool to build and implement a system that protects workers and consumers in developing countries. However, many multinational corporations interpret globalization more as an opportunity to take advantage of free-trade liberalization, low-wage labour, and removal of protective regulations for workers' health and the environment, rather than a contribution to improve health and wealth of the less developed parts of the globe. (Lucchini & London 2014). With the movement of capital and technology, the differences in the business organization can exceed existing national systems for protecting workers' health in the workplace, and this change can give rise to consequences against worker class in developing countries (Lucchini & London 2014, Quilan 2001). Mr. Kofi Annan also expressed these concerns when he said that the global economic structure leads mounting anxiety that the integrity of cultures and the sovereignty of states may be at stake and that even in the most powerful countries people wonder about who is in charge of this process, worry about their jobs, and fear that their voices are drowned out in the globalization sweep (Annan 2000).

There are many findings that support this phenomenon. In the global economic structure, common and frequently seen occupational health problems continue to appear in the working environment, while new health problems also be discovered. The most important reason of this negative picture is that control of employees over the quality and content of the work began to disappear. The work environment and conditions that have undergone structural changes together with new work areas mean that employees are exposed to risks and stress that have never been existing before. Excessive increase in work stress caused by unrealistic production goals, productivity challenges, and overtime work also increase work accidents (Deros *et al.* 2010, Punnet *et al.* 2004). It can even lead to large spectrum of effects, ranging from cardiovascular and psychological disorders to impairment of reproductive function in women. In such conditions, especially digestive disorders, sleep difficulties and musculoskeletal problems are increasingly observed (Tanir *et al.* 2013, Ozcan & Kesiktas 2007, Akter *et al.* 2015, Loewenson 2001). In such working environment, studies with respect to the violation of health and socio-economic rights are mainly focusing on vulnerable groups such as children and women and the effects of flexible working system on the health of workers have become other main research topic (Torres 2001).

Especially export processing zones have been associated with high levels of [occupational] accidents, dusts, noise and toxic chemicals (Loewenson 2001); and even if regular OHS services are provided at workplaces, occupational health problems are not efficiently identified or reporting of occupational diseases may be

insufficient despite workplace inspections (United States General Accounting Office 1993). A representative of the U.S. auto industry once expressed that occupational hazards can be easily observed when worldwide industrial operations are examined. According to the security and health officials of United Auto Workers (UAW), almost half of the injuries and diseases in the U.S. auto industry occurs due to ergonomic hazards in the workplace (United States General Accounting Office 1993).

Moreover, due to rapid changes and innovations in the business world, major challenges arise everywhere for the adaptation of communities, businesses, and workers; technical, social and cultural values change in labour markets and workplaces, and it is suggested that the health problems related to work are affected by this change. New responsibilities such as health monitoring of employees, workplace observance, prevention of health hazards, evaluation of working skills of employees, health examinations of new recruits, risk assessments, generating strategies for promoting health precautions of the workplace emanate for occupational health professionals (Westerholm 2006). These circumstances lead to conflict of interests between employees and the employer on health and safety matters. These conflicts constitute a novel reality confined to the right to work-human rights-ethical value (Westerholm 2006), by comparing the legal norms that regulate the working life of countries and the interpretation of the ethical values applicable in the working life.

In the globalized economic structure, while countries open their borders to facilitate the movement of capital, they also aim to create favourable commercial, legal and social conditions to attract more foreign capital. As a developing country, Turkey has been striving to become a part of the global economic structure since the 1980s. Accordingly, starting from 2000s, Turkey restructured its legal framework (Law on Incentivizing of Investment and Employment 2004, Law on Foreign Direct Investment 2003, Implementation Regulation on Foreign Direct Investment Law 2003), entered into various multilateral and bilateral arrangements, adopted new laws and regulations facilitating inflow of foreign investment and sectoral investment incentives. Through these efforts, Turkey hosts more than 54,493 companies holding foreign capital as of July 2017 (Sozcu Newspaper 2017). It should be noted that there are still international legal mechanisms binding on states, which qualify atypical flexible working arrangements due to globalization as exceptions. The main criteria for assessing the working relations of this globalized world, such as OHS practices and the protection of health, can be found in these legal texts. In this respect, subject to the reference made in the judgments of the European Court of Human Rights (ECHR) and the European Convention on Human Rights, which was ratified by Turkey in 1954, OHS and protection from occupational diseases should be considered within the scope of Article 2 of the ECHR, captioned as the "Right to Life". International Covenant on Economic, Social and Cultural Rights (ICESCR), which entered into force in 1976 and was ratified by Turkey in 2003, manifest the existence of the economic, social and cultural rights of the people. ICESCR states that "in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights". It also requires "the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular safe and healthy working conditions". Article 12 requires states to take steps to improve industrial hygiene so that prevent occupational diseases. When we review relevant texts put forth by the International Labour Organization (ILO) that aim to ensure employee health; we came across that Turkey ratified the Convention No. 155 on Occupational Health and Safety and Working Environment, Convention No. 161 on Occupational Health Services, and recently ratified the Convention concerning the Promotional Framework Convention for Occupational Health and Safety, which stands as a very important progress in making up a deficiency in this field. Additionally, by taking into consideration of the shortcomings in the Turkish Labour Law numbered 5510, Turkey enacted a separate law regulating occupational health and safety (OHS) in 2012 (Law on Work Health and Safety 2012). The aim of this article is to discuss the violation of health and labour rights of employees working in a Turkish export processing zone (EPZ) by taking into consideration of the findings of the case set in Coskun Beyan et al. study (Coskun Beyan *et al.* 2017).

B. CASE CLUSTER STUDY

Coskun Beyan et al., (Coskun Beyan *et al.* 2017) defined a set of cases of employees who were diagnosed as work-related musculoskeletal disorders (WMSD) in a factory of a foreign-owned company operating in automobile industry in a Turkish EPZ. In a company with more than 1000 employees working in a factory that produces auto electrical equipment in a EPZ, 25 male and a total of 36 cases, with an average age of 34.6, were admitted to the clinic consecutively through the Social Security Institution. 34 of the cases were diagnosed with WMSD. All patients reported that health problems occurred during the production of electrical equipment in this workplace. The average working time was 132.2±57.8 months. Ergonomic risk factors of cases were divided into six groups according to their occupational histories. Static posture and repetitive hand, wrist, and arm movements were considered as common ergonomic risk factors of all categories. Cervical disc hernia was diagnosed in 21 (61%) cases and lumbar disc hernia in 13 (38%) cases. According to the work history of the patients, they worked in the workplace with a written-indefinite duration employment contract. The monthly

income of the participants was between 1000-1500 TRY corresponding to the minimum wage during the period in which they were employed in this workplace. They had eight hours of daily work, two 15-minute rest periods and a half an hour lunch break. They stated that a daily average of 50-1000 pieces/employee production was made, and production volume depends on each departments' individual targets. All of the patients went through medical examinations upon their recruitments, regularly used their annual leaves as provided under the law and attended OHS trainings once a year; however, they were not informed about their rights, they were able to use their annual leave on a regular basis, they had been trained on OHS once a year, and none of them had been informed about their statutory rights. 30 (88%) of the patients knew that there was an OHS board in the workplace, 28 (82%) of the cases stated that the OHS board representative selection had been affected by the employer. 22 people (64%) knew that risk assessment was carried out in the workplace. 20 people (58%) had reported risks in the workplace before; 14 people (41%) said that no measures were taken in the workplace at the end of the risk assessment, and 20 people (58%) stated that ergonomic improvements were made in the factory. All of the patients stated that they were dismissed by the employer after diagnosis of their occupational diseases. After leaving the job, they all had a lower monthly income. Currently, 24 employees (70%) claimed compensation from the Social Security Institution, 23 (67%) have filed a reinstatement lawsuit, 21 (61%) are still unemployed and 13 (39%) have started working in a new company.

C. DISCUSSION

Building EPZs, which is one of the main tools utilized by developing countries in the process of globalization in order to guarantee more security to foreign capital and maintain competitive business conditions, was also an important instrument for Turkey during its integration to global economy. The subjects of Coskun Beyan et al. study, were working in one of the subsidiaries of a multinational company operating in an EPZ, and they were exposed to all relevant factors (*i.e.* extreme production targets) that increase the work stress as defined in the literature. In that study, the biggest health risk was the ergonomic risk resulting from the characteristics of the work itself. It is compatible with common knowledge that the main occupational risk factor causing major injuries and illnesses in the automobile industry is the ergonomic risk (United States General Accounting Office 1993). The stories of the patients also support the fact that there are deficiencies in diagnosis and reporting of occupational diseases, despite the available OHS services at workplaces in EPZs (United States General Accounting Office 1993).

Although majority of multinational companies claim that their factories around the world are all operated based on a "global standard", the reality in the factories is often reported to be very different (Brown 2002). The fact that cases subject to Coskun Beyan et al. study which were originated from the same workplace and consecutively admitted to the clinic (Coskun Beyan *et al.* 2017) suggests that the actual working conditions in the workplace that cause occupational health problems vary depending on the country, industry and local management of such factories. Therefore, due to inconsistent implementation of the "global standard", workers in different countries do not only experience hard work in harsh settings, but they strive against poor working conditions, security problems and constant violations of their human rights.

Turkey has established the framework of the OHS management system in the workplace through enactment of Law No. 6331 (Law 6331), which provides for the principle that the employer should protect health of his employee. (Law on Work Health and Safety 2012). The Law 6331 requires the provision of OHS services in workplaces employing more than 50 workers. It also defines OHS management and the composition of OHS board in the workplace, whereby the employer shall act as the head of this board. (Law on Work Health and Safety 2012, Regulation on Work Health and safety 2013). Nevertheless, there are still legal shortcomings regarding, the right-to-work and right-to-health in the workplace, which include the proper protection of the health of the workers and legal tools and options enjoyed by the employer in case of occupational diseases (such as termination of the employment contract due to low performance etc.). The list of these shortcomings can be expanded such as:

- Although workplace inspections are required by the law they lack quality and quantity.
- The concept of occupational hygiene is unknown to both labour inspectors and employers.
- Since workplace physicians and occupational safety experts are employed directly by the employer himself, there is a conflict of interest as these professionals lack necessary independency.
- Workers in workplaces with less than 50 employees have problems in accessing adequate OHS services (Law on Work Health and Safety 2012, Regulation on Ministry of labour and Social Security's Labour Inspection Board 1991).
- There is no official data related to the quality of the OHS service in workplaces with more than 50 workers.
- The slow processing of court-cases regarding OHS (Ogan 2015).

Furthermore, the occupational diseases in Turkey are reduced to an insurance concern of the social security system rather than being treated as a medical condition. Therefore, the matter is handled by the Ministry of Labour and its Social Security Institution (Law on Social Security and General Health Insurance 2006,

Regulation on Work Force and Measurement of Loss of the Earning Capacity in the Profession 2008, Regulation on Disability Determination 2013, Meslek Hastalıkları ve İş ile İlgili Hastalıklar Tani Rehberi 2012). The most concrete outcome of this situation is that there is no data about the relationship between occupation and disease, which should be acquired from the health system under the supervision of the Ministry of Health. However, despite of lack of data, it was reported in the national household survey conducted in 2013 that 2.1% of 54 million 438 thousand people in the working age have been suffering from occupational health problems during the last 12 months. The most commonly reported occupational health problems are musculoskeletal (25%), stress, depression, or anxiety (20%) disorders (İş Kazaları ve İşe Bağlı Sağlık Problemleri Araştırma Sonuçları 2013). This data also shows that, although the government stated its willingness to collect information related to occupational diseases (Ulusal İş Sağlığı ve Güvenliği Politika Belgesi – III ve Eylem Planı 2014-2018), the Ministry of Health, which is the national health authority in Turkey was unable to identify occupational health problems expressed by nearly one million Turkish citizens. Coskun Beyan et al. study also indicated that, after the diagnosis of occupational disease, workers' employment contracts were terminated. This clearly supports the argument that existing legal framework in Turkey provides tools to the employer for avoiding any responsibility in the event of occupational disease. In the light of general picture elaborated above, the experience on inspection of and follow-up on OHS practices, as well as the experience in the content of job security and social security practices require a comprehensive discussion regarding legal status of workers with respect to health and safety issues.

The relation between working rights and universal human rights, which conceptually constitute the basis of social life, is a contemporary debate. According to some, certain labour rights are abstract normative standards of human rights. Accordingly, it is necessary to protect labour rights when the production system changes (Mantouvalou 2012). Labour is essentially an economic activity. Some rights related to labour such as torture, slavery should be assessed in the context of freedom. If there are no conditions enabling the use of any freedom, then the question of 'what is the value of freedom' arises. At this point, the right to work becomes meaningless for working class who are risking their lives and well-being at work every day (Guzelsari 2007). In 1914, in the United States, it was accepted that human labour was not a commodity or a trade product. Labour is the founding element of human identity, dignity, and self-confidence. When the right to work is threatened or violated, the main problem is related to the human well-being, which was guaranteed under international and national legal texts. For this reason, it was emphasized that it is more appropriate to consider labour rights as a category of its own where economic interest and human rights coincide (Guzelsari 2007).

It is important to note that the law is an indispensable part of social life. It is also a compelling tool to help ethical and moral values adapt to changing social dynamics (Annan 2000). Accordingly, legal norms should also be reviewed and revised in order to adjust to those social dynamics. Sometimes, it may not be possible to protect the right-to work as a human right by the law and judiciary. In this case, instead of rejecting human rights characteristic of labour rights and if labour rights are human rights at a normative level both the law and the judiciary need to alter their perspectives. When a shortfall is deducted in the protective capacity of the law, the law must be immediately modified (Mantouvalou 2012).

When we look at the case set in Coskun Beyan et al. study, we see that the described problem includes reasons and results beyond being national, due to the nature of economic activity (production). In Turkey, workers are emerging as a subject of the global economy as a result and as a cause of ongoing employment relations in EPZs. When a health problem associated with work occurs, the worker as a global subject, is at the risk of being easily pushed out of working life with the help of shortcomings in favour of the employers within the national legal framework.

Accordingly, this discussion leads to two deductions: First, in order to ensure the sustainability of capital inflow and continuity of profitability in Turkey, the essential elements of being a social state are eroded, which supports the idea that "there is an increasing trend which the state starts to act as a market actor or a company where each citizen is seen as a cost item" (Guzelsari 2007). Secondly, values contemplated for inter-communal relations globally and serving as the basis of ethical and moral values, are gradually disappearing. These values are freedom, equality, solidarity, tolerance, and respect for nature and shared responsibility. Values, morals, ethics, law and human rights are all linked to each other in a complex normative set globally (Annan 2000). On one hand, similarly to other developing countries, Turkey is trying to maintain its competitiveness as a market actor - together with the "pressure of foreign capital". It reduces the cost of labour and increases economic profitability. On the other hand, Turkey has been and is still incorporating and putting in effect various international agreements prepared for the improvement of the working conditions. Accordingly, it would not be wrong to claim that Turkey is in a state of confusion like many developing countries, which tackle to adapt ever-changing conditions of globalized world.

D. CONCLUSION

As can be understood from Coskun Beyan et al. study, the current legal framework related to the protection of

the health and safety of employees in Turkey has various shortcomings associated with the enjoyment of the “right-to-work”. Only state power can structure, strengthen and effectively implement a set of legal rules on all work-related matters, including social security issues. Only public agencies can impose robust legal sanctions to prevent employers from violating workers' rights (Stables 2008). In the light of the present findings, it is possible to argue that legal framework in Turkey do not provide adequate protections for human rights within the context of universal. In developing countries like Turkey, any data about violations of national and international legal norms regulating health and safety and violations of human rights resulting from shortcomings in the local legal system should be systematically transferred to non-governmental organizations such as consumer organizations, health care institutions, trade unions and human rights organizations that form the rings of the economic chain. Increasing the awareness about this issue is crucial in order to create public opinion and put pressure on legislator, law enforcement authorities and on all national and international business actors.

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