

Exploitation of Workers in China: Unveiling the Unique Capitalism Adopted in China

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Social subtheme

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Abstract

This paper will explain that the cause of the ongoing trend of exploitation of workers in China ultimately lies in the integration of powers within the socio-political system of China.

First, the general situation of exploitation of workers will be explored. Abuses including unpaid wages, wages below contract pay, unsafe working conditions are common in China. Although a new pro-labor contract law was put forward in 2008, the problem still prevails. It seems that the crux of the problem lies in the ineffective enforcement of laws.

Then, a macroscopic perspective on the issue will be given. By unveiling the unique capitalistic social system of China, the paper will suggest that the integration of powers undermines the judicial power and all other regulatory units, such as labor unions and media.

After that, the paper will investigate the problem in a more microscopic way, suggesting how the bureaucratic power intervenes with the labor arbitration system, and hence preventing labor's grievance from being heard.

At the end of the paper, I will suggest how different factors converge into a vicious cycle. The integration of powers have undermined all regulatory units and judicial system, allowing bureaucratic powers to manifest unchecked. It lowers the bargaining power of workers and prevents their grievance from being expressed. The firms continue to exploit workers blatantly with no fear of being prosecuted, which further undermines the judicial system.

I. Introduction: From Foxconn Suicide Attempts to the Labor Contract Law

Foxconn Technology Group is a multinational electronics manufacturing company which has famous clients from different parts of the world, including Apple, Dell, Nokia, Hewlett-Packard, Sony and other large electronic firms (Hurriyet Daily News, 2012). It is reported that one million Chinese workers are currently working in 13 Foxconn factories in different parts of China (Balfour, 2010). The factories produce notable products such as iPad, iPhone, Xbox 360 etc. It is reported that 90 millions iPhone are produced each year (Lau, 2010). Foxconn is without a doubt a technological giant.

In 2010, the most infamous incident of exploitation of workers happened in one of those Foxconn factories, where 18 workers attempted to commit suicide and 14 of them succeeded. Workers in those factories were reportedly forced to work for long hours overtime with reduced overtime payment. It is also reported that Foxconn have infringed on the laws since the company did not pay full amount of pension to the workers (Qiu, 2010). Moreover, Foxconn imposed serious restrictions on the workers. For instance, all workers in the Apple production line were virtually given no rest. In order to go to the bathroom or drink water, they must find a substitute to take their places. Also, Workers were not allowed to send email unless they were authorized (Blanchard, 2012).

Although the exploitation is evident and blatant, one point worth noting is that there is no legal battle against Foxconn. No one has successfully filed a lawsuit against Foxconn. At this point, it could be concluded that either there are some flaws in the law or there is ineffective enforcement of law. It would be a perfect time for us to explore the Labor Contract Law of the People's Republic of

China.

II. The New PRC Labor Contract Law

In this session, I would argue that the Chinese workers are actually quite well protected under this new PRC Labor Contract Law. The new law came into effect on 1st January 2008. The main goal of this new law is to ensure that laborers across all industries work under a written contract with their rights well protected. There are three major breakthroughs in this law.

1. Requirement of a written labor contract

A labor contract is required to validate the labor relationship between the laborer and the employer. In the event of failing to sign written contract within one year of employment the employer must pay double the amount of agreed upon wage. It can be seen as a huge step towards protecting workers. (Global Labor Strategies, 2008)

2. Increase in union power

Union/Workers' representatives now have the power to partake in management decision making regarding worktime, holidays, vacation, safety conditions, insurance, training etc. Andrew Higgins of Washington Post commented that this law demonstrates that China's only legal trade union organization, the All-China Federation of Trade Unions, traditionally believed as a tool of the Chinese Communist Party, is finally taking their job seriously by speaking up for labor. (Higgins, 2011)

3. Regulate overtime work and overtime work compensation

The law states that it is illegal to force any worker to work overtime or do so in a disguised form. If employer arranges overtime work, the worker must be compensated for their extra efforts.

It can be said that the new law has provided adequate protection to workers and strengthened the bargaining powers of workers. As explained in the previous session, either there are some flaws in the law itself or there is ineffective enforcement of law. After revealing the new law, it can be concluded that everything seems to be all right on paper, but the enforcement of the law goes wrong in reality.

III. Ineffective Enforcement of Law

This session would illustrate that the exploitation of workers in China is so blatant, widespread and recurrent that even though the new Labor Contract law with numbers of pro-labor features has been put forward in 2008, it fails to safeguard the basic rights of workers. It is evident that there is poor enforcement of law, for the firms exploit the workers without the fear of being prosecuted. At the end of this part, I shall address the claim that such widespread and pronounced phenomenon must be caused by the structural problems of the socio-political system in China.

Even though the pro-labor contract law was put forward, blatant exploitation can still be seen, especially in the technological and construction industries involving multi-national companies. Some examples of the injustice suffered by workers include: unpaid wages, wages below minimum level, inhuman labor intensity, unsafe working conditions and unpaid pension (Chan, 2001). In particular, I have summarized three major infringements on the law.

1. Overtime work

“The employing unit may extend working hours due to requirements of its production or business after consultation with the trade unions and laborers, but

extended working hours for a day shall generally not exceed an hour ... total extension in a month shall not exceed 36 hours” - Article 41, Labor Contract Law

Despite of the restriction of working hours, labor intensity is still extremely high in many factories. According to China Labor Watch, workers in the HP production unit in Foxconn must complete an action within 3 seconds, standing on the same spot for 10 consecutive hours per day. They were granted with only 10 minutes for a break in the middle of the day for drinking and visiting restroom. They would be forced to go back to work in the production line if they used up the 10 minute break. Workers in the Foxconn Apple notebook computers production line work a total of 12 hours per day and 40-50 hours overtime each month, exceeding the legal restriction for 4-14 hours (China Labor Watch, 2011). The phenomenon is not limited to Foxconn. From October 2010 to June 2011, China Labor Watch discovered that nine out of ten global brand supplier electronic factories required excessive overtime, a direct infringement on the Labor Contract Law. In the construction sector, workers in the construction sites of the New World China Land were reportedly coerced to work overtime, and even, work in the weekend and national holidays. On average, the extended working hours per day is two to three, exceeding the legal restriction. (Yau, 2009)

The phenomenon is so widespread that working excessively overtime in factories has become a norm. The China Labor Watch surveyed 46 factories in China and an average of 20-30 workers per factory in 2010, two years after the establishment of the new Labor Contract Law. Unfortunately, not one factory met the legal requirements for overtime monthly maximum of 36 hours. In those

surveyed factories, overtime hours in excess of 100 hours was common, and some were even in excess of 200 hours. In 87% of the factories, one day of rest was not guaranteed and daily overtime work exceeding 3 hours was a norm (China Labor Watch, 2011). With such disturbing figure, it can be said that blatant disregard for the law prevails in the Chinese factories.

2. Unpaid Wages

“Employers shall pay the workers thereof the full amount of remunerations in a timely manner in accordance with the contractual stipulations and the provisions of the state.” – Article 30, Labor Contract Law

In many factories workers' pay are not being given out on schedule and such problem is particularly serious in construction business. The slow and inefficient turnovers of construction business mean that contractors sometimes fail to pay workers' wages, leaving them with only a slip of paper acknowledging debt. In 2011, workers involving in the high-speed railway construction were not paid for months (Yutin, 2012). In 2008, the All-China Federation of Trade Unions reported that unpaid wages totaled 100 billion yuan in that year, with construction workers owed two-thirds of that amount. The following year, it was reported that 175 billion yuan was owed to workers (Kelber, 2011). Even though the law was introduced in 2008, the problem of unpaid wages still prevails without improvement. Geoffrey Crothall of China Labour Bulletin addressed that unpaid wages are still a huge problem in China, mainly due to lack of inspectors and poor enforcement of law (Bardsley, 2011).

3. Failure to provide a written contract for workers

“In the event that the agreed terms of the contract are violated, changed, or subjected to fraud, coercion, or otherwise exploited on the behalf of one party, the contract shall be rendered wholly or partially invalid.” Article 26, Labor Contract Law

In late 2008, it was discovered that the rate of signing a labor contract in nine construction sites under the management of New World China Land, the acclaimed largest private developer in China, is close to ZERO. Although some workers in the Chengdu construction signed a contract with the firm, the contract lacked a lot of information such as wage and working hours. Nevertheless, there is currently no legal battle against New World. (Yau, 2009)

Back to the electronic manufacturing industry, in a survey of ten electronic factories, it was revealed that several factories “did not sign labor contracts with workers, or signed contracts that were then withheld from employees who sought to claim due wages and benefits” (China Labor Watch, 2011). However, none of those companies is under legal battle. In general, many factories do not sign labor contracts in good faith with workers and refuse to give them a copy of their labor contract. In a labor dispute, workers are unable to utilize their labor contract as a means of safeguarding their legal rights and claiming compensation. The absence of a good written contract eradicates the possibility that the worker can receive compensation due to work injury.

Other kinds of exploitation

Except these three major infringements, many workers are exploited through different means. Anita Chan, a sociologist specializing in the field of Chinese workers, affirms that unsafe living and working condition, and

involuntary confinement are not rare (Chan, 2001). Workers are often coerced to live in dangerous and overcrowded shelters with poor sanitation and direct exposure to extreme weather. One notable example of poor working condition is the coalmines in China. Chinese miners are 350 times more likely to die at the mines than their American or British counterparts. 7.29 Chinese workers were sacrificed per million tons of coal produced, compared to 0.04 deaths in the United States, 0.47 deaths in India, and 0.23 deaths in Poland (Hays, 2008). On the other hand, in the Pearl River Delta region, factory workers lose or break about 40,000 fingers on the job every year, according to a survey by the Shanghai Academy of Social Sciences (Barboza, 2008). For the involuntary confinement, right after the introduction of the new law, a total of 1,340 people, including minors and the mentally incompetent, had been kidnapped to work in small brick kilns in central China as forced labor. (Zhang, 2009)

From the above illustration, it can be seen that the exploitation of workers is not limited to technological giants. Rather, the trend of exploitation is so stunningly pervasive that it virtually happens at every corner. The firms exploit the workers blatantly, with no fear of being prosecuted. This obviously suggests that these are not single, contingent events. For unethical ways of treating workers are not common in other countries such as Canada, the UK and the States. The ineffective enforcement of law paved the way for the endless exploitation and its cause must lie in some structural problems that already exist in the socio-political framework of China. It is here that explorations of the political system of PRC and the power structure of the government become crucial.

IV. China's Capitalism and Integration of Powers

This part would examine the unique capitalistic socio-political structure of the PRC closely. By unveiling the system, I would argue that the integration of powers has led to ineffective enforcement of law and subversion of other regulatory units.

The present system of China is actually inherited from the Deng's era. Mr. Deng Xiao Ping, the paramount leader of the PRC from 1978 to 1992, designed this system. He is a notable figure in China, for he advocated economic reform and led China towards a market economy. His thoughts can be summarized into two points. One is the principle of economic reform; the other one is the Four Cardinal Principles.

Deng thought that China should undergo economic reform. The state had to open up the economy and allow the existence of free market by gradually loosening its control on economy. This was to achieve the ends of salvaging the failing economy of China in 1980s. Economy in Mao's era suffered from dislocation of resources and malinvestment. Due to ongoing political turmoil such as Cultural Revolution and the Great Leap Forward, the living standard of people virtually had not changed from 1930s to 1980s. The leadership of the Chinese Communist Party (CCP) decided to steer the country towards a more market-oriented economy.

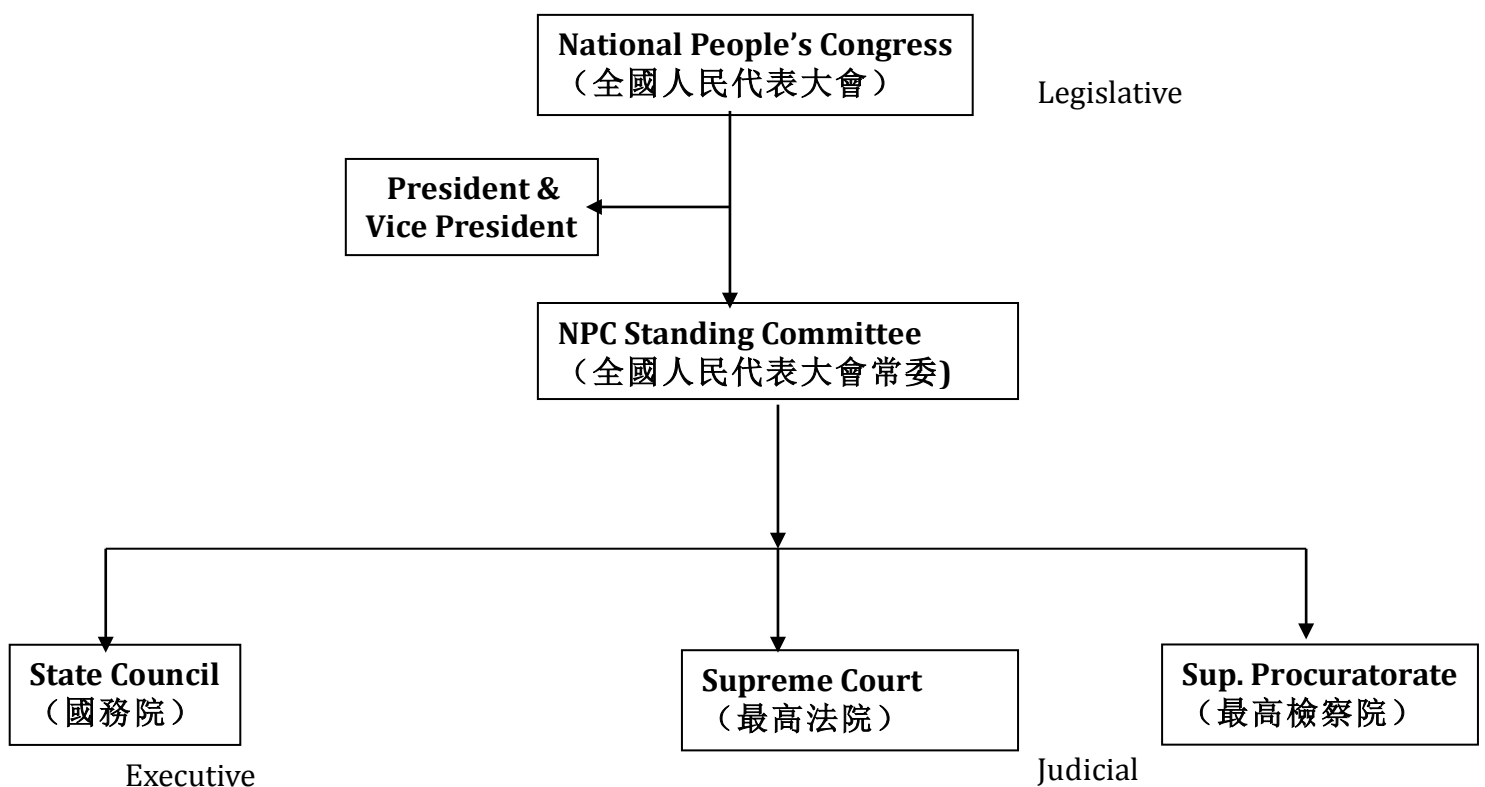
In spite of that, Deng at the same time supported tight political control, thereby stating the Four Cardinal Principles in 1979 (XiaoPing, 1979):

1. The principle of upholding the socialist path
2. The principle of upholding the dictatorship by proletariat
3. The principle of upholding the leadership of the Communist Party of China

4. The principle of upholding Marxist-Leninist-Mao Zedong thought

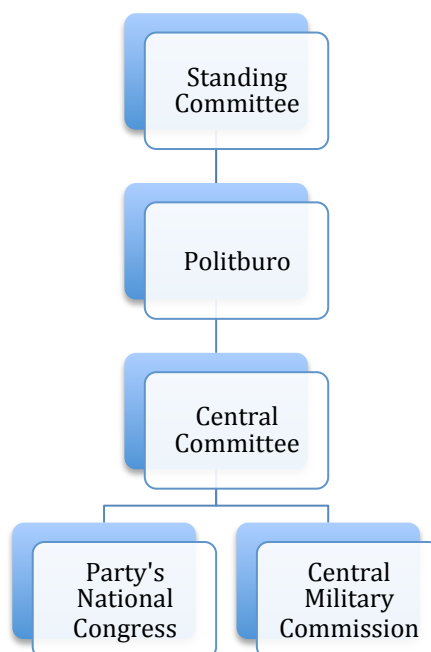
The Four cardinal principles entail that a socialist centralized system under a party-state rule must be adopted. Deng believed that such system is better than the separation of powers emphasized in the Western World. In 1992, three years after the Tiananmen Square Crackdown, he gave a short speech while touring across the Southern China, “Do not debate. Economic development is always the best path! Anyone refuses to reform should step down”. This notable speech laid down the path that China must follow after his regime.

To sum up, Deng supported free market and the Socialist party-state centralized system at the same time. He allowed economic freedom but exercised tight political control. The capitalist system adopted in China is a unique one. For China adopted a socio-political system incorporating both the ideas of capitalism and party-state authoritarianism.



To ensure centralization of power, different government branches are integrated together. The above chart illustrates the government structure in PRC, in which the legislative branch, namely the National People's Congress, controls the executive and judicial branches. However that poses a question of where the National People's representatives come from and how they are appointed.

As a matter of fact, the Chinese Communist Party is situated above the government and is responsible for controlling every branch of the government.



The above chart revealed the hierarchy within the CCP. The Party's National Congress is the nominal highest governing body in the party. But in reality, the standing committee controls everything in the party (Tong, 2011). Some notable members of the standing committee include President Hu Jintao, Premier Wen Jiabao and Vice-president Xi Jinping.

Moreover, the party structure coincides with the government structure, thereby allowing the party to penetrate through different branches of the

government, from top to local levels, from provinces to small counties and villages. Firstly, the CCP successfully leads the legislative branch by controlling National People's Congress, the nominal highest governing body in China. This is achieved by controlling the nomination and elections of the representatives in the Congress. Secondly, the executive branch is also under the leadership of the CCP. The Party controls the administrative office from national level to local level and the appointment of personnel as well. For instance, the provincial Party Committee has the power to command the provincial government. But in most cases, the two structures overlap because the provincial party chief is often appointed as the head of the provincial government. Thirdly, the judicial branch is under the command of the CCP as well. The Party has a Political-Judicial Committee (政法委) which oversees the judicial system at national and local levels. Nomination and elections of the chief justices are controlled by the National People's Congress (which is under the administration of the CCP). Last but not least, the military branch is under the direct command of the Central Military Commission of the Party. This is considered unusual since the military is supposed to be loyal to the Party, rather than politically independent.

Check and balance is not possible under the centralized system, and such effect is tremendous and pervasive. First of all, it undermines the independent judicial system. Equal judgment is not guaranteed, for the officials who might have close relationship with the firms, can manipulate the laws according to their will. On top of that, all other major regulatory units against the government, including media and labor union, failed to function.

The Four Cardinal Principles entail censorship of media because debates about politics are discouraged. The CCP propaganda department, which is responsible for censorship of media, often eliminates the regulatory function of media. For instance, the Chinese government requested censorship on news about Foxconn serial suicides in May 2010. Although the news about another suicide was out in 11/5/2010, the news was deleted afterwards. Therefore, the public might not know a lot about the exploitation of workers in China (Chang, 2010).

Due to tight political control, labor unions cannot regulate their companies. According to the PRC law, all independent labor unions are strictly prohibited in China. All labor unions are under the control of the All-China Federation Trade Union (ACFTU), the sole legal representative of China's workers (Human Rights Watch, 2012). Having said that, ACFTU might not have regulatory power since it is under the direct administration of the Party. Despite the fact that ACFTU has limited legal power in negotiation, formation and performance of collective contracts, these processes are subjected to supervision of local government authorities, who are receiving advantages from businesses. The bureaucratic power still manifests unchecked inside ACFTU (Zhang, 2009).

To sum up this session, the unique capitalistic socio-political system of China merges the ideas of free market and party-state authoritarianism. The strong centralized system integrates all branches of government together, forbidding check and balance between different government units. The cause of ineffective enforcement of law therefore lies in the interference of bureaucracy

with the judicial framework. The top down centralized system also undermines all other regulatory units against government, such as media and labor unions.

The above discussion has offered a macroscopic view on the intrusion of excessive bureaucratic power into major regulatory units. The following session will give you a more microscopic view on how such intrusion has infringed on labor's rights and created inequality.

V. Flaws in the Labor Arbitration System

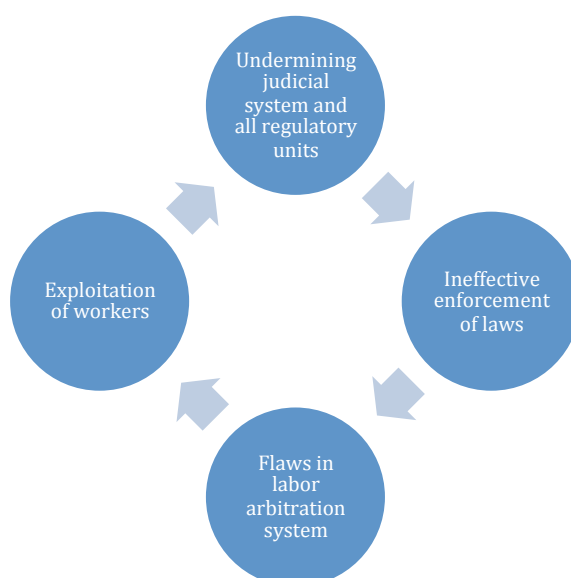
The Labor Arbitration System is frequently selected as the method of dispute resolution since many workers heavily rely on this system to voice out their grievances. In 2008, factory shutdowns increased due to the financial crises and nearly 700000 labor disputes went to the arbitration system. It is also the very first organization that workers encounter when they intend to resolve labor disputes, before the case being sent to the court. However, in a report of China Labor Watch in March 2011, it was discovered that the ability for workers to organize and express their grievances is extremely limited. In 88.2% of the surveyed factories, there was no functional or effective trade union or grievance mechanism system (which includes the arbitration system) (China Labor Watch, 2011). It is evident that there are flaws in the labor arbitration system that prevents the grievances of workers from being heard.

The major flaws in arbitration system are mainly due to administrative interference. Some local arbitration institutions are established by local government to meet the end of satisfying administrative needs, rather than meeting demand for dispute resolution. Also those arbitration institutions

largely depend on government support, and government thereby maintains strong financial control over these institutions. The other problem is that most leading positions in the unit, namely the arbitration panel, are occupied by government officials, and often coincidentally the same local officials who have an acute interest in the success of blacklisted employers because many local governments rely on companies for tax revenues and employment. As a matter of fact, many officials also have financial stakes in the companies as well (Zhang, 2009).

The manifestation of bureaucratic power has prevented the grievances of workers from being heard, for it often leads to backlog of labor disputes, meaning that some workers have been waiting up to a few years to have the disputes resolved. Furthermore, there are cases in which the arbitration system prevented the case from being sent to the court. This leads to unequal and unjust treatments.

VI. Vicious Cycle and Conclusion



As mentioned in earlier parts, blatant, widespread and continual exploitation is rare only if there are some structural problems that continue to favor such act. All the factors mentioned in this paper eventually converge and form a vicious cycle, which sheds light on this ongoing pervasive trend.

The integration of power has allowed the government authority to penetrate into the judicial system and undermine justice. The ineffective enforcement of law has prevented the firms from being sued by laborers. The centralization of power also undermines all other regulatory units such as media and labor union, eradicating the possibilities to get adequate information and form a strong labor union. This further curtails the weak bargaining power of laborers, who don't have satisfactory financial and education background. Intervention of government authority in the labor arbitration system leads to unequal and unjust treatments to workers. Due to these factors, the firms continue to exploit workers with no fear of being prosecuted. Their blatant behaviors further undermine the judicial system and all regulatory units, for the government officials can further expand their bureaucratic power into the judicial system and intensify press censorship to achieve the end of covering up the issue.

To conclude, I would like to quote a few words from Prof. Sze-Kwang Lao, a notable philosopher in the Chinese world:

“The advent of free market economy, particularly when political progress remains static, is problematic. The presence of one-party rule, without a transparent regulatory body, encourages government authority to manifest

unchecked, hence allowing excessive bureaucratic power to intervene into the economy.”

“Prioritizing economic development threatens the deterioration of morality. When the traditional value system disappears overnight, the society risks plunging into momentary chaos in the absence of new social values. Deng XiaoPing does not appear to comprehend the essence of free market economy.”
(Lao, 2009)

These two quotes summarize the whole paper by restating the problem of integration of powers, which accounts for the ongoing trend of exploitation. The workers continue to suffer from unequal and unjust treatments. For that reason, capitalism without check and balance might lead to injustice and inequality.

(Word Count: 3924)

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