

A Pragmatic Approach to U.S.-China Labor Tensions

U.S. demands for seismic changes in China's practices have failed workers and consumers at home and abroad—the International Labor Organization could help.

Tensions with the People's Republic of China (PRC) concerning its treatment of workers have featured prominently in U.S. trade and diplomatic policies. The new administration must draw lessons from the failure of policies employed to date to entice the PRC to align its labor policies with international legal standards, not least because residual noncompliance in China has impacted domestic interests in the United States.

Instead, the International Labor Organization (ILO), as a neutral intermediary, could better engender incremental changes in the treatment of workers.

LABOR TENSIONS

The previous administration shaped much of its policy narrative around President Biden's claim to be the most "pro-worker President in history." Consequently, while violations of international labor standards in other countries had rarely before ignited diplomatic tensions, the Biden administration cited China's labor policies to justify punitive trade measures.

One source of tension is that the PRC does not recognize independent trade unions. Instead, it acknowledges a state-controlled organization called the All-China Federation of Trade Unions (ACFTU). Without independent, grassroots unions, workers in China lack many of the labor protections afforded to union members in nations that benefit from robust union advocacy. Workers in China also lack ways to raise grievances and complaints about their treatment, obscuring their working conditions.

A second source of tension concerns the treatment of Uyghurs and other ethnic (primarily Muslim) minorities in China's Xinjiang Uyghur Autonomous Region (Xinjiang). Here, testimony and evidence strongly suggest that hundreds of thousands of vulnerable people are working in conditions of forced labor. U.S. agencies deem exports such as cotton and tomatoes produced in Xinjiang to be "goods produced by forced labor," contravening multiple customs and trade statutes.

In response, the Biden administration effectively banned those goods made in Xinjiang via withhold release orders (WROs) under Section 307 of the Tariff Act of 1930, including a region-wide WRO on cotton and tomato products from Xinjiang. In 2021, Biden signed the Uyghur Forced Labor Prevention Act (UFLPA), establishing a rebuttable presumption that importing goods made in Xinjiang is prohibited under Section 307.

A third, more recent source of tension concerns U.S. allegations that the PRC is carrying out anticompetitive and discriminatory policies to secure unfair advantages targeting maritime, logistics, and shipbuilding. The PRC has increased its capacity and global market share through state-owned firms and shipbuilding subsidies, which have allegedly contributed to a decline in U.S. shipbuilding capacity.

That decline motivated five large U.S. labor unions to file a petition in 2024 to investigate China's maritime and logistics activities under Section 301 of the Trade Act of 1974. In April 2024, the Office of the U.S. Trade Representative launched its Section 301 investigation, the results of which could justify retaliatory action, such as proposed tariffs.

HOW IT IS GOING

These U.S. actions have, thus far, merely provoked angry rebuttals from the PRC. The reaction is no surprise. To satisfy U.S. demands, China would have to adopt a system of free and fair elections at the workplace, become comfortable with the consolidation of power through union representatives, and acknowledge that the Xinjiang region is, effectively, engaged in practices amounting to ethnic genocide. Furthermore, China's maritime and shipping sectors form an integral part of the nation's geopolitical and security strategies to gain effective control over critical infrastructure and to use its presence within companies located overseas to exert political influence.

China instead points out that its Constitution enshrines fundamental rights to freedom of association and protects its workers. It defends its employment camps in Xinjiang as necessary to eradicate regional poverty. It claims that the Xinjiang government regularly conducts surveys of workers' willingness to find employment and accuses the United States (among others) of lying for geopolitical and economic gain. Finally, the PRC points out the numerous areas in which U.S. labor laws and practices fail to comply with international labor law.

All this has significant and detrimental consequences within the United States. As public scrutiny of labor practices in Xinjiang increases, for example, China is allegedly cracking down on dissenters and labor organizers, affecting the sizable Uyghur diaspora in the United States. Tariff wars and WROs on Chinese products increase the price of goods within the United States, particularly impacting those who are most economically insecure. For instance, tariff rates tend to be higher on women's clothing than men's, including necessities like undergarments; thus the costs of China's labor practices are shouldered by women and consumers dependent on low-priced goods in the United States. Meanwhile U.S. unions and workers must compete on the global stage with goods made in China with relatively cheaper labor costs.

Relief to U.S. consumers and workers is unlikely to come any time soon, notwithstanding Trump's vehement rhetoric on looking out for blue-collar workers. The U.S. forced-labor strategy will likely remain ineffective because it does little to increase worker power, such as by protecting the right to unionize.

A BETTER WAY

Neither the United States nor the PRC is likely to cede ground on labor relations. Meanwhile, U.S. trade sanctions and escalating tensions between the two countries impose real and symbolic costs on both populations. Rather than continuing to demand the impossible, the new administration must consider pragmatic approaches capable of catalyzing change.

The International Labor Organization, the UN agency mandated to supervise international labor standards globally, stands ready and willing to neutralize tensions. Both the United States and China are active ILO members and leading ILO donors. Both countries have positioned their nationals in top ILO leadership positions and participate in the organization's activities. Given that both governments demonstrate respect for the ILO, and in light of the organization's expertise and demonstrated neutrality, both governments should turn to it to offer a way out of the impasse.

Some might worry that the ILO will refrain from criticizing one of its largest donors. However, the ILO's supervisory bodies—which are independent and not funded through donor contributions—have openly criticized the PRC's labor practices. Assessing the situation in Xinjiang, the ILO's Committee of Experts noted and dismissed the government's numerous justifications for its labor policies. The organization expressed deep concern over China's regional employment strategy, reminded the government of its commitments under ratified treaties, and urged the PRC to revise its approach and applicable legislation.

If the new administration's genuine objective is to protect workers, at least at home if not also abroad, it is time to adapt.

China has proven amenable to incorporating ILO standards and guidance into its economic and geopolitical strategies. Albeit short-lived for other reasons, the EU-China Comprehensive Agreement on Investment (CAI) codified the PRC's commitments to various ILO declarations (including the Declaration on Fundamental Principles and Rights at Work, which stipulates workers' rights to join and form unions of their own choosing). Surprisingly, the CAI also committed the parties to "work towards the ratification of the ILO Fundamental Conventions." In 2022, when the CAI was concluded, China ratified the ILO's Forced Labor Convention, as promised. This suggests an appreciation of the link between ILO participation and trade and investment. (Admittedly, China has not followed the organization's calls to change its approach in Xinjiang.)

Of course, should the U.S. administration seek to work through the ILO, it will have to cede some of its authority. It might not, for instance, enjoy full discretion on whether China's maritime subsidies create an unfair competitive advantage in violation of Section 301. And if President Trump wishes to carve out a narrative, as did Biden, of pro-unionism, he may want to oversee those kinds of labor battles to signal his loyalties to union constituents.

In considering tensions with the PRC over labor, President Trump must acknowledge that a different approach is needed. Demands for seismic changes to China's labor practices have proven unfruitful. Instead, the United States could establish a formal working group with the ILO and China, to operate on a voluntary basis, whereby U.S. trade measures would only be implemented concerning labor rights if and when the ILO agreed such measures were appropriate and necessary. The ILO would work with both governments to improve labor conditions in light of each country's laws, cultures, and practices. If the new administration's genuine objective is to protect workers, at least at home if not also abroad, it is time to adapt.

FURTHER READING

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