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Labour exploitation in the Chinese garment industry despite the human rights regime: An examination of overtime in the Chinese garment industry since 1978

van Oss, Anouk-ChunLi

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MAIR Thesis

Labour exploitation in the Chinese garment industry despite the human rights regime

An examination of overtime in the Chinese garment industry since 1978

Name: Anouk-ChunLi van Oss - 2943778
Master: International Relations - Global Conflict in the Modern Era
Semester: 2
Supervisor: Dr. S.S. Regilme
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Introduction

On the 24th of April 2013, the world faced one of the most tragic accidents the fashion industry has ever known (Zha, 2018). On the outskirts of Dhaka, Bangladesh, the eight-story high building called Rana Plaza collapsed (Jacobs & Singhal, 2017). It took the lives of over 1132 workers and injured more than 2500 workers (ILO, 2022). These casualties would not have occurred if the garment workers had not been sent back to work after the discovery of large structural cracks the day before the disaster. Unlike the garment factories, the shops and bank that were also housed in Rana Plaza immediately closed after the discovery of the cracks (Clean Clothes Campaign, n. d.). Nevertheless, the factory owners evidently did not perceive this as enough reason to close their venues. Instead, the production of garments for several well-known Western fashion brands like Benetton, Mango and Primark was prioritised with devastating consequences (Wolf, 2018). Ever since this tragedy, the spotlight has been set on poor labour conditions in the garment industry.

The fashion industry is the fourth biggest sector in the world and comprises high-fashion brands to fast-fashion brands, retailers, photographers and numerous other stakeholders (Library of Congress, n.d.; United States Fashion Industry Association, 2021; Vilaça, 2021). Part of it is the global garment manufacturing industry, the sixth biggest employer in the world (IBISWorld, 2021). Nearly every state, regardless of its stage of development is involved, be it trading or production. Current developed states in, for example, the West, used to have a garment or textile industry in the past but when in the 1950s workers organised themselves in trade unions, wages increased causing higher production costs. Retailers commenced searching for places with lower production costs and found inter alia the People's Republic of China (hereafter called 'China') where there was an abundance of cheap and skilled labour (Chowdhury, Ahmed & Yasmin, 2014; Morshed, 2007; Wang, 2013).

Whereas China used to focus on itself during Mao Zedong's rule from 1949 until 1976, in the late 1970s neoliberal regulation took place which has been accelerating since 1992 (Chan, 2014; Columbia University, 1995; Wang, 2013). For instance, in 1979, China opened some coastal pockets to attract foreign direct investment called Special Economic Zones which attracted the garment industry (Ge, 1999; Wang, 2013). Sweatshops, where employees work long hours for low wages in unsafe working conditions, mushroomed (Miklós, 2019). They are seen as key drivers of the race to the bottom regarding labour standards (Chan, 2014). This concept entails the worsening of working conditions due to increasing pressure on (garment) factories' owners and workers. The growing demand for continuous new commodities calls for more and faster labour while competition drives the prices down. This results in factories producing as much as possible output for the cheapest prices possible. Accordingly, this endangers working conditions of workers because factory owners occasionally feel compelled to lower working standards like paying lower wages, having workers make overtime and

sometimes even forcing them to work to keep up with the rest and stay in business. Nonetheless, the sweatshops and race-to-the-bottom have strongly supported China's rapid economic growth and high rate of employment (Chan, 2014). Hence, the garment industry has become one of the backbone industries of the state despite having fierce competition from other states in Southeast Asia (Wang, 2013). Just in China in 2017, it employed over ten million workers (Chen, Perry, Yang & Yang, 2017).

In July 2021, the World Trade Organization (2021) showed that with an export value of 154 billion US Dollars in 2020 China was the world's leading exporter of garments (Statista, 2021). This accounted for 31.6 percent of the global garment export value (Ma, 2021a). On top of that, it also deserves the title of largest garment manufacturer. Both these leading roles have been subscribed to China for over a decade (Ma, 2021b).

Despite this exceptional reputation, labour exploitation lurks. When compared to other states in the region, China has progressive labour laws that provide job security, set minimum wages and limit overtime. Nevertheless, the government refrains from admitting to enabling rights like the right to strike, which helps workers really change their working conditions (Narayanasamy & Benjamin, 2016).

On top of that, not long ago increasing global attention has been pointed to what China calls 'vocational education' camps in the north-western Xinjiang region where, since 2017, over a million Uyghurs and other Muslim minorities are taught about the Communist party rhetoric and Mandarin Chinese (Hornby, 2019; Xu, Cave, Leibold, Munro & Ruser, 2020). Others define these camps as internment or even detention camps as detainees are captivated under conditions that violate human rights. There is widely considered that forced labour takes place, especially in the textile- and cotton industry (Finnegan, 2020; Kelly 2020). Also, detainees are sent to other workplaces in China to perform forced labour (United States Department of State, 2021).

Another example of labour exploitation in the Chinese garment industry is that there is a high risk for overtime by workers that is not always properly paid for (Kane, 2015). For instance, NGO Verité (2012) routinely stumbles upon factory work schedules that exceed the working times under national law. For example, a workweek of 60 hours per week is rather a rule than the exception even though it is prohibited. On the same note, during peak season, a seven-day working week is becoming the norm (Labour Behind the Label, 2017). Likewise, Ngai's study (2005) shows that in two garment factories in the Yangtze River region and province of Guangdong excessive overtime was a common practice. The same goes for China's footwear and sporting apparel industry (Smyth, Qian, Nielsen & Kaempfer, 2013).

There are sets of globally accepted and therefore institutionalised and implemented international labour rights and norms that aim to protect workers from such exploitation like conventions of the International Labor Organization (ILO), the Organisation for Economic Co-operation

and Development (OECD) Guidelines for Multinational Enterprises and Guiding Principles on Business and Human Rights (UNGPs). These will be elaborated on in the literature review. According to the human rights regime, even though China has not ratified several ILO (core) conventions, as a major economic power it has responsibilities to states it exports to. It still has the responsibility to create an environment that guarantees safe and just labour conditions in which workers do not have to suffer. Nevertheless, despite these concerns, labour exploitation like overtime persists today as has become evident from the above-mentioned examples. The question remains why. As such, this thesis will attempt to answer the following main research question:

Why does labour exploitation in the Chinese garment industry persist despite
the international human rights regime?

An examination of overtime in the Chinese garment industry since 1978

To answer this question, I firstly elaborate on the significance of the research and highlight its intended engagement concerning our state of knowledge about the garment industry vis-a-vis human rights in the literature review. Hereafter, I will go into detail about the theory and method that are used for this research. After having set the basis for the analysis, I will bring forward China's position regarding the human rights regime while specifying it to its garment industry. Therefore, I will analyse how transnational and domestic factors interact and how they generate overtime. Lastly, I will answer the main research question in the conclusion.

Literature review

By analysing the state of knowledge about human rights, labour rights, Corporate Social Responsibility (CSR) and roles of states regarding safeguarding labour rights, this literature review discusses China's understanding of human rights which differs from that of the West. China emphasises economic human rights like the rights to subsistence and development and is critical of the current, Western perception of human rights' universality. Nevertheless, research that takes overtime in the Chinese garment industry as a focal point and examines this by focussing on transnational and domestic factors that generate it and relates this to the human rights regime has not been conducted before. That is where this thesis steps in.

Human rights

The aftermath of World War II and the end of the Cold War, accompanied by for instance the consolidation of the global economy and the strengthening of transnational advocacy networks, had an important role regarding the architecture of the human rights regime we know now (Mantilla, 2009). In the West, human rights are defined as follows: "human rights are norms that aspire to protect all people everywhere from severe political, legal, and social abuses." (Nickel, 2014) On their duty bearers and addressees, they impose duties or responsibilities. Moreover, they are universal, inalienable, equally applicable to everyone, have high priority and are plural as they address various specific problems. They also recognise everyone is born free and equal in rights and dignity (Nickel, 2014). Human rights are found in international treaties, national constitutions, regional declarations and many other sources of international law (Regilme, 2020). Essential to the understanding of human rights is the Universal Declaration of Human Rights (UDHR) by the United Nations (UN) in 1948 (Nickel, 2014; United Nations, n.d.). It was drafted by representatives with different cultural and legal backgrounds from both the global North and the global South. Furthermore, it has inspired and paved the way for a rich body of international human rights treaties that are adopted and legally binding.

Labour rights

I will focus on international regulations regarding human rights and business to regulate labour conditions. At first, most regulations were of voluntary nature and were non-binding. One example is the in 2017 revised ILO Tripartite Declaration on Principles Concerning Multinational Enterprises and Social Policy of 1977. It offers guidelines to encourage the positive impact multinational enterprises can make on social and economic progress to multinational enterprises, governments and workers'- and employers' organisations (Deitelhoff & Wolf, 2013; ILO, 2017a). Another example is the in 2011 revised Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational

Enterprises of 1976. Reflected in its revisions are principles of ILO's Tripartite Declaration on Principles Concerning Multinational Enterprises and Social Policy (Diller, 2002). With applicable laws and standards that are recognised internationally, the guidelines provide non-binding standards and principles for responsible business conduct in a global context (OECD, 2011). Although widely accepted by governments and organisations like the Dutch Agreement on Sustainable Garments and Textiles (n.d.) and the German Partnership for Sustainable Textiles (2022), the domestic implementation of the guidelines could be criticised because of their unenforceable nature. It causes disparity regarding the commitment to implement them among the governments that endorse them (Černič, 2008).

Moreover, from 2005 until 2011 J. G. Ruggie became special representative to the UN "on human rights and transnational corporations and other business enterprises" (OHCHR, 2021). He identified the Protect, Respect and Remedy framework in 2008 which led to the establishment of the Guiding Principles on Business and Human Rights (UNGPs) in 2011. It was the first adoption ever by the UN of a set of standards about business and human rights. In addition, it was the only time a normative text was endorsed that was not negotiated by governments themselves. The UNGPs' focus is on the need to manage risks of companies' conduct. Therefore, it requires companies to act with due diligence. The latter comprises the assessment of "actual and potential human rights impacts, integrating and acting upon the findings, tracking the effectiveness of these responses, and communicating how impacts are addressed. Such impacts may occur because of an enterprise's own activities, or they may be linked to its operations, products or services by business relationships up and down the value chain." (Ruggie, Caroline & Davis, 2021, p.186).

Discussion

The legitimacy of international human rights depends strongly on the consent of states (Karlsson Schaffer, 2013). This is mostly the case in the West, where the indivisibility and interdependence of international human rights are most forcefully endorsed, consistent and have received effective implementation (Whelan & Donnelly, 2007). Yet, a prominent debate about human rights is their universality. One set of studies perceives human rights to be universal and inalienable because they have been institutionalised by states from all over the world, not just by Western states (Bhambra, 2007; Brotton, 2003; Cousin, 2011; Waltz, 2002). However, the application of human rights is being rejected in the name of sovereignty, the world's fundamental organising principle (Hopgood, 2014). Some leaders of Asian states argue that the implementation of those rights can differ because of local contexts (Ahdanisa & Rothman, 2021). For instance, Asian states often put emphasis on community over the individual and perceive human rights to infringe their sovereignty (Munro, 211). Therefore, the legalisation of human rights ought to take place domestically and human rights norms must match domestic human rights if they are to be regarded as human rights. Accordingly, human rights are not

universal (Besson, 2013). They could be considered 'Western' and some scholars even go further and perceive human rights as modern Western imperialism (Dembour, 2010; Karan, 2004; Pollis & Schwab, 1978). They constrain domestic affairs of all states, from authoritarian ones to democratic, self-ruled welfare states (Karlsson Schaffer, Follesdal & Ulfstein, 2013).

Furthermore, there is debate about the human rights regime and its impact on human rights practices. States only comply in case it is in their national interest to for example legitimise themselves on domestic and/or international levels (Regilme, 2014). States complying with the human rights regime is rather a coincidence than a conscious effort. In addition, global human rights treaties lack institutional mechanisms to monitor and enforce regime norms which provide governments with the opportunity to ratify treaties for window dressing. It gives governments human rights legitimacy which makes pressure for further action from others difficult. The lack of the regime's enforcement and decreased external pressure incite governments into a spiral of worse repression after ratification which the regime fails to stop. This can be identified as a "paradox of empty promises". States make formal legal commitments to symbolise their compliance to human rights while they violate them. Therefore, the human rights regime and the ratification of treaties rather has a negative relationship with actual human rights practices (Hafner-Burton & Tsutsui, 2005). Advocates of the human rights regime overlook this paradox of empty promises and perceive it as integral to the exercise of a government that is legitimate (Hopgood, 2014).

Furthermore, liberal international relations scholars state that the regime can have positive impact on actual human rights practices yet acknowledge the possibility of window dressing (Regilme, 2014). Constructivists argue states try to comply with the human rights regime because their own interests are defined by internationally held norms and values. Nevertheless, even though the average state has created more acceptance for international human rights law by ratifying treaties, the reported percentage of states that repress human rights has increased over time. As such, the effect of the human rights regime on actual human rights practices is small (Hafner-Burton & Tsutsui, 2005). Therefore, nongovernmental actors like civil society are crucial. They can improve states' human rights practices on the ground. Civil society can serve as enforcement mechanisms by publicly blaming and shaming states in case of human rights violations and socialise states to agree on new norms and values to push governments toward compliance (Deitelhoff & Wolf, 2013).

The garment industry

Now that the literature regarding the human rights regime has been elaborated on, I will focus on the literature regarding the garment industry. Whereas some studies focus on productivity (Asuyama, Chhun, Fukunishi, Neou & Yamagata, 2013; Colovic, 2014; Fan, 2021; Mahbub, Garshasbi, Kabir & Hasin, 2021; Sukwadi, Wee & Yang, 2013) or the development of the garment industry in various

regions (Azmeh & Nadvi, 2013; Chand, 2012; Knutsen, 2004; Passakonjaras, 2012), most studies about the garment industry are about labour conditions. Accordingly, nearly all research conducted about labour conditions in the garment industry takes the tragic collapse of Rana Plaza as a starting point. One set of studies develops an analysis of the Bangladeshi fashion industry. They examine how the tragedy could have happened, its impact and how it relates to the broader fashion industry (Brown, 2016; Chowdhury, Ahmed & Yasmin, 2014; Hemphill & White, 2018; Jacobs & Singhal, 2017; Miller, 2009; Taplin, 2014).

The main reason for labour rights violations in the garment industry is often accredited to business. Locke (2013) identifies that the response of global brands to a business environment that is characterised by shorter product life cycles, dynamic consumer demand and concentrated retail channels, comprises the reorganisation of their supply chains to optimise efficiency and minimise reputational and financial risks. This often happens through outsourcing production by exploiting low wages and weak social and environmental regulations of developing countries. While this enabled brands to quicker introduce new products, offer a broader selection of products and reduce the stock of poor-selling products it also created labour problems at supplier factories like low wages, excessive working hours and exploitation of migrant workers. Therefore, the structure of relations among global brands, lead suppliers, large retailers and factories is the root cause of these workplace issues. These can only be tackled when this broader structure is reformed.

The above-stated workplace problems can be seen as outcomes of increasing competition in which suppliers take the low road. Competition has driven suppliers to downgrade and move into lower value-added activities which squeezes labour by the provision of lower wages and non-abidance to social- and environmental regulations. On the contrary, suppliers can also turn to the high road by engaging in upgrading strategies regarding for example product or process. One can think of more efficiently producing better products, moving into activities that are higher valued or by the employment of special skills. Diverging the low- and high roads helps explain differences and similarities in working conditions within similar export-oriented industries across producer countries (Lund-Thomson, Nadvi, Chan, Khara & Xu, 2012). Distelhorst & Locke (2019) have conducted a study that examined the school of thought that taking the low road indeed offers a competitive advantage among more than two thousand factories across 36 countries primarily in Asia. They found that compliance with labour laws could actually be beneficial. Higher workplace standards may, by complementing effective management practices, make the productivity of manufacturers higher. On top of that, there are importers that, due to reputational risk, are reluctant to buy from exporters that have workplace practices that are socially irresponsible. Therefore, compliant exporters might have the enjoyment of a compliance premium that rewards them rather than punishes them for abiding by minimum labour standards. Nevertheless, compliance with labour standards can be so costly that it

outweighs any benefit. Reality shows that brands are reluctant to pay extra to their suppliers because of the possible eradication of brands' margins or increasing prices that consumers do not accept. Even if it would help them improve workers' working conditions (Locke, 2013).

Corporate Social Responsibility (CSR)

Another debate regarding business-caused labour rights violations in the garment industry revolves around Corporate Social Responsibility (CSR), a practical connection between businesses and the human rights regime. It comprises the idea that corporations should pay attention to environmental and social issues instead of just focussing on financial returns (Banerjee, 2008). CSR has shortcomings and does not always cause labour rights compliance (Locke, Amenqual & Mangla, 2009). Hence, businesses' codes of conduct are often debated. Some studies suggest codes secure labour rights better than legally binding (ILO) regulations because different stakeholders have been able to negotiate the contents of codes leading to consensus and legitimacy satisfying all parties (Mantilla, 2009). Other studies have shown that codes can indeed improve wages and working times but not necessarily rights to freedom of association and non-discrimination (Barrientos & Smith, 2007; Frenkel, 2001; Mamic, 2017; Rodríguez-Garavito, 2005; Ross, 2006). Furthermore, despite suppliers' compliance with codes, matters like bad occupational health and overtime are still too present in factories (Nadvi, 2008). Therefore, improving labour standards through codes could be considered weak (Wells, 2007). Other reasons for poor CSR could be found in weak legislation and enforcement mechanisms (Khan, Lockhart & Bathurst, 2017; Rahim, 2017), a lack of financial resources (Chi, 2011; Raham & Moazzem, 2017) and window dressing because of the unwillingness of suppliers and corporations to comply (Banerjee, 2008; Lu & Castka, 2009; Nguyen, Mani, Kha & Papadopoulos, 2021; Tsoi, 2010; Roth, Valentinov, Heidingsfelder & Pérez-Valls, 2020). Regarding the latter point, it is argued that CSR could lead to a competitive advantage due to a good reputation amongst customers for which public communication is important. As such, there is a chance businesses apply CSR as window dressing to please customers (Dahlsrud, 2006; Dickson & Zhang, 2004). Therefore, like states, corporations in developed countries can contribute to the paradox of empty promises in which they make expansive commitments yet lack taking subsequent action to comply with CSR (Lim & Tsutsui, 2012).

Some studies perceive the disregard of governments as a cause for labour rights violations in the garment industry. One reason for this is that in developing countries, national governments lacked the institutional and financial capacity to fully regulate labour rights (Hemphill & White, 2018; Locke, 2013). Also, governments choose not to systematically enforce domestic laws to compete with other states. They are afraid of driving up costs for factories and losing orders to other countries.

Consequently, they grant factories exemptions from regulations regarding for example wages and working hours (Locke, 2013; Taplin, 2014).

China vis-à-vis human rights and labour rights

China's position regarding human rights differs from that of the West. China argues concepts of human rights can differ among states and rejects the perception that human rights are universal. States cannot be demanded to comply with concepts of human rights that differ from their own (Angle, 2002). Therefore, human rights infringe upon China's sovereignty. On top of that, over time two major conceptions of human rights were developed. The first one throughout the 1990s constituted the perception that human rights were a threat to the regime for which they had to be contained and rejected. The second conception during the early 2000s was that human rights were the state party's "governing capabilities to regulate market order, facilitate social equity, deliver legal justice, and maintain regional and international stability." (Chen & Hsu, 2018, p. 547). Therefore, the language of human rights is primarily involved with emphasis on economic development, sovereignty and the importance of domestic state intervention. The latter refers to the government enforcing and dictating legislation for the sake of peoples' physical subsistence and right to material development which are defining characteristics of China's human rights discourse (Chen & Hsu, 2018).

This is also evident regarding labour rights. Even though early in its capitalist development China completed labour legislation much faster than most other capitalist states in history, labour laws remain poorly enforced due to China's development strategy that focusses on efficiency over equity (Chen, 2007). Like other Asian states, the Chinese government pursues collective interests while protection of individual rights is inferior (Chen & Hsu, 2018; Munro, 2011). This contradicts the history of the West where collective rights were the foundation for people to achieve and expand social or individual rights regarding for instance labour standards. In Chinese history, through a strong Leninist state, labour standards resulted from Maoist state socialism that gave workers substantial economic and social entitlements like health care and pensions instead of labour movements (Chen, 2007). This history of controlling Leninist political tradition and current development strategy consisting of efficiency over equity explains China's refusal to grant workers collective rights since its market-driven reforms. On the same note, the individual rights that are given to workers since the reforms restrict their collective rights like the right to strike (Chen, 2007; van der Heijden, n.d.). As workers cannot assemble themselves and bargain on labour conditions, the race to the bottom in the Chinese garment industry can persist.

Therefore, overtime can occur. In just single research examined and scanned for this thesis was overtime a central topic for analysis. It takes excessive overtime (and low wages) as topic of analysis but fails to connect it to the wider human rights regime. It argues that overtime is a

consequence of wages that are too low to live on and that specifically, piece by piece rates are problematic (Chan & Siu, 2010).

Conclusion

All in all, this thesis acknowledges the discussion about human rights' universality, their debatable impact on the ground and the different reasons for (non) compliance by states. Moreover, this thesis agrees that (Western) corporations carry responsibility for the race to the bottom that is going on in the Chinese garment industry since China's reforms in 1978. Examination of CSR is important to point out its flaws and merits so that corporations can act upon them and better respond to their responsibilities. Nevertheless, not only corporations are responsible but also consumers by their demand, factory managements that lower working standards and governments of producing states who grant exemptions to factories allowing them to lower working standards. Furthermore, this thesis takes into account China's critical perspectives on the human rights regime as the West sees it and its prioritisation of economic rights.

The literature speaks broadly about labour exploitation which can consist of various abuses but does not examine them elaborately. One exception is collective bargaining which is mostly analysed. Furthermore, the interaction between transnational and domestic factors that specifically generate overtime is missing. Just in one research by Chan & Siu (2010) was overtime a central topic for analysis but it fails to connect it to the wider human rights regime and China's policy priorities. That is where this thesis steps in. For the first time, it takes overtime in the Chinese garment industry as a focal point and examines transnational and domestic factors that contribute to it.

Theory and Methods

As mentioned before, despite the fact that China has not ratified a number of ILO (core) conventions, its responsibilities as a major economic power towards states it exports to remain. It has the duty and expectation to create a safe and just environment for workers in its economy. For instance, the UNGPs state, “States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.” (United Nations, 2011, p. 3) which is regardless of ratification of ILO conventions. As such, governments, including the Chinese government, must put efforts into preventing workers from making lots of overtime because, for example, they need to sustain a living or experience pressure from their colleagues and factory management. Yet, there are multiple reports of the persistence of excessive overtime in the Chinese garment industry (China Labor Watch, 2011; Kane, 2015; Kollbrunner, 2021; Labour Behind the Label, 2017; Ngai, 2005; Smyth, Qian, Nielsen & Kaempfer, 2013; Verité, 2012). Accordingly, the following research question is posed:

Why does labour exploitation in the Chinese garment industry persist despite the international human rights regime?

An examination of overtime in the Chinese garment industry since 1978

Briefly said the first answer is the transnational capitalist system that thrives on outsourcing and generates competition amongst Chinese garment factories causing them to lower working standards. A critical note here is the West’s hypocrisy because it calls upon China to stop labour exploitation, while, via outsourcing paired with quick-paced demand and low payments, the West contributes to it. The second answer is that China perceives overtime as a tool for economic growth and thereupon shapes its domestic policies that are based on the rights to subsistence and development. Namely, meeting production schedules keeps garment factories in business and contributes to China’s economic development. Eventually, as argued by the Chinese government, this brings prosperity and therewith grants all people human rights. Therefore, China has no interest in combatting overtime in its garment industry; one of the backbone industries of the state. This argument relates to the discussion concerning the universality of human rights between the West and China. Whereas the West argues human rights apply to all people and therefore ought to be complied with by all governments, China argues for ‘human rights with Chinese characteristics’ which challenges the Western hegemonic idea of human rights. It comprises openness to various interpretations of

universality, essentialisation of states' sovereignty and equality between social, political and economic rights.

Theory

The first concept one comes across is 'labour exploitation' which comprises a lot of practices according to the UNGPs and OECD Guidelines¹. For this thesis, I will solely focus on overtime which I define as "actual hours of work workers are forced to make per period in excess of standard contractual hours" (Hart, 2004, p. 1). Stipulated by Chinese law, contractual hours comprise eight hours per day and a maximum of 44 hours per week. In addition, employers cannot require their workers to work six days per week (Shepherd, 2021). The next concept in the research question is 'garment industry' which consists of 'global supply chains' which are characterised as "fragmented and globally dispersed production, multiple tiers and actors within each supply chain, suppliers producing for multiple brands, short lead times and tight margins" (Locke, 2013, p. 8). The garment industry, as a global value chain, comprises brand-name firms and numerous retailers that often control the designs and place their orders regularly at countless manufacturers abroad with short lead times and tight margins. The relatively few buyers that are primarily headquartered in the global North set the prices and the manufacturers ultimately have to take what they are offered (Adler-Milstein & Kline, 2017; Locke, 2013). Therefore, the garment industry comprises buyer- and retail-driven value chains with power asymmetries (Fernandez-Stark, Frederick & Gereffi, 2011). Production of garments often takes place in 'sweatshops' where worker exploitation, according to what is mentioned in the footnote, is the standard (Adler-Milstein & Kline, 2017; Powell, 2014). All in all, I will perceive the garment industry as an economic activity conducted by many companies (primarily based in the global North) and their suppliers (primarily based in the global South) with the goal to manufacture and sell garments. In the main research question, I am referring to 'the Chinese garment industry' with which I mean suppliers based in China with the goal to manufacture garments. These suppliers export garments to the West where they are sold by Western companies.

The Chinese garment industry was chosen as a case study because for decades, it has been the largest and most influential garment exporter in the world which makes it interesting to better understand this case study. The same goes for the differences in culture, values and norms in China in comparison to the West. It could be interesting to analyse how China's notion of human rights influences its policies and practices to counter labour exploitation in the garment industry. Having

¹ Examples of such practices would be the exposure of workers to unsafe and unhealthy workplaces, the rejection of the right to strike and the right to freedom of association, and the use of forced labour by which work or services are extracted from any person under threat of penalties or does so involuntarily. This also includes coercive labour which indirectly forces people to work overtime due to their pay that is insufficient to live on (Social Economic Council, 2022).

academic knowledge about a deeper understanding of this can help in finding ways to combat, prevent and/or mitigate labour exploitation like overtime in this industry.

The next concept in the research question is ‘international human rights regime’ which is elaborated on in the literature review. Human rights are found in for instance, numerous international treaties, national constitutions and regional declarations (Nickel, 2014; Regilme, 2020). Their acceptance could be illustrated by the worldwide implementation and institutionalisation by governments and world leaders (Council on Foreign Relations, 2021). Nonetheless, the universality of the human rights regime could be debated on.

This thesis will focus on labour rights which are sets of globally accepted international labour rights and norms aiming to protect workers from labour exploitation. Essential therefore are ILO conventions, the OECD Guidelines for Multinational Enterprises and the UNGPs. They have been widely institutionalised and implemented by various states and by the business sector.

Method

The research is a single-case study that examines the come about of overtime in the Chinese garment industry since 1978s through process tracing; the year that China’s economy opened its doors to the global economy. It was after this that overtime emerged due to competition among (garment) factories because of market forces. Labour conditions were left to the private sector consisting of Western companies sourcing from Chinese (garment) factories where labour costs were low when compared to the West. Apparently, to make a profit and grow, the Western companies had the (sub)conscious idea that abroad, they could exploit workers instead of at home where trade unions were formed and better working conditions were mandatory. Also, the Chinese state ‘allowing’ worker exploitation that has been bringing prosperity and is argued to eventually grant all Chinese people human rights is interesting to consider throughout the research observation.

In the first part of the analysis, transnational factors contributing to overtime are examined. These factors are the market forces that belong to the free market in which power asymmetries persist. High-paced demand from Western buyers and low payments cause a race to the bottom among garment factories causing them to lower working standards to meet the demands. For example, for garment factories to stay in business and not lose the demands, workers are ought to make overtime. Meanwhile, CSR attempts to remedy labour exploitation are disputable. As such, self-reflexivity of brands regarding their purchasing practices is demanded. In the second part of the analysis, domestic factors contributing to overtime are examined. The main factor examined is China’s policy priorities which emphasise human rights regarding subsistence and economic development rather than on subjects the West emphasises like the right to freedom of speech. Even so, China actually uses human rights as a smokescreen to justify labour exploitation. Namely, the collective goal of economic

development will eventually enable China to guarantee human rights for everyone. However, therefore, human rights first need to be violated. Moreover, China disagrees with the universality of human rights as the West perceives it. Accordingly, China brings along different norms, values and priorities when it comes to protecting human rights. Also interrelated is Chinese culture which is strongly shaped by its history and the current government. The latter strongly essentialises poverty alleviation and the prioritisation of the collective goal of prosperity for all over the individual goal of for example freedom of speech. Finally, in the conclusion I will answer the research question by an examination of the interaction of the identified transnational- and domestic factors that generate overtime in the Chinese garment industry.

For the research data triangulation was important. I have consulted various sources from several institutions with diverse interests like the UN, ILO, the Chinese state, international media, non-governmental organisations (NGOs) and multi-stakeholder initiatives. Via Leiden University's (online) library, and Google Scholar, I have consulted scientific, secondary literature. I preferably used the newest literature possible because norms and values and therewith the human rights regime can change. I have rarely used a source older than 2000 because it either was a leading UN document or provided historical facts. I have used search words like 'human rights regime', 'labour rights', 'garment industry', 'garment industry China', 'China human rights regime', 'labour exploitation (Chinese) garment industry' and 'CSR'.

Transnational factors that generate overtime

The most compelling reason why labour exploitation including overtime persists in the Chinese garment industry is the market forces of the current capitalist, free-market system that thrives on outsourcing and consumer demand. It generates competition amongst Chinese garment factories causing them to lower working standards. Meanwhile, CSR's attempts to remedy labour exploitation are disputable. As such, self-reflexivity of brands regarding their purchasing practices is demanded.

The free market

Let us first examine what the capitalist system means for the Chinese garment industry. Since China's economic reforms, it was market forces that determined labour conditions independently of the human rights regime. These labour conditions were strongly influenced by the competition that had started in this industry. In general, during the twentieth century, the regulation of labour standards was conducted both via national law and internationally via ILO conventions. However, global supply chains' emergence dispersed authority not only across states but also among global buyers and their countless suppliers (Locke, 2013). The international powerful ideology of comparative advantage and the idea of 'working poverty is good for development' flourished (Mezzadri, 2016).

Moreover, the free market that includes intense competition amongst Chinese garment factories set new labour standards outside the apparatus of the human rights regime that, for instance, include working overtime. At the beginning of the 1990s, foreign retailers like Nike, Adidas and Benetton were allowed to compete in China (China Textile University & Harvard Center of Textile and Apparel Research, 1999). While reducing production costs, control over functions with the highest value like research and development, names of brands and innovation maintained with these brands (Henderson, Appelbaum & Ho, 2013). Accordingly, firms in China's coastal zones which opened up first during the reforms aimed at producing garments for the least price possible to compete with others. They economised on labour costs. One way was to outsource production to cheaper locations, sweatshops, inland. Subsequently, sweatshops quickly reproduced and a race to the bottom was unleashed with the result of lower average wages than in other manufacturing industries in China (China Textile University & Harvard Center of Textile and Apparel Research, 1999). As outlined in the theory, besides low wages, workers in the sweatshops encountered, among other things, excessively long hours and unsafe working conditions. Hence, the global value chain that comprises the outsourcing of production by big international corporations to Chinese garment factories established its own labour rights standards and labour conditions. Therefore, the strategies of the twentieth

century that involved, among other things, ILO conventions, fall short to uphold a human rights regime and therewith, labour rights in the current capitalist system (Locke, 2013).

Another way the free market has set labour standards in the Chinese garment industry outside the apparatus of the human rights regime can be found in the currently growing pressuring demand of international buyers who want low prices, short lead times and smaller batches to respond to rapid and quickly changing demands of consumers (Cooke & He, 2010; Locke, 2013). Nowadays, consumers aspire to be 'trendy' and therefore need more clothes that go along with the quickly changing fashion trends. In addition, more people have money to spend on clothes. Brands meet this demand by reducing the price of garments and by the provision of more garments (Rauturier, 2018). Subsequently, consumers have become used to cheap garments and are unwilling to pay more for garments that have been produced responsibly (Taplin, 2014). To meet this demand, buyers increase pressure on factories to produce as quickly as possible for as less money as possible to provide consumers with cheap garments. Therefore, Chinese suppliers have structured their production processes accordingly. The processes allow suppliers to quickly increase production yet without the addition of fixed costs (Cooke & He, 2010; Locke, 2013). In general, the average work pace has increased dramatically because competition forces factories to prioritise order deadlines and production targets over just working conditions. Therefore, especially during peak season, workers are ought to make overtime and an eight-hour working day in the Chinese garment industry is no more (Fair Wear Foundation, n.d.; Pringle, 2001). NGO Verité (2012) found that often the reliance on excessive work hours and mandatory overtime by factory managers in China is necessary to fulfil orders they receive and stay in competition with other factories. If deadlines are not met, international buyers will go to another factory. Accordingly, overtime hours are perceived as a safety net when orders cannot be completed in a regular workweek (Ngai, 2005). This illustrates the importance of meeting deadlines for factories in order for them to stay in business and grow which contributes to China's overall economic growth.

Another reason why overtime persists in the Chinese garment industry due to the free-market system is low wages caused by pressure for lower prices as described above and a competitive job market. One reason is that suppliers have started to rely on contract or migrant workers who, depending on production schedules, can be quickly hired and fired (Locke, 2013). These migrant workers are very common and, together with local workers, make the job market extremely competitive. Therefore, the high supply of labour enables factories to pay workers even less. Subsequently, by working normal hours, workers cannot make ends meet and are forced to make overtime (Hoi Yee, 2006; Ngai, 2005). Contract workers are prone to make overtime because they are far from their families and fill in the gap of social- and family life with work. Besides, they want to send them as much money as possible (Verité, 2012). One study even found that migrant workers make overtime because they believe anything in China is just and fair (Chan & Siu, 2010). Accordingly,

pressure for other workers to make overtime increases. Factories' performance pressure encouraged by supervisors and executives regards workers who do not make overtime as lazy or unmotivated (Shepard, 2021). Due to gaps between managers and employees regarding power and income demanding overtime from their employees gets easier (Hoi Yee, 2006). As such, personal pressure and orders from factory management together with pressure on production due to foreign demand of the free market have led to the common practice of working days that are longer than eight hours (So, 2010). This performance pressure can interrelate with the problematic piece-rate system that drives garment workers to make overtime because it is based on individual performance. The more they personally produce, the more money they will receive. Consequently, workers do not think in terms of hours and produce as much as possible regardless of time (Chan & Siu, 2010).

CSR

Within the capitalist system in order to fill the void of compliance with the human rights regime in the Chinese garment industry, there is CSR. To be clear, in this context I elaborate on CSR conducted by Western companies in the Chinese garment industry. As outlined in the literature review it aims to put responsibility on corporations for social and environmental issues due their business conduct. Accordingly, it aspires to let businesses comply with human rights and therewith counter overtime. Therefore, communication between companies, customers and other stakeholders like workers are essential (Social Economic Council, 2022). Yet, greenwashing of CSR by Western brands lurks (Butler, 2022). CSR is used as an instrument that differentiates corporations in a competitive market. Especially as CSR practices cannot be seen by consumers and can only be signalled through labelling or advertising (Lee, Cruz & Shankar, 2018). Likewise, the Western brand '& Other Stories' uses wording that makes garments appear like they were created in Sweden, France or North-America where labour rights are protected. However, in reality, only the designs are created there. The actual garments are produced in for instance China and Bangladesh where labour exploitation thrives (Assoune, 2022).

Most of the time companies have adopted codes of conduct Chinese suppliers ought to sign when stepping into business with brands. Compliance with these codes is checked through social audits often conducted by third parties. Nevertheless, their monitoring and implementation are problematic. Results from these audits are not always trustworthy and Chinese companies see activities related to CSR as a financial burden. They have little economic incentive to encourage CSR implementation which constrains their willingness to comply (Cooke & He, 2010). Likewise, to meet audit requirements, factory managements face the temptation to engage in window-dressing. Especially concerning freedom of association (International Federation for Human Rights, 2013). An enabling right that is generally harder to achieve than basic improvements like safe work conditions (Chan, 2014; Locke, 2013). Workers are also told to give 'the right answers' to auditors to conceal

malpractices in factories like overtime or low wages (Ngai, 2005; Verité, 2012). Besides, via consultants based in China, auditors could have been bribed to falsify undesirable audit results (Bermingham & Zhou, 2021). The success of factory management's hiding of malpractices often lies in the poor connection between auditors and the workers, the workers' willingness to stay in the factory because they are dependent on it for their livelihoods and auditors' announcement of audits which gives factory management time to hide malpractices (Hasan & Shi, 2017). As such, overtime can persist in the Chinese garment industry as it could be hidden by factory management in collaboration with workers who then claim they do not work overtime.

Brands' purchasing practices

It is also important to look at brands' responsibilities regarding the persistence of overtime in the Chinese garment industry. Namely, through their governance of the chain, brands have the potential to exercise significant influence over suppliers. They decide what is to be produced, where, how and for what price (Lund-Thomson, Nadvi, Chan, Khara & Xu, 2012). Especially brands' buyers are the most powerful stakeholders as their orders maintain the garment factories in business (Hasan & Shi, 2017). Nevertheless, it is their purchasing practices that demand deterioration of working conditions due to the pressure they put on factories. The tight delivery times, changing orders, low payments and demand for small batches cause workers having to make overtime and get paid low wages (International Federation for Human Rights, 2013; Linfei & Qingliang, 2009; Social Economic Council, 2022). Better purchasing practices like brands' acknowledgement of possible negative impact in the chain due to their actions, openness to discuss their practices based on personal analysis and feedback, and translating those evaluations into purchasing practices, can overcome overtime in factories (Social Economic Council, 2022).

Just talking about the importance of human rights yet wanting good products as cheap as possible for which human rights are traded off, as done by various western brands, is hypocrite (Ngai, 2005). Brands must critically look at their own purchasing practices and act upon them to stop labour exploitation instead of just talking. For example, setting realistic, negotiated delivery times and not changing orders last minute. Likewise, there are buyers in the garment industry that conduct CSR to protect the brand's name and to respond to demands from society or governments who desire the protection of labour rights (Hasan & Shi, 2017). However, even though they do have a genuine interest in decent labour conditions to avoid public scandals and participate in private initiatives regarding monitoring of factories or certification schemes, they are unwilling to pay extra for improved labour conditions as that could erode their margins or lead to price increases that consumers are unwilling to accept. As such, on their own, companies refuse to fully redress workplace problems throughout their supply chains because their suppliers can also produce for competing brands who then do not pay for

labour conditions' alleviation (Locke, 2013). On top of that, it is argued that the business community has lobbied for a weaker labour law, the Labour Contract Law, that protects workers less which illustrates businesses' interest in keeping labour conditions low for their own wellbeing (So, 2010).

One other critical note is that Western governments could, via regulation, compel brands to improve their purchasing practices. Up to now, few EU-member states like Germany and Norway have handled such domestic legislation (MVO Nederland, 2022). Yet, today, in the European Union there are negotiations about the 'Directive on corporate sustainability due diligence' which obliges big companies to oversee their (negative) impacts on people and planet caused by their conduct and mitigate or avoid them where necessary. Not only must these impacts be examined in relation to the companies' own business conduct but also that of daughter companies and throughout the value chain (Terra, 2022).

In conclusion, while corporations in the West started and profit from outsourcing garment production to China because of lower production costs connected to labour exploitation like overtime and low wages, it is the West that shames China for this very labour exploitation. Therefore, the West seems to ignore its crucial role in supporting labour exploitation through Western brands' purchasing practices in Chinese garment factories while unrightfully putting the full blame on China.

Domestic factors that generate overtime

To summarise the second reason why labour exploitation, and therewith overtime, in the Chinese garment industry persists despite the international human rights regime that will be elaborated on is that China perceives overtime as a tool for economic growth which will eventually provide human rights for all people in China. Accordingly, China bases its domestic policies on the rights to subsistence and development. This relates to the capitalist system that has brought prosperity to China. Therein, overtime is used by garment factories as a tool to meet the delivery schedules of western brands. Meeting delivery schedules and staying in business contribute to China's economic growth. Therefore, China does not have interest in combatting overtime in its garment industry; one of its backbone industries.

This argument also relates to the discussion concerning the universality of human rights between the West and China. Whereas the West argues human rights apply to all people and therefore ought to be complied with by all governments, China argues for 'human rights with Chinese characteristics' which challenges the West's hegemonic idea of human rights. It also prioritises manufacturing including the persistence of overtime which supports economic development and brings prosperity granting all people human rights.

Human rights with Chinese characteristics

Today, in its human rights discourse the Chinese government emphasises 'human rights with Chinese characteristics' comprising equal importance of economic, social, and political rights, essentialisation of states' sovereignty and more importantly, rejection of human rights' universality as projected by the West. Therefore, China does not reject human rights itself but established a counter-discourse against the current human rights regime of the West. For instance, China's support for human rights becomes evident when reading the State Council Information Office of the People's Republic of China's (2019, p. 3) following statement: "As a key member of the international community, China raises high the banner of peace, development, cooperation, and mutual benefits, staunchly safeguarding world peace, promoting common development, and advancing development through cooperation while promoting human rights through development. It fully participates in global human rights governance and works strenuously to advance the international cause of human rights." Especially the latter part illustrates China's human rights discourse of prioritising economic development to eventually grant all people human rights.

Deviating perspectives on human rights' universality

Let us first elaborate on the wider discussion about the idea of human rights between the West, which holds the current hegemonic idea of human rights being universal and China, the rising hegemony that rejects the West's idea about human rights' universality. The discussion is about who will maintain the hegemonic idea of human rights. Especially because China has deeply embedded itself in the world order led by the West enabling China to change the order from within. China supports human rights as idealised in the UDHR, has joined multilateral treaties and has for instance signed most core human rights conventions (Cai, 2021; Yunlong, 2014). As such, it has integrated into the international order and gathered legitimacy regarding human rights. This increases the potential of China to, among other things, eventually reshape universality's Western conception (Cai, 2021). Especially since the Xi administration, the international human rights stage is used by China to propagandise its position on human rights. It is not just about the avoidance of international scrutiny of its human rights record anymore. Instead, China takes an active role in the diminishment of the human rights regime's strength while advocating for its alternative solution of human rights with Chinese characteristics (Chen, 2019). China portrays itself as the leading voice of the global South when it comes to (alternative) human rights (Chen, 2019). Accordingly, the West feels threatened; having China as a hegemonic power regarding the concept of human rights threatens the current, Western-led world order.

On the one hand, the West argues for the universality of human rights in the sense that they apply to all humans. Accordingly, all states have to comply with human rights. While this notion of universality is mostly power-based, it is also ideology-biased and self-centred. It is a soft instrument paired with the hard instrument of force that transforms the global order into a Western order. Likewise, the West has carried out humanitarian interventions in states like Libya where the perception was that human rights were gravely and systematically infringed to spread and maintain its norms and values (Cai, 2021). However, there is hypocrisy in the Western discourse because the West also does not abide by all its human rights yet expects China to do so. For instance, in 2020/2021 the United States' border control carried out nearly 1.5 million unnecessary and unlawful pushbacks at its border with Mexico. Returnees were not given access to asylum procedures, individual risk assessments or legal remedies. In the United Kingdom, restriction of the right to freedom of peaceful assembly was restricted by expansion of police powers to ban, impose or limit 'noisy' or 'disruptive' protests. Accordingly, excessive and unnecessary police force was used while dispersing a vigil in London for Sarah Everard who was a victim of rape and murder by a police officer. In the Netherlands, to detect fraudulent applications for childcare benefits, tax authorities used a discriminatory algorithmic system. This led to false accusations of fraud for tens of thousands of people who unrightfully had to pay back big amounts of money. As the criteria of whether the applicant had a Dutch nationality was used as a risk factor, most people who were accused of fraud had a migrant background and were from low-income classes (Amnesty International, 2022a).

On the other hand, China rejects the Western principle of human rights' universality and argues for the inclusion of various interpretations of universality. This idea of universality paves a major pathway for China's pursuit to reshape global perceptions of universality of which the hegemony is currently held by the West (Cai, 2021). China's opposing stance against the West can be explained by its past marked by a century of imperialist intrusion which China perceives as humiliation. In its view, it was capitalist states that used the human rights system as an excuse to oppress and exploit other (socialist) states by intervening in their internal affairs. All this to achieve capitalist states' imperialist goal. Accordingly, a Chinese, deep-rooted nationalist sentiment emerged that rejects interference from, once again, capitalist states in domestic affairs (Chen, 2019). This is well visible when one analyses China's ongoing human rights dialogues with for example the EU during which China defends sovereignty and non-interference. According to its perspective, these talks are held between unequal partners because in reality the EU intends to change China by 'bringing it' legalism and modernity which China is aware of and rejects (Sevastik, 2015). One tactic of China to do so is exposing hypocrisy regarding human rights practices inside and outside of the Western states (Chen & Hsu, 2018). For instance, when the US, under the Trump administration pointed at the detainment of minority groups in Xinjiang, China pointed at the US' domestic policy at the US-Mexican border where children were, illegally, forced to separate from their parents (Human Rights Watch, 2022a).

The equalisation of economic, social and political rights

With China's equalisation of the importance of economic, social, and political rights, it narrates that the prioritisation of manufacturing supports economic development. It sees poverty as the biggest obstacle in the provision of human rights and therefore refers to the mid-19th century when China experienced wars and fell into backwardness and poverty. There was hunger and people lived in misery. With this in China's collective mind, its drive for prosperity keeps growing. As such, the government has economic development on top of its governance agenda and aims to solve all problems with that (State Council Information Office of the People's Republic of China, 2019). Indeed, prosperity in China has increased because of the economic reforms however, uneven income distribution is a growing trend and could lead to social instability (Hoi Yee, 2006). Nevertheless, besides that and regardless of working conditions, Xi openly supports hard work and honours workers and their societal role in contributing to prosperity and unity. Across Chinese media, this transformation of workers' personal struggles into an ideology is continuously repeated (China Labour Bulletin, 2022). Economic development derived from the collective, will increase prosperity and eventually grant people human rights. As such, China uses the principle of 'Efficiency First, Fairness is Indispensable' and has established priorities on policies based on economic rights like the rights to subsistence and

economic development instead of on policies based on civil and political rights (Yunlong, 2014). Some that contribute to overtime will be elaborated on below.

Policy Priorities

China is restrictive when it comes to freedom of speech because it connects to social stability. People speaking out freely means less control over society which could lead to social instability and hinders economic development (Yunlong, 2014). For example, if workers protest and thus do not work, manufacturing is hindered and therewith the ultimate goal of economic development and provision of human rights to all. Besides, already in 2009, freedom of speech was problematic in China due to strict censorship policies. For example, websites like Facebook and Twitter have disappeared from the Chinese Internet and authors of comments on news articles must register their real identities. Accordingly, of comments that are subversive, the authors can be held accountable which can lead to blacklisting 'problematic' journalists or even imprisoning them despite the Chinese government's claim that Chinese citizens have freedom of speech on the Internet (Amnesty International, 2022b; Archie, 2009; Human Rights Watch, 2022b; Sevastik, 2015).

Another priority of China regarding labour and human rights is its policy on collective rights which undermines China's ultimate goal of economic development. This correlates with the above-stated limitation of freedom of speech. Namely, China's legal framework on labour is based on individual rights. For instance, China's 2008 Labour Contract Law aims to regulate and stabilise employment relations by, among other things, making it a legal obligation for employers to sign written contracts with workers (Chan, 2014). Yet simultaneously, China has not ratified core ILO conventions such as convention number 87: Freedom of Association and Protection of the Right to Organise Convention, 1948 or 98: Right to Organise and Collective Bargaining Convention, 1949 which focus on collective rights (ILO, 2017b; ILO, 2017c). What comes closest to collective labour rights is that under Chinese Law, any group of people consisting of 25 or more, can create a trade union without the agreement of the company. However, all must be subsidiary to the All-China Federation of Trade Unions (ACFTU). This is a unitary (monopolistic) trade union organisation linked to the Chinese communist party and dominated by company management. There are no opportunities to create independent unions nor is striking allowed (Estlund, 2017).

The ACFTU is used as an instrument to curb dissent by the Chinese government to maintain stability and avoid unrest. It distributes handouts and implores workers to be patient in case there is an obvious conflict between employers and employees. Nonetheless, conflicts are not resolved. Hence, the ACFTU actively seeks out and suppresses worker unrest. It supports China's capitalist accumulation by disregarding workers' issues so business can continue as it goes and bring wealth to the state (Taylor & Li, 2007). This way, the Chinese government makes workers feel like they are heard which 'pleases'

them and refrains them from rebellious behaviour while also pleasing the economy and maintaining social stability (Reny, 2021; Tusalem, 2015).

For the generation of overtime in the Chinese garment industry this implies that when it occurs in factories, workers are unable to collectively bargain for better working conditions and cease overtime. The ACFTU is no help, freedom of speech is restricted and, under the banner of social stability, independent strikes outside the ACFTU's apparatus are oppressed by the government potentially leading to workers' prosecutions (Kuo, 2021). Moreover, the government supports hard work regardless of working conditions and in its eyes, overtime has contributed to economic growth since its economic reforms in 1978 (China Labour Bulletin, 2022). Therefore, it does not have interest in combatting overtime.

The importance of state sovereignty

For human rights with Chinese characteristics, sovereignty is a sacred right and despite whatever circumstances, cannot be compromised (Dingding, 2009). For the West, sovereignty can be compromised when human rights are violated in a sovereign state (Cai, 2021). Nevertheless, for China, its national conditions and the principles of sovereignty and non-interference with its domestic affairs must be considered by other governments. As such, criticism of its human rights record is perceived as interfering in China's domestic affairs and condemnation of Chinese activists that are detained is perceived as a violation of the judicial sovereignty of China. These ultra-statist conceptions of sovereignty and emphasis on non-interference on various levels remain a constant and prominent theme in China's discourse on human rights. Nevertheless, China disregards the fact that under customary international law and human rights treaty law, states have legal obligations. Under the principle of non-interference, international scrutiny to ensure states' accountability to international laws is not a violation (Chen, 2019).

Another reason why China argues for state sovereignty and rejects human rights' universality as pronounced by the West is its belief that active state intervention and institutional support are necessary to realise human rights. Namely, within the Chinese government's governing capabilities are, among other things, its capability to regulate market order, maintain stability on a domestic and international level and facilitate social equity. Human rights are in China's sovereignty and universality as defined by the West of them could intrude that (Chen & Hsu, 2018). Hence, in case other states have the perception that China, by its domestic interventions in for example suppressing protests, does not comply with liberal human rights, this same set of rights gives them legitimacy to intervene and therefore threaten the Chinese government. This could eventually lead to bringing about regime change which the Chinese government aims to avoid.

Not only does China reject the universality of human rights when it comes to its own sovereignty, but also when it comes to other states' sovereignty. As such, it argues states can have human rights concepts that differ from the current western, hegemonic concept. Furthermore, one ought not to demand states to comply with human rights concepts that differ from their own (Angle, 2002). Each state must be able to explore and find its own most efficient way in accordance with its own context (Yunlong, 2014). Therefore, China is on a similar page as Besson (2013) whose argument is elaborated on in the literature review. Namely, the legalisation of human rights ought to take place domestically and human rights norms must match domestic human rights if they are to be regarded as human rights. Accordingly, human rights are not universal as pronounced by the West.

Conclusion

The answer to the research question ‘Why does labour exploitation in the Chinese garment industry persist despite the international human rights regime?’ is firstly that the current capitalist free-market system and secondly that the policy priorities of the Chinese government preserve overtime. In the Chinese garment industry, a backbone industry for the state and part of the free-market system, labour exploitation including overtime contributes to its strong economic position and supports China’s economic development which the Chinese government prioritises. Meanwhile the free-market system also does not have an interest in combatting labour exploitation and overtime in the Chinese garment industry as that could decrease financial returns for both Western companies and local factories.

The first point is the current capitalist, free-market system that thrives on outsourcing and generates competition amongst Chinese garment factories setting labour standards outside the apparatus of the human rights regime. With their demand for low prices, short lead times and small batches, international buyers put pressure on Chinese garment factories. This also interrelates with today’s consumer demand for cheap and big quantities of garments. Consequently, factories are forced to meet the buyers’ demand to stay in business because otherwise the buyers will go to another factory. Accordingly, factories lower working standards and for example use overtime as a safety net when orders cannot be completed in a regular workweek. As such, labour standards are set outside the human rights regime’s apparatus which in the first place lacks strong enforcement mechanisms. There are attempts of CSR to make companies comply with the human rights regime however these could be debated on. CSR efforts are not always well-monitored and implemented. Actually, brands themselves must look at their responsibilities regarding the persistence of overtime in the Chinese garment industry. They are the most powerful actors in the chain and today it is their purchasing practices that put pressure on garment factories causing them to lower working standards and apply overtime to meet brands’ tight delivery schedules. Instead, brands should reconsider their purchasing practices and among other things, set realistic, negotiated delivery times and not change orders last minute. Moreover, they should be willing to pay more for garments and improve labour conditions in their supplying factories. Also, regulation from Western governments can play an essential role in forcing companies to improve their purchasing practices and monitor and act upon the impacts they make. As such, poor working conditions including overtime are not solely the responsibility of Chinese garment factories but also that of consumers, Western brands and governments.

The second point is that the Chinese government perceives overtime as a tool for economic growth which is prioritised and will eventually provide human rights for all people in China. This also interrelates with the argument above. Namely, as garment factories, vital for China’s economy, use overtime as a safety net to meet tight delivery schedules from Western brands, the government does

not have an interest in combatting overtime. It understands hard work, regardless of working conditions and overtime are needed for garment factories to stay in business. This stance of the Chinese government is even spread across Chinese media. No hard work will cause orders to go to factories abroad which will hamper China's economic development and therewith the granting of human rights to all. The latter relates to the wider discussion about the idea of human rights between on the one hand the hegemonic West which argues for human rights' universality in the sense that they apply to all humans and therefore all states have to comply. On the other hand, there is the rising hegemony China which rejects the Western idea about human rights' universality. Therefore, China does not reject human rights but uses another discourse and argues for human rights with Chinese characteristics. Among other things, it comprises essentialisation of states' sovereignty, rejection of human rights' universality as projected by the West and equal importance of economic, social, and political rights. The latter also explains why China focuses so much on economic development and has policies that support that and overlook overtime. They are based on economic rights instead of civil and political rights. Once the economy is developed, human rights, including civil and political rights can be granted to all.

With the above-stated conclusion, I want to emphasise that even though China was taken as a case study, it is not just China that is responsible for labour exploitation in the Chinese garment industry. Rather, it is in fact Western brands, consumers, both the Chinese and Western governments and the Chinese garment factories. Also, it calls for reflection on behalf of the West. Namely, hypocritically, the West desires China to comply with the human rights regime and condemns human rights violations while first of all, the West itself violates human rights and second, the West demands cheap garments and contributes to labour rights violations. One must acknowledge here that consumers also play their parts. Nowadays, because consumers do not accept higher prices for garments but do want more garments and at a quicker pace, it is harder for companies to do the exact opposite which could lead to improvement of labour conditions in the Chinese garment industry. Namely, pay higher prices and demand at a slower pace. On top of that, perhaps the human rights regime should be more open to other perspectives instead of the Western perspective on one side and the Chinese one on the other. In the end, it is everyday people that must be protected from human rights violations and having two powerful opposing voices makes that difficult.

For further research, one could dive deeper into the Chinese culture and its relationship with overtime. For example, is making overtime and working hard embedded in Chinese culture? Moreover, overtime does not solely occur in China but also in for example Italy or Portugal. There, garment workers working overtime might have different reasons than in China. Besides, overtime does not just occur in garment industries. As such, further research on reasons for overtime could focus on other industries like the electronics industry in for instance India.

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