Forced Labour and Trade: A Canada – United States Comparative Analysis

Kristine Plouffe-Malette
UQAM, Montreal

Hughes Brisson
Independent Researcher

Abstract: This article examines legal and policy measures taken in Canada and the United States to intensify the fight against forced labour and the worst forms of child labour in international trade. First, the article explores clauses included in regional trade agreements to combat forced and child labour. It then looks specifically at measures adopted by Canada, contrasting its strong international commitment with the country’s failure to implement policy to support this commitment at national level. The article then compares the Canadian approach to recent legislative amendments in the United States, which strengthen prohibitions in place since 1930 on importing products made from forced labour.

Keywords: Forced labour, child labour, regional trade agreements, Canada, United States

Introduction

The defense of human rights, labour standards and environmental protection is a fundamental objective of socially responsible progressive trade policy. The inclusion of these social themes in trade agreements has been widely studied. However, less attention has been paid to the concrete benefits progressive trade policy brings in priority areas, such as forced labour and child labour.

A report presented in February 2017 by the Centre d’études sur l’intégration et la mondialisation (CEIM) of the University of Quebec in Montreal (UQAM), Canada, recommends including “explicit reference to the International Labour Organization (ILO) Core Conventions in trade agreements, in order to increase the level of obligation and commitment of partner countries” (Recommendation 2).
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further recommends prohibiting “the import of products derived from forced labour and the worst forms of child labour” (Recommendation 9). These recommendations are based on survey findings that 96.1% of respondents believe it is necessary to “prohibit imports incorporating forced labour and the worst forms of child labour”. There is thus almost unanimous perception that Canadian commercial actors must be prohibited from importing products derived from forced labour and the worst forms of child labour in order to assure respect for workers’ rights.

However, a review of Canada’s international and bilateral efforts reveals a lack of consistency between the commitments made and their implementation. Canada’s international commitments to combating forced labour and the worst forms of child labour in trade have not been translated into national measures as concretely as those of the United States, Canada’s largest economic partner. This requires a comparative study of the Canadian and American regimes, so as to highlight the key differences in how the two countries approach this highly sensitive subject, such as the combating of forced labour and the worst forms of child labour via trade agreements. Canada and the USA are good points of comparison given their status as highly developed democracies, close neighbours and interdependent economies.

Canada’s commitment to combating forced labour

Canada and the international fight against forced labour and the worst forms of child labour

Canada’s commitments in the fight against forced labour have not been linear or consistent over time. For example, the International Labour Organization (ILO) Forcéd Labour Convention No. 29, adopted in 1930, was only ratified by Canada in 2011, despite the fact that Canada had, in 1959, ratified ILO Convention No. 105 concerning the Abolition of Forced Labour. Canada also ratified ILO Convention No. 182 concerning the Worst Forms of Child Labour on 6 June 2000, and ILO Convention No. 138 concerning Minimum Age in 2016. Adoption of the 1998 Declaration on Fundamental Principles and Rights at Work, a non-binding treaty-like text, commits Canada “to respect, to promote and to realize … the principles concerning the fundamental rights … namely … the elimination of all forms of forced or compulsory labour; the effective abolition of child labour”. Moreover, Canada has signed the 2014 Protocol to the Forced Labour Convention, P029, which will enter into force on June 17, 2020. This last convention sought to strengthen commitments under the Forced Labour Convention, due to the persistence of forced labour despite what Guy Ryder, Director General of the ILO, called the “firm commitment by governments and employer and worker organizations to eliminate contemporary forms of slavery”.

Canada was, on the other hand, one of the first States to ratify the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which was signed on November 15, 2000 and entered into force in 2003. In summary, though Canada was at the forefront of

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3 Rioux and Zini, 2017: 5
4 Ibid. p.16
5 ILO, 2014 [our translation from a French statement]