

# The Utility of the Legal System in Cadour-Hicks Improvements: Take the Kumri Act in France and the Minimum Wage System in China as Examples

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**Abstract:** *In recent decades, the economic society of France has been in the predicament of "three high and one low". The three governments of Sarkozy, Hollande and Macron are committed to reconciling the contradictions between enterprises and employees, as well as between collective interests and individual interests through the form of laws. Corresponding to this is China's "Minimum wage Regulations" implemented on March 1, 2004, both of which aim at stabilizing social order and increasing overall social income from a macro perspective. Cadour-hicks improvement is the simplest and most direct model for utility improvement today. It is a common Cadour-Hicks improvement model to realize the growth of social resources through institutional reform of a certain social phenomenon. Based on the reform of labor law in France and the different reform measures adopted in China, this paper analyzes the game between legislators and market participants and explores the role of legal rules in balancing multi-interest and promoting social coordination and cooperation.*

**Keywords:** *Labor law reform; Minimum wage standards; macro-control*

## 1. Cadour-Hicks' improved applicability theory

Pareto efficiency refers to a state in which there is no alternative to the state in which at least one person is better off while no one else is worse off [1]. From the perspective of efficient allocation of social resources, this is an optimal solution to realize the utilization of social resources, but this state is only at the theoretical level. From a practical point of view, Pareto optimal state can not be realized, the reasons can be summarized as follows: (1) The total value of social resources cannot be measured. (2) The individual information we have is incomplete. In the primary stage of socialism, China adopts a resource allocation system with distribution according to work as the main body and multiple distribution methods coexisting. If you want to ensure that each additional resource can be allocated to any individual to achieve the same value, it is necessary to conduct a full investigation of each individual's information, such as the amount of wealth held by the individual and the size of resource utilization rate. The amount and possibility of realizing the value. (3) There is no absolutely fair distribution rule in society. Pareto efficiency only pursues that all social resources can be distributed and transformed into value, regardless of whether the distribution rule conforms to the distribution principle of "distribution according to work", that is, whether it is fair. This fairness is reflected in many aspects, for example, for different occupations, whether the labor paid is in line with the wage, and whether the degree of risk of the work can be compensated economically. (4) The loss of value in the distribution process. When resources are allocated when the first three conditions are fully met, the unnecessary loss in the process of resource redistribution cannot be measured, and the final distribution result will break the previous distribution justice.

Then, in order to achieve the Pareto optimal state, it is necessary to carry out Pareto improvement on the produced resources. Pareto improvement is the assumption that an inherent group of people and allocable resources can change from one allocative state to another in such a way that at least one person is better off without making anyone worse off. Pareto improvement of resource distribution means that in the process of distributing the produced social resources, the existing resources of each person are guaranteed to remain unchanged, and the distribution is as fair as possible. In this way, the problem of new resource distribution can be solved, and the previous unfair distribution problem can be constantly corrected.

What can be understood from the above description is that in Pareto improvement, the pattern of "profit at the expense of others" is not allowed. But from the physics point of view, according to the law

of conservation of energy, the increase of one kind of energy must be accompanied by the consumption of another kind of energy, that is, "you win something, you lose something". In the actual national development and international exchanges, it can be seen that developing countries often develop their economy at the cost of destroying the environment. Although on the surface, the total value of society has increased and people's life has been improved, natural resources have been lost. Some developed countries seek profiteering by provoking wars in developing countries. As a result, the economic conditions of developed countries are improved at the expense of the stable social conditions of developing countries. However, these realities all contradict the Pareto improvement rule. In this way, the Cadot-Hicks criterion is more in line with the real law of development.

Cadot-hicks criterion refers to the criterion that the total gain from the result can compensate for the loss, that is, the total amount of social value can be maximized by solving the problem of compensation for the injured. The reason why both the perpetrator and the victim can accept this model lies in its rationality of "giving a slap to a date"— as long as the value brought by the date can be higher than the loss brought by the slap, the Cadolle-Hicks improvement can be carried out.

## **2. Second, the social benefits of the French Coumri Act**

### ***2.1. The promulgation and measures of the Coomri Act***

In February 2016, the French Minister of Labour Myriam El Khomri, responding to years of demands from the Labour community to streamline the code and break the macroeconomic "three highs and one low" (high deficit, high deficit, high unemployment, low growth) [2]. Officially enacted La loi El Khomri (Law).

The main contents of the bill include: (1) After the reform, the general legal working hours will remain unchanged, but in special cases, the maximum number of hours that can be extended per week will be raised from the original 44 hours to 60 hours according to the different needs of the industry or enterprise. This provides a legal basis for employers to reasonably extend working hours and ask for overtime. (2) The minimum increase in overtime costs will be lowered from 25 percent to 10 percent. Although the right to set the overtime rate of each company is passed down to each company operator by the trade association, employers must also take into account the ability of employees to accept the overtime rate when lowering it. The reduction of the statutory standard does not necessarily mean that workers will be paid less for overtime work, but for employees, the employer's impunity to reduce the amount of overtime pay must be compromised, otherwise it will provide a personal reason for the employer to legally dismiss the employee. (3) The criteria for triggering economic lay-offs are amended to allow for increased lay-offs when a business is in such financial distress that it is unable to function normally. In other words, the enactment of the new act strengthens the power of employers to fire employees. (4) According to French labor law, when an employer fires an employee, it is required to pay the employee a certain amount of compensation (for each year of employment, the compensation is increased by one-tenth of the monthly salary), and if the employer unlawfully fired the employee, it is also required to pay an additional termination compensation. Before the reform, it was unfair for employers or employees to pay compensation that was too high or too low because there was no standard or cap on the amount of compensation. The reform set a cap on compensation[3].

On the whole, the act intends to break up part of the power of the labor union in the form of law and delegate it to the hands of the enterprise operators, stimulate the operators to increase production by relaxing the overtime compensation standard and expanding the right of free dismissal, and then promote the new round of games between employers and employees.

### ***2.2. The game between employer and employee***

From the employer's point of view, although the legal level has lowered the standard, the employer can not blindly extend the working hours or reduce the overtime pay, the employer needs to take into account the employees' ability to bear. If the existing overtime benefits remain unchanged, it will fail to achieve the purpose of the law. If the existing company benefits are excessively reduced, it will easily stimulate the resistance of employees, resulting in strikes, staff turnover and other consequences, but not conducive to the improvement of production level. At the same time, enterprise operators also need to consider the measures taken by other enterprises in the same industry, not only to avoid the problem of talent outflow caused by too low welfare benefits, but also to avoid the problem of ineffective production efficiency due to the lack of reward and punishment mechanism, so as to lose the quantitative advantage

of competitors in the same industry, both of which may lead to the loneliness and bankruptcy of an enterprise. To sum up, enterprises in the same industry will reduce production costs in moderation under the condition of legal concessions, although this right breaks through the restrictions of the trade union, but will eventually form a silent tacit understanding between enterprises, the wages and working hours between enterprises will not have much difference.

From the perspective of employees, they can choose to accept or resist the new policy of the employer. If they compromise, it means that they will have to work more, and the compensation in exchange may not reach the original level. In short, there is a high probability that their standard of living will decline. And this decline is not a one-off, because the employee's compromise means that the employer has "room to squeeze". Marx once said that "once there is a decent profit, the capitalist is emboldened". Once more profits are found to be on the table, employers do not act only once, but step by step, testing the employee's bottom line. In other words, employees will eventually fight back, and the harder and more fiercely they fight, the less they will concede and the more they will be able to fight for and retain. The most obvious form of protest an employee can take against an employer is to go on strike or take advantage of the situation at work. If the boss's turning a blind eye to slacking off at work is a compromise made by employers to retain employees, then an overly aggressive strike is tantamount to a real attempt to get a slice of the capitalist pie. But such behaviour may play into the employer's hands, as worksnacking provides a good reason to dismiss an employee for personal reasons. Although the reform raises the financial compensation for lawful layoff, employees face a high risk of dismissal if the employer believes that the value created by the employee is less than the wage consideration paid by the employer. In order to reduce this risk, the employee must take some measures to maintain or improve his/her current standard of living, but also to maintain his/her advantage in the event of dismissal. One such measure is to increase one's level of production.

Suppose that in an enterprise, the monthly productivity of each employee is  $v_1$ , that is, the value that each person can produce per month is  $v_1$ , and after this reform, the entrepreneur takes some measures to increase the average monthly productivity of each individual to  $v_2$  (the enterprise must continue to increase production, because capitalists are profit-seeking). The measures that the enterprise may take include improving the level of production technology, such as purchasing more advanced equipment or introducing innovative technological methods, extending working hours or reducing overtime pay to reduce the cost of employment (within the appropriate range after the relaxation of the law above), or adopting the method of survival of the fittest. The price of the compensation to be paid by the company as the cost of firing the employee, and the potential compensation for illegal layoffs, is set at  $a$  (although the value of  $a$  varies with the number of hours worked, etc., the value of  $a$  is considered fixed because the Kumri Act has limited increases in compensation). Then, according to the Cador-Hicks improvement principle, if the firm wants to dismiss the employee, it is because it considers that in the next  $t$  months, the consideration  $a$  paid for the dismissal of the employee and the original production value can be compensated for the introduction of higher productivity and there is a surplus, that is,  $v_2 * t > v_1 * t + a$ , and the inequality can be modified to obtain  $v_2 - v_1 > a/t$ . The larger the value of  $t$ , the longer it takes for the new productivity to compensate for the replacement of the old productivity, the smaller the bottom line of the value on the left side of the inequality, and the smaller the gap between the old and the new labor force, the less easily the labor force will be replaced.

Finally, the employer and the employee reach an "agreement", the employer improves the quality of personnel through the way of survival of the fittest, so as to increase the total production of the enterprise, and the employee makes concessions within a certain range, but makes no compromise for the further "squeeze" of the employer.

### ***2.3. The internal balance of the enterprise brings butterfly effect to social resources***

After several rounds of games, a win-win result is obtained: the enterprise obtains higher profits, the social resources accumulate rapidly, the laid-off people get compensation, and the capable people who have been unemployed realize their value. However, the perfect result mentioned just now only reflects the value-added of an industry. If the realization of compensating for losses by producing more value under Cador-Hicks' improvement occurs in most industries, it may cause large-scale unemployment and increase the social burden, which is contrary to the original intention of legislation for France, which has been suffering from high unemployment.

### 3. The inhibitory effect of minimum wage on social resources

#### 3.1. *The Provisions on Minimum Wage guarantee basic living standards*

In China, a similar situation is the introduction of the minimum wage system and its trend of increasing.

Order No. 21 of the Ministry of Labor and Social Security of the People's Republic of China concerning the Provisions on Minimum Wage came into force on March 1, 2004. Article 3, Article 5 and Article 6 stipulate the definition of minimum wage standards and the factors that should be taken into account when different administrative regions of provinces, autonomous regions and municipalities directly under the Central Government formulate minimum wage standards within their respective administrative regions. Such as the minimum living expenses of local employees and their dependents, the consumer price index of urban residents, the social insurance premiums paid by individual employees and the housing provident fund, the average wages of employees, the level of economic development, employment status, etc.

The basis of the promulgation of this decree and its legislative spirit is to "safeguard the legitimate rights and interests of laborers to obtain labor remuneration, and protect the basic life of individual laborers and their family members", but the direct impact on enterprises is to increase their burden.

#### 3.2. *The issue of the recipients of the Provisions on Minimum Wages*

In an enterprise, every employee is paid a little less than the value of what they produce. When the minimum wage standard is set, for the employee whose salary is lower than the minimum wage standard, whether he works hard or not will not have a great impact on his income, then he may choose to be lazy. Similarly, for those employees whose wages are slightly higher than the minimum wage, the consideration of their work is not their wages, but the difference between the actual wage and the minimum wage, so they have no need to work hard. It is only for those workers whose wages are much higher than this minimum that it is necessary to maintain their current "effort". However, this phenomenon will undoubtedly cause great losses to the enterprises, for which the law is to let a group of capitalists do charity, using their money for social relief.

The capitalists will not pay for it themselves, so the source of the cost is devolved to one level, and the workers will ultimately pay for the new system. And this part of the workforce is usually not the one living on minimum wage, but the one working hard with higher wages. However, if the benefits of this part of employees are damaged, their motivation to produce will also decline. Although from the perspective of China's environment, if the salary is acceptable, people are more inclined to stay in the original position rather than changing jobs frequently, but if their own interests are obviously damaged, "job-hopping" is a better choice than "staying". Staff turnover and employees' negative emotions may affect the productivity of an enterprise to some extent. However, when the efficiency of the enterprise declines, the enterprise will still take measures to reduce the cost, and the interests of the employees will be damaged again, and the contradiction between the enterprise and the employees will further deepen, forming an endless evil cycle.

If the capitalists themselves do not want to pay, but also want to keep their core technical team in a way that does not lose the interests of excellent employees, then in order to maintain the original ratio of productivity to wage consideration, the simplest and most direct way is to dismiss some or all of the people whose productivity is "not worthy" of their wages. Most of these people are those whose wages hover above or below the minimum wage. Once these people are laid off, they will lose their main source of livelihood, increase the social unemployment rate, and increase the burden on the society, which is contrary to the original intention of the legislation. Moreover, in this case, the benefit is the enterprise as a whole and the employees with sufficient ability, and the damage is the dismissed employees and the social employment problem. Between the increase and decrease, the value of the representative cannot be measured. If a relatively specific value can be obtained by some way to compare the gain and loss, and when the loss is greater than the gain, then the above law cannot promote a Cador-Hicks improvement in the enterprise or even in the field, that is, it cannot improve the sum of the whole society, and the law is invalid. When the gain is greater than the loss, in theory, the law is worth implementing. But the effect of a measure should include realistic results as well as expectations for the future.

Suppose the firm is firing but not hiring. Suppose that the proportion of dismissed employees in the total number of original employees is  $x$ , before the reform of the enterprise, the total value produced by each employee in unit time is  $e_1$ , and the value produced after the reform is  $e_2$ . If the Cador-Hicks

improvement is followed,  $e_2^*(1-x) > e_1$  should be guaranteed, and after the change,  $e_2/e_1 > 1/(1-x)$  can be obtained. By simplifying  $e_2/e_1$  by  $y$ , we can get an inequality  $y > 1/(1-x)$  with respect to  $x$ .  $e_2/e_1$  represented by  $y$  can be seen as a requirement for the improvement of the capacity of the remaining employees, that is, as the number of layoffs increases, the requirement for the capacity of the remaining employees increases geometrically. However, the salary of employees will not increase in the corresponding trend, and generally increases in proportion above the minimum wage standard. When the number of dismissed employees reaches a certain value, the difference between the value created by the employees and the wages they enjoy is the smallest. From the perspective of the employees, the number of employees at this time is the most ideal. However, for the enterprise, the greater the difference, the more benefits the enterprise will earn, and the interests of the employee and the employer will conflict again.

Yang Cuiying and Wang Guohong in "Minimum Wage on Employment: Does it promote or Inhibit?" In the paper, the empirical method of spatial Durbin bidirectional fixed effect model is used to determine that the high labor cost brought by the excessively high minimum wage standard to enterprises and the loss of labor transfer caused by the different minimum wage standards in different places will lead to the negative impact of the minimum wage system on employment and further waste of social resources [4].

#### **4. Fourth, the transformation of the macro system to the theory**

It can be seen that, although from a realistic point of view, Cadour-Hicks improvement is a higher order of economic promotion than Pareto improvement, and more realistic possibility than Pareto improvement, it still cannot really achieve the good to the bad, the consideration compensation. If the Cadour-Hicks improvement principle continues to be promoted, the French labor law reform will not succeed, and the "Standing at night movement" [5] caused by the labor law reform will also cause great damage to the public's trust in the French government, social stability and economic development. Similarly, the minimum wage system will not survive in China's labor society. However, the fact is that after the labor law reform, the "Standing at night movement" was calmed down after a period of time due to the compromise made by the government, and the minimum wage standard in China also rose year by year. The fundamental reason is that market competition is not completely free competition, and the government's decision-making constantly adjusts the chips of multi-party games in the form of institutions.

##### **4.1. The tripartite compromise of French labor law**

In France, the labor law reform in 2016 can be traced back to the three governments of Sarkozy, Hollande and Macron. In 2007, Sarkozy called for cuts in pensions and civil service jobs, the following year he pushed through the Sunday Work Act, and in 2010 he called for a reform of the retirement system in order to save money for the government [6]. None of these measures came to frugality, but they laid the groundwork for further economic reforms. After the Hollande government came to power, it hoped to deeply bind labor welfare and enterprise development interests by insisting on promoting the corporate responsibility Convention and labor-management social governance, etc. When further reform measures caused dissatisfaction from the labor sector, it finally had to compromise and chose the "scaled back" reform bill, which was the basis for the subsequent 16 years of the Kumri Act.

After the introduction of the Coomri Act, the peaceful demonstrations on the streets of France gradually turned into violent protests. Workers believed that the government's measures touched their vested interests, and the government made concessions, but the government's concessions caused dissatisfaction at the enterprise level. When the final law did not conform to the original vision of the jurists for labor law reform, but when the law found a balance between the employers and the employees, the employees and the employers gave up some of their expected benefits, but the interests of both parties increased in the end, and social stability and the interests of business and society were realized.

##### **4.2. The free competition and macro-control of the Chinese market**

The 2008 Labor Contract Law re-emphasized the "minimum wage standard" status, but its actual impact on labor costs is not as great as the theory suggests. According to the survey, since 2004, 31 provinces and autonomous regions set minimum wage standards, there have been varying degrees of increase in the past two decades, but the situation of lowering the minimum wage is rare.

One reason for the rise in minimum wages is inflation. The most common reason for minimum wage

changes is to keep pace with inflation. The government can increase the minimum guarantee system accordingly by investigating the rising cost of living compared to the rising cost of living, as well as the increase in the income level of those above the minimum wage. Apart from inflation, which can pull up the minimum wage, increases in the minimum wage can also be the result of political factors or economic problems. Some scholars argue that raising the minimum wage allows more families to improve their living standards, increase their purchasing power and further stimulate the economy [7].

## 5. Conclusion

Cador-hicks improved the market model suitable for completely free competition, and the implementation effect of each initial system depends on the game of the participants. The amount of information, the amount of capital and the degree of network density of the participants have a high degree of influence or even decide the outcome of the game. Through the evaluation of the size of risk, the difficulty of operation, the ratio of cost to benefit and the expectation of the future, investors can choose the best solution in the market driven by the maximization of benefits, which is easy to make the whole market deviate in the direction of money theory. However, from the current situation of countries in the world, the market is more or less involved in the government to carry out macro-control, as a chess player or chessboard on the chessboard, to guide the market to the direction expected by lawmakers. Fortunately, the government has standardized the operation rules of the market through a series of normative documents such as laws, regulations and regulations, which not only includes direct legislation in the economic field, but also protects the safety and justice of social market transactions by guiding social values and other flexible means through social, cultural, medical, transportation and environmental convenience.

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