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The Future of Organised Labour

Global Perspectives



PETER LANG

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ANITA CHAN

Realities and Possibilities for Chinese Trade Unionism

Introduction

In the past few years China has become the focus of international attention as it emerges as an important economic power. Injecting tens of millions of workers into the world labour market in the past two decades, the China labour issue and, related to it, the All China Federation of Trade Unions (ACFTU), China's only official trade union federation, have aroused emotive and heated debates within the international trade union circle. China is feared as a gigantic competitor snatching jobs from developed and developing countries alike. Trade unions of the developed world criticise the ACFTU as an arm of the Chinese state and refuse to recognise it as a trade union. The International Confederation of Free Trade Unions (ICFTU) does not accept the ACFTU as a member.

Underlying this criticism that the ACFTU is not a real trade union and is hopelessly ineffectual is the wish that if only independent trade unions were allowed to exist, Chinese labour standards would rise and somehow in the distant future there would be a better world internationally for workers. Will this scenario come true, or is it wishful thinking? Readers who have read the earlier chapters of this book may have doubts about any optimistic expectation. Neoliberal globalisation, new technologies and fast movement of capital are eroding the gains that workers and their trade unions have made. This is particularly obvious in the developed world, and is preventing those who had never previously enjoyed these benefits from sharing any of them. The domination of the market over social justice seems unstoppable. Workers desperate for jobs and security are engaged in a race to the bottom. According to Andréia Galvão (in this volume), even the

rare labour success story of a trade union leader popularly elected as president of Brazil paradoxically required that one of the two major union federations compromise by retreating to a less combative 'citizen unionism' model.

In this chapter on the official Chinese trade union, I want to underline the fact that Chinese workers and the ACFTU are subject to the same anti-labour forces, even though right now, on the surface, China and Chinese workers seem to be winning in the global competition for foreign direct investment (FDI) and employment. There are two main forces at work today shaping the ACFTU. The first is internal: its nature as an organisation, which is a product of Maoist socialism and a one-party state system; and the second is the growing influence of external global economic forces ever since the Chinese economy was integrated into the international economy a quarter century ago. The chapter will take these two factors into account, including the historical and contemporary dimensions, when discussing the present and future of Chinese trade unionism.

The ACFTU under Maoist Authoritarianism

One issue in studies of trade unions is a union's ideological and strategic relationship with the state. At one end of the spectrum is a system where the trade union has a weak relationship with the government. At the other, a union can be under absolute state domination. This latter was the case in Leninist one-party states, where the trade union was an integral organ of the party-state. Even within Communist systems there were variations, and China had occupied the extreme end of the spectrum in terms of the trade union's incorporation into, and subjugation to, the party-state and management during the Maoist period (1949–76). According to a comparative study conducted by a Soviet specialist, even in the Soviet Union in the 1950s and 1960s enterprise-level trade unions had played a bigger role than did Chinese trade unions in the 1980s. In the USSR, 'some 3 to 10 percent of the Soviet

industrial labour force was involved each year as plaintiffs in one or another aspect of the grievance procedure, whereas the Chinese enterprise trade unions appear to be involved almost exclusively with matters of worker welfare' (Granick 1990: 238). As will be observed, this tradition of government control has left an imprint on present-day union capacities and workers' abilities to mobilise.

Despite the controls – and indeed in reaction to them – there have been several episodes in which workers and/or the ACFTU publicly asserted themselves in Maoist times. The ACFTU or some of its leaders had tried unsuccessfully to play a more independent role from the party-state on four separate occasions: first, immediately after Liberation resulting in the purge of the union chair; in 1956–67 at the time of the Hungarian Uprising, also resulting in another union chair stepping down; in 1966–67 during the Cultural Revolution; and the fourth time, shortly after Mao's death in 1976 (Chan 1993; Sheehan 1998). The wish of some trade union officials to shake off tight Party control was always there, strategically surfacing at times when state authority was under challenge from social upheavals usually instigated or led by other social groups (such as the Red Guards, students or intellectuals).

In this history of sporadic Chinese working-class movements and their recurrent alliance with Communist trade unions, sceptics would surely question whether workers and the official Communist trade unions ever actually shared similar goals. Very often, plainly, the trade unions and their cadres have acted ineffectually or against workers' interests, and they function at times merely as an arm of enterprise administration. However, this does not alter the fact that the political structure of a one-party Communist state is not totally monistic, and that, just as in a pluralistic structure, a bureaucratic organisation within the state may seek sometimes to assume its own separate identity. It can act in accordance with the institution's collective interests and/or its members' individual interests. But once crushed by the Communist Party in 1957–58, the ACFTU was not able to re-emerge as a bureaucratic interest for more than twenty years.

1980s: In Search of a Role in the Transition to a New Economic Order

During the 1980s, the ACFTU was allowed to re-organise itself. The party-state even granted the ACFTU a certain measure of authority to protect workers' rights from being violated by the party-state itself. One reason was that during 1980–81, not long after Deng Xiaoping and his team took power, a wave of strikes and agitation for the formation of autonomous trade unions swept China (Wilson 1990). Whether by coincidence, by convergence or by contagion, this unrest emerged around the same time as the Solidarity movement in Poland, the first successful workers' revolution in a workers' state and one which aroused great consternation in the socialist world. Thereafter, China's Party leaders sought to forestall any possible re-enactment of such a movement on Chinese soil. One of the leadership's strategies in the 1980s was to reinvigorate the ACFTU and to give it somewhat greater latitude to act as a representative of its constituency, so as to lobby on the workforce's behalf from inside the state and to act as a means to mediate workers' interests within enterprises.

Once allowed to re-establish itself, the ACFTU immediately launched a programme of trade union reforms. Since then, 'trade union reform' has been discussed incessantly in trade union publications to this very day. It first tried to assert itself by publicising the rehabilitation of Li Lisan, the trade union chair purged in the 1950s for challenging the Party. Second, it worked from the grassroots upward by reviving the Staff and Workers Representative Congress (SWRC) system in enterprises, first created in 1957 as a version of the Hungarian workers' councils. The enterprise-level trade union committee was to act as the standing administrative body of the Congress (Sheehan 1998: 72–5, 176). Because the Congress was endowed on paper with much power, the ACFTU placed building up the SWRC system on its priority list. It had hoped that the SWRC system could become the vehicle by which the union could share

power with the Party (Jiang 1996: 127).¹ Unfortunately, for a variety of reasons, the SWRC system was unable to take off.

The blue-collar workforce increasingly needed a means of defence, at a time when the workers' situation was increasingly under threat. The second half of the 1980s witnessed revolutionary changes in China on all fronts – with entrance to the world market, industrial restructuring, the emergence of private domestic capital and foreign capital, the separation of Party and management in state enterprises, the leasing out of state enterprises to managers, and related changes. China embarked on a programme to dismantle the state enterprise structure and, with it, the status of workers, eroding job security. It marked the beginning of a decentralised system of employment of a contractual nature and a new industrial relations system (You 1998; Tomba 2002). Whereas under the planned economy system wage-setting was determined by the central government and the same levels of pay applied nationwide, it was now determined increasingly at the enterprise level, so that it would be necessary to have genuine collective bargaining if workers' wages were to keep up with the expanding economy.

In the face of such monumental changes, abetted by an increasingly vibrant atmosphere of intellectual debate and a gathering rebellious social mood that would erupt by the end of the decade, notably as the social upheaval of 1989, the ACFTU seized the opportunity to become relevant in the new political and economic configuration, trying to shake off the control of the party-state.² For

- 1 Kevin Jiang's article is an unusual piece of writing on the ACFTU. It was based on an insider's knowledge and from an insider's perspective, as Jiang was a former trade union historian. The piece was written and published after he left China, and therefore contains an enormous amount of rare insider's information that could not have seen the light of day inside China. The title of the article, 'The Conflicts between Trade Unions and the Party-State: The Reform of the Chinese Trade Unions in the Eighties', was most challenging, since the official discourse has always been that the party-state and the union have a hierarchical relationship and unified goal, and so are not supposed to be in 'conflict'.
- 2 *Zhongguo Quanzong Lihun Taolunhui Lunwen Xuanbian* (Selected Essays from a Workshop on Trade Union Theoretical Issues), *Gonghui Lilun Wenti Tanta* (Exploring Trade Union Theoretical Questions) (1988), vol. 3, Beijing: Workers Press. It is possible to detect restiveness among the authors in this

instance, it demanded the right to 'participate and discuss politics' (*canzheng yizheng*) at all levels of the government, especially on occasions when the issues related to workers' welfare were affected. The ACFTU was fighting to be included in policy-making. In 1986, top ACFTU leadership initiated a 'dialogue' with the government, setting an example for lower-level unions to follow suit. It issued a series of documents expressing the ACFTU's opinion over a range of issues: occupational health and safety, retirement, indexing retirees' pensions to the rising cost of living, etc. Although the SWRC system had not been particularly successful, it continued incessantly to push for its legalisation in the course of drafting the Enterprise Law. It fought to insert articles to prevent drafts that sidelined trade union and workers' rights. It demanded that a new chapter be devoted solely to the trade union, or that articles such as 'No one is allowed to eliminate or amalgamate a trade union organisation, or use the excuse of restructuring to replace the trade union chair' be inserted (Jiang 1996: 129-131). These aggressive activities ultimately served to change the thrust of several important Chinese labour laws, making them more inclusive of rights for workers and the trade union.

According to an internal document released by the Beijing Municipal Committee Research Office in 1988,³ during some thirty forums organised by the city and the city-level unions there were suggestions by union cadres that they should be rid of such duties as overseeing the social welfare of workers on behalf of the enterprise management, in order to free them up to concentrate on protecting workers' rights. Some suggested that union membership should be voluntary instead of automatic, to strengthen workers' sense of identity with the union. Some union cadres even wanted to dissociate

collected volume of some 30 short articles written by trade union officials and teachers from various parts of China. The term 'democratic management' appeared repeatedly. One subheading read, for instance: 'To reform the system of management of trade union cadres, I think the trade union has the capacity to organize this management work' (112). Reading between the lines this meant the trade union could manage its own cadres, and it did not need to be managed by the Party.

3 The Chinese Communist Party's Beijing Municipal Committee Research Office (1988) *Diaocha yu Janjiu* (Investigate and Research) 5(3): August.

themselves from the state's administrative structure, and in view of the rapid erosion of Party authority in enterprises this would have meant a completely new ACFTU, an independent union reliant upon voluntary membership.

When calls for political liberalisation from other social quarters became louder and louder in 1988, influenced by all these discussions at its grassroots, the ACFTU leadership drew up the most daring document ever, 'Thoughts Related to Trade Union Reform'.⁴ For the first time it openly asked for smoothing (*lishun*) the relationship between the party and the union, implying the relationship had been strained. The document re-prioritised the unions' functions. It downplayed its social welfare and education roles and added two new functions: protection of workers' rights and interests, and participation in state and enterprise management (Jiang 1996: 133). After extensive internal discussion of the document at different levels within the ACFTU, it was presented to the government.

By early 1989, taking advantage of the calls for political liberalisation from society, the ACFTU's call for a new structure of strengthened industrial unions and trade-wide unions would have weakened the local party-state control over trade unions at various regional levels. The ACFTU's determination to reform reached new heights during the Tiananmen protest movement. It lent moral and monetary support to the protesting students on Tiananmen Square, and some union officials participated in the demonstrations. But the ACFTU was also confronted for the first time by the appearance of an independent trade union on the Square (Jiang 1996: 135-6; Walder and Gong 1993: 1-29). When the government crushed the protest movement, there began a few years of tightened political control in which the workers suffered more than the students even though the students had occupied the centre stage in the movement. Like other social groups, the ACFTU retreated back to its usual timid self.

In 1989, as in previous times, the ACFTU took advantage of social upheaval to assert its independence, while struggling to find a new role. But trade unions in socialist systems have great difficulty reforming themselves, constrained by their own limitations. Imbued

4 In Chinese the document is called 'guanyu gonghui gaige de shexiang'.

for some decades with a unitarian collectivist ideology and unwilling to relinquish its relationship of dependency on the party-state, the ACFTU's desire to be a workers' representative could not progress far. There were two possible routes: to work within the power structure and share in some of the power, or to work outside the power structure and struggle for power. The latter would mean outright rebellion and revolution, which the ACFTU was of course unwilling to do. At a self-interested individual level, most trade union officials of all ranks preferred after all to continue to work within the nomenklatura structure and to enjoy all the associated employment benefits of state civil servants. The enterprise-level trade union chairperson, in particular, having been elevated to the same status and salary scale as a deputy manager of state enterprises in the early 1980s, often preferred to enjoy the status and privileges (minus the power) that went with the position. The original intention of this policy was to grant the enterprise trade union more power, but with devolution of decision-making from the government to enterprise managers, the outcome was obvious – the trade union chair could be quickly co-opted. As a result of all these self-limitations, the ACFTU's rebelliousness quickly dissipated with the June 4th crackdown. The retreat, though, was little different from that of many other social groups, organisations and individuals, cowed when faced with violent suppression.

1990s: ACFTU Overwhelmed by Neoliberalism

The decade of the 1990s was different from the 1980s. Neoliberal capitalism took root and flourished in China. The surge came from two fronts: internally by a massive industrial restructuring programme; and externally, from the penetration of foreign capital, particularly first from Hong Kong, and then from Taiwan, that brought with it capitalism's 'sweated' employment system.

In 1992 during his so-called 'Southern Tour' of Guangdong province, Deng Xiaoping gave the green light for accelerated mercantilism and privatisation. This began with a quickened 'reform' of state-owned enterprises, many of which were already under strain from market competition and were losing money. A programme of downsizing led to rapidly growing urban unemployment, exacerbated by an erosion of entitlements. On paper, state and collective enterprises were supposed to continue to take care of their employees by contributing to newly-pooled medical, social security and unemployment benefit funds. But in reality only money-making enterprises could shoulder these responsibilities, leaving those workers laid off in unhealthy enterprises with little means of livelihood (Solinger 2003; Kernen and Rocca 2000). By the early 21st century the government was beginning to sketch out blueprints for more centralised urban welfare and safety-net measures, but while these were being built many millions were excluded.

The dismantling of the state industrial structure and the Maoist employment system was accompanied by the rapid rise of the non-state-owned industrial sector, beginning in the late 1980s with a surge of foreign direct investment (FDI) from Hong Kong and Taiwan, concentrated in the southern provinces of Guangdong and Fujian. Together with Singaporean FDI, these Asian sources of investment accounted for half the FDI flows to China in 2004,⁵ cumulatively totalling about US\$500 billion, surpassing the United States as the world's number one FDI destination. The factories that they and Korean corporations own and manage are the principal suppliers of the 'Made in China' goods to Western brand-name multinational corporations and to retailers of the developed world. In other words, much of the FDI in China is invested in these Asian-owned factories that constitute a link in the global production chain. This has added one more player in the chain to extract surplus value, i.e., the Chinese local governments where these factories are located. They cream off portions of the money that should have gone to the workers. For

⁵ Including Japanese and South Korean FDI, it was 60 percent between 2000–02 (Martin 2005: 60).

supplier factory owners, product costs decreased many times after relocating to China, because wages were much lower.

The influx of Asian-funded capital has had a serious impact on China's new employment relationships because investors from these Asian nations or territories brought with them a fiercely coercive, exploitative and even physically violent variant of management behaviour (Pun 2005a; Chan 2001). In their own home territories they operated in an environment of weak trade unionism. One of the motivations to relocate to China, apart from the cheap labour needed to survive in the competitive global market (Lee 2004), was to escape from better regulated industrial systems in their own home territories. Compounded by a Chinese neo-apartheid household registration system (Alexander and Chan 2004) that has denied China's migrant workers citizenship rights in urban areas (Solinger 1999),⁶ China today has become the world's choice destination and haven for neoliberal globalisation.

Rural factories were originally set up by rural collectives. For more than a decade, under local public ownership, the sector expanded very rapidly, and by 1996 these rural factories employed some 130 million people (China News Analysis 1997). But during the past decade, with central government encouragement, many have been transformed into private enterprises (Zou 2003; Hendrshke 2005). The union has rarely been represented in these rural enterprises, either under collective or private management.

In both the private foreign-invested export industries and the rural enterprises, Tayloristic management techniques, originally designed for relatively unskilled labour-intensive work, today readily find their way into these labour-intensive factories in China. That is to say, the most exploitative kind of management practices in China are most commonly found in the small and medium-sized factories that are either collectively or privately owned. In both the export industries and the rural enterprises, most employees are former peasants – first-

6 As of two years ago the central government has issued policies that make it easier for richer and better-educated migrants to stay in the cities. But it will be some time before the rural-urban residential divide totally disappears.

generation workers – who have travelled from the poorer regions of China and are employed on a temporary basis. The sweatshops in which they labour evoke thoughts of a 19th-century Dickensian industrial revolution.⁷ Nothing illustrates the exploitative nature of this export sector better than the Chinese government's announcement that 'Studies show the salary of migrant workers in the Pearl River Delta area has grown by a mere RMB 68 (US\$8.2) over the last 12 years, far behind the increase in living expenses, and in real terms, wages are declining. Nevertheless, wildcat strikes and other less confrontational forms of resistance have erupted in an increasing number of these factories'.⁸ Given their precarious, temporary situations working in districts where they are vulnerable outsiders, they are in a weak position to mount protests. Nevertheless, wildcat strikes and other less confrontational forms of resistance have erupted in an increasing number of these factories.

China's industrial restructuring is unquestionably the largest in human history in terms of the number of people affected. The ACFTU had no means to respond, nor had it the ideological underpinning to do so. In the developed world, in times of mass layoffs, strong, active and competent trade unions can at best negotiate better severance pay packages for laid-off employees. Mired in a corporatist mentality, the ACFTU could only play a minor role in helping to soften the blow for workers, and this is exactly the role the party-state wants the ACFTU to play in this period of monumental change.

By the 2000s, therefore, the ACFTU was confronted by an industrial and employment structure very different from that of a decade earlier. As state enterprises continued either to collapse or to be transformed into other ownership forms, union membership declined. Under the planned economy, since the workplace trade union was considered as an administrative department of management, it was allocated a budget like other departments. But once enterprise-

7 My thanks to Zhu Xiaoyang for this information. Zhu helped direct an investigative survey (1987–89) of 135 county enterprises. Also see the description in Forster (1990–1) of Wenzhou, the region in China hailed as a model for private entrepreneurship.

8 MOLSS report, <http://www.molss.gov.cn/new2004/0908a.htm>.

level decision-making power had been devolved to management, there was little the ACFTU could do if management decided not to allocate the union staff a budget. Restructured state enterprises under new management even use the excuse of 'efficiency' to rid themselves of the trade union chair or to collapse the position of the trade union chair into a shared administrative position (Jiang, 1996).⁹ Faced with a financial and membership crisis, the ACFTU has had to establish branches in enterprises from the booming private sector (Gallagher 2004a; Ng and Warner 1998: 95–123).

But this has been a mission impossible. At a time of frantic economic activity, with foreign and private enterprises mushrooming and the entire nation caught in the frenzy of 'integrating with the global economy', there were concerted efforts by local governments to sideline the trade unions. My fieldwork in the mid-1990s in a newly industrialising zone, Pudong District outside Shanghai, showed how difficult it was for the union to set up union branches inside the private foreign-funded enterprises. First, the local government was more interested in attracting FDI, and allocated only a few trade union staff to the new Pudong District Trade Union. How can a few union officials go about organising thousands of new factories to fulfil a unionisation quota allocated by upper level trade unions? The only way was to do it in a top-down fashion. Never having been exposed to the idea of grassroots organising from the bottom, their top-down bureaucratic mentality prompted them to call a meeting of factory owners and managers to persuade them to let the union set up workplace unions. In the meetings, the union allayed the managers' and owners' fears, telling them that the new union branches would be docile and helpful, and of course, they did not mention anything about collective 'negotiation'. Even with such assurances it was not easy. Japanese and European managers tended to be more amenable. But the Taiwanese, Hong Kong Chinese and Koreans, according to the Pudong union staff, were always resistant. If allowed to set up union branches, the local union went to the factories to identify a couple of middle-management staff members and asked them to serve as the union chair and deputy chair (Chan 1998: 134–140).

⁹ *Gongren ribao* (Workers' Daily), 9 March 1998; 21 March 2001.

This, unfortunately, is how most of the union branches in the foreign-funded sector have also been established in the foreign Asian-funded enterprises I have visited in Guangdong and Fujian provinces. As can be expected, these union branches are virtually impotent. At worst, they are totally inactive, to the extent that workers do not even know of their existence. At best, management pays the union the union activities fees, which by statute are supposed to be equivalent to 2 percent of the total payroll. This allows the enterprise union to run some social activities for the workers, which at least can liven up the workers' grinding existence or buy a present for everyone during a festival. Some of the higher-level union officials saw the absurdity of this way of organising, but had no alternatives. Their reasoning is to get a foot in the door of these foreign enterprises first and then try to turn the unions into regular unions later.

Other new efforts to organise union members are also dictated by the weakness of the unions' situation as the state enterprise sector shrinks. This became clear when I visited a county in Jilin province in 2000, where about half of the state-enterprise industrial work force had been laid off, some 10,000 people in all. Without jobs, these former workers could no longer be trade union members, causing a sudden drop in union membership in the county. Simultaneously the county was encountering a budget crisis, and the trade union staff – who were on the county government payroll – had not been paid for some months. The local trade unions' role became twofold: helping laid-off workers to register for the various government programmes set up for the unemployed; and arranging for some way to make a living by setting themselves up in business peddling delivery tricycles and the like, and organising them into 'a trade union for the self-employed'. The purpose of this 'trade union' was to help the members ward off other predatory bureaucracies that came to collect all types of fees. To claim jurisdiction over these laid-off workers and collect 'union' dues, the local union competed with the local government Labour Bureau in a turf war. From the union's vantage point, it was helping laid-off workers while making up for declining union finances. Ironically, the trade union in this same county had earlier received national publicity from the ACFTU for taking an unusual initiative in 1984 to implement open nominations and elections for

trade union heads. In fact, even today, the county continued to be well known in China for its democratic election of village committees.

There was a marked shift in attitude within the ACFTU from the early 1980s to the late 1990s. The 1989 crackdown against the Tiananmen protests had sapped the organisation's momentum, and it now faced rapid industrial restructuring that undercut the union's traditional base in the state enterprises. The national political leadership increasingly accepted privatisation and private ownership, flexibility of labour and integration with the global market, and gave priority to economic development over equity. The ACFTU was on the defensive. The union's zeal for reform in the 1980s had dissipated, and a mood of accepting reality prevailed within the higher and middle ranks of the organisation. Lower-level trade union cadres had no concept of activist trade unionism. Their corporatist, unitarian, bureaucratic, top-down understanding of trade unionism was geared toward their own survival and, at times, a secondary concern for workers' interests. External constraints were overwhelming and seemed insurmountable. At no other time in its history has the ACFTU been regarded with more disdain by workers than at present, when both the state and the non-state sector workers need help more than ever before.

2000s: Emergence of an Industrial Relations Legal Framework

The ACFTU and workers' advocates channelled a lot of energy into fighting for input in the drafting of legislation. The 1980s saw the promulgation of a whole series of laws in response to the new economic situation. Intervention in the legislative process at that juncture was deemed crucial if workers and unions were not to lose out in the redistribution of power and resources. In this one area the ACFTU can claim to have achieved a measure of success: since the late 1980s, as a branch of the government, it was able to lobby successfully to include a number of pro-worker and pro-union clauses in key labour

legislation – the Enterprise Law passed in 1988, the Trade Union Law of 1992 (this law, revised in 2001, gives the union more authority, at least on paper) and the Labour Law of 1994 (Ngok 2000). These laws constitute the legal framework that regulates China's new industrial relations. Critics are quick to point out that the biggest problem is the absence of the right to organise. But the laws contain clauses that have the potential to empower workers. In the Trade Union Law, 'work stoppages' and 'slowdowns' are legal even though 'strike' is not mentioned, and one of the core international labour rights, the right to bargain collectively, is guaranteed by the Labour Law (Taylor, Chang and Li 2003: 176–8, 182–206). The laws stipulate a maximum number of work hours and a minimum age for entering the work force, establish industrial labour dispute procedures, and include clauses on the right to a democratically elected workplace union committee that are on a par with international standards. Establishing a new workplace trade union branch is, by law, surprisingly easy: 'A basic-level trade union committee shall be set up in an enterprise, an institution or a government department with a membership of twenty-five or more; where the membership is less than twenty-five, a basic-level trade union committee may be separately set up' (Chinese Trade Union Law, Article 10). The new union committee has to register with the district trade union. This step pre-empts independence. We shall return to discuss the implication of this important article later.

Enforcement is a problem. The weakness of trade unions at all levels and the absence, in practice, of collective bargaining means that labour relations are individuated. But a growing number of labour disputes and workers' increasing resort to the arbitration committees stipulated in the laws reflect rising workers' labour rights awareness, suggesting that these laws have laid a very important foundation. Labour arbitration leapt from 19,000 cases in 1994 to 184,000 cases in 2002 (Fu & Choy 2004: 17–22) and became more collective in nature (Gallagher 2005: 98–132). Unfortunately, the majority of these cases involve serious abuses, such as non-payment of wages (both in state and non-state enterprises), improper layoffs of state workers and loss of guaranteed entitlements, irregularity in pension payments, excessively long work hours, a lack of compensation for industrial injuries, and the incidence of work-related diseases (Chen 2004; Gallagher

2004b; Thireau and Hua 2003). These are thus reactive claims, employing spaces provided by the legal system to redress injustices. They are not proactive collective claims, to rights such as forming an autonomous union, or demanding that management collectively bargain, or against trade union officials for not protecting workers' rights.¹⁰ In fact, the legal options may even serve to avert a crisis situation where desperate workers might actively seek to set up alternative trade unions or engage in mass protests, which is precisely the reason behind the government's policy of regulating industrial relations through legal channels.

Although the ACFTU at the top fought hard for the passage of these laws, the local unions at the bottom play only minor roles in helping workers in litigation.¹¹ An encouraging side effect is the rise of a nascent civil society in the labour arena – a handful of labour NGOs and a substantial number of labour lawyers and paralegals – to fill in the gaps by offering services to workers. Filing lawsuits to seek compensation for industrial injuries is increasingly common. But this rising frequency is also built on a shocking reality, illustrated by some 40,000 crushed or severed fingers a year in Guangdong Province's Pearl River Delta, one of China's main export-manufacturing regions (Zheng Gang and Dong Wei 2005). Litigation is a drawn-out and costly process for workers, and the number of cases, though high, represents a tiny proportion of serious grievances.

More promising is the ACFTU's success in strengthening the position of the union's legal status and power as embodied in the revised Trade Union Law of 2001,¹² though this does not promote the

10 The first lawsuit by an employee against his trade union for not protecting his labour rights was described in *Nanfang Zhoumo* (Southern Weekly), 4 September 2003, p. A3.

11 Shanghai General Trade Unions, recognised generally in China's labour circle as the most active trade union in China, seems to play a more active role in this (Chen 2004).

12 In the couple of years before, during and after the law was revised, I observed the great amount of effort trade union officials and labour lawyers in Beijing had exerted to get the law through. After the law was passed, the union also held a big campaign publicising the law within the trade union structure and in the mass media for the general public. On the front page of the *Workers' Daily*

union's independence from the party-state. As one expert comments: 'Nonetheless, the 2001 amendments to the Trade Union Law offer limited, but important, new space in which Chinese trade unions might act to improve working conditions. [...] There are some indications that the Chinese state may now be countenancing a more active union movement.' (Cooney 2004: 8–9). Laws that are on the books often subsequently have an impact on the path-dependency of a nation's employment relations.

Seeds for Workplace Representation

One particular instrument that could potentially be of importance is the Staff and Workers Representative Congress (SWRC) system. Although the system has not been successful, it is enshrined in the Enterprise Law. In some respects the SWRCs resemble Germany's works councils, though in Germany the works council operates as a separate institution parallel to the trade union at the workplace (Luthje 2004), whereas the SWRC is institutionally directly linked to the workplace trade union. It is the union that is charged with the task of convening the Congress and then to oversee the decisions passed by the Congress. Like the German system, the SWRC has some powers of co-determination and has a role in monitoring management compliance with the laws. In theory, the SWRC has the power to elect factory managers and the power to 'exercise democratic management'. Other powers of the SWRC include the legal right to be informed of enterprise matters, a veto power over workplace labour standards, power to decide on policies related to workers' welfare, in particular the distribution of housing, and a power to monitor, evaluate, penalise and reward factory officials (Zhu and Chan 2005). These are unusual powers to be given to employees at any workplace in any industrial relations system. If a Chinese union and Chinese

the old law and the new law were placed side by side, with the new changes highlighted in bold print. The ACFTU saw the new law as a big achievement.

workers were to exploit this SWRC power, they could act as a countervailing force to management. This could be the driving force behind the ACFTU investing so much energy into legalising the power of the SWRC. Thus, at the end of the 1990s when privatisation of medium and small state and collective enterprises was at its height, the ACFTU President, Wei Jianxing reasserted his support for the SWRC, to the displeasure of some high-level Party colleagues (Chan 2002: 57). In 2004, the ACFTU even wanted to extend the SWRC into non-state enterprise workplaces by issuing a directive instructing union branches in the non-state sector to set up SWRCs.¹³ Regardless of what exists in Chinese law, however, under the present circumstances the SWRCs' powers are only very rarely used.

Nonetheless, there have been reports in the Chinese press of workers themselves occasionally seizing the initiative to transform into practice what has been written into law.¹⁴ Such initiatives can be distinguished into two main types. The first occurs at workplaces where the trade union and the SWRC are allowed to function and have some say in major decisions on the enterprises' strategic plans or on housing and welfare policies, as stipulated in the laws. At one state enterprise which I have researched in depth, the SWRC was convened during the mid-1990s to determine the terms on which more than 500 new enterprise-owned apartments should be sold to managers and workers. The SWRC provided workers there with a strong opportunity to seize the moral high ground and press their case. After lengthy deliberations by the SWRC and meetings in all of the enterprise's workshops, the SWRC determined that the largest apartments should go to veteran employees, who were largely blue-collar workers, with a 2 percent deduction in price for every year they had worked at the

13 The directive issued in September 2004 is called, 'Announcement to further strengthen democratic management work in non-state enterprises' (guanyu jinyibu jiaqiang feigongyouzhi jiye zhigong minzhu guangli gongzuo de tongzhi), in '2004 nien quanguo gonghui weihu zhigong hefa quanyi nannishu (quanwen)', (2004 Blue Book on Chinese Union Protecting Workers' Legal Rights), 13 September 2005 www.acftu.net/template/10001/file.jsp?cid=21&aid=23945.

14 A nation-wide survey conducted by the ACFTU revealed that, in those enterprises where the SWRCs were evaluated by the workers as functioning well, work conditions tended to be better (Zhu and Chan 2005).

enterprise. They rather than the managers received priority (Unger and Chan 2004). Egalitarian ideals are not entirely dead in Chinese enterprises like this one, albeit it is one of a dwindling minority.

A second category consists of state and collective enterprises that are going downhill and are financially in the red. This can be due to a variety of reasons, but often is related to mismanagement, corruption and asset-stripping, sometimes with the connivance of local government officials (Ding 2000a, 2000b). A point is reached when workers' wages are in arrears, benefits are in jeopardy, production lines are not running normally, and workers are being laid off or pushed into early retirement, depriving them of their livelihoods and leaving them feeling cheated. Occasionally such workers 'discover' the SWRC, exploit the normal procedures guaranteed on paper, elect their own SWRC representatives and elect their own trade union chair to replace an old one appointed by management. For instance, in a well-publicised case in the city of Zhengzhou, workers at a paper factory used the SWRC to claim back ownership of the factory after it was privatised by management and the local government. They occupied the factory, and the struggle lasted for several years until they prevailed. Since this precedent, workers at about twenty other enterprises in the city have used the same method to regain ownership rights (Tong 2005; Zhu 2005).

In another case, in 1998 a group of taxi drivers in Beijing formed their own democratically elected SWRC and trade union to replace the ones appointed by management when the taxi company, which was a city bureaucracy, tried to eliminate privately-owned taxis. The leader of the group had been 'given a copy of the Labour Law and the Collective Ownership Regulation by a local trade union comrade'. Only then did they become aware that the highest level of decision-making power legally rests in the hands of the SWRC: 'Even the manager is to be elected by the Council. So we are the real masters!' *Workers' Daily*, the official ACFTU newspaper, publicly supported their campaign, but their effort has been plunged into a legal battle. Today, the group still has not been able to elect its own SWRC representatives, but its leader 'has not lost his freedom. On the con-

trary, he is in the forefront of protecting the legal rights of Beijing taxi drivers'.¹⁵

These are isolated incidents used to illustrate the point that, despite the cynicism directed both within and from outside China against the SWRC system, its very existence in legal statutes provides a wedge that might someday have an impact on industrial relations in China's still-large state-owned industrial sector. To the extent that representatives of the factory staff have any genuine say in the SWRC, employees are provided with a means not only to influence company policies but also to influence what the enterprise union is supposed to implement.

Thus far, our discussion has mainly focused on China's internal developments and on domestic pressures on the ACFTU. As China became more and more integrated within the world economy, forces were at work affecting standards in China's export industries. On the one hand, workers' wages in the export sector were low and declining in real terms, to compete with other southern countries; on the other hand, the corporate social responsibility (CSR) movement began to penetrate China in the mid-1990s, putting direct pressure on the ACFTU.

In the developed world, the multinational Western corporations had been criticised by the anti-sweatshop movement for the horrific conditions under which products bearing their brand-name were produced in China. In response, many of the multinationals began monitoring, auditing and verifying that their supplier factories complied with 'codes of conduct' that the multinationals drew up (Pun 2005b).¹⁶ When CSR was first pressed upon China's supplier factories in the 1990s, this meant that factory managers came under pressure to have safer and cleaner shopfloors and dormitories, comply with the codes or China's labour law in terms of wages and work hours,

15 There are a series of reports on the case. The most comprehensive is 'Beijing zui nui de dige' (The Most Difficult Taxi Driver in Beijing), *Nanfangchuang* (South Wind Window), 20 January 2005, <news.sohu.com>, accessed 9 June 2005.

16 The definition of CSR can be very broad, including corporations' responsibility for the environment and to society (Blowfield and Frynas, 2005: 499–513).

establish better occupational and health programmes, etc. But the supplier-factory managers soon learned how to resist these impositions and to hide transgressions from the monitors and auditors.¹⁷ Having invested resources in improving their corporate image but reaping little gain, some of the Western corporations turned in frustration to the idea of 'workers' training' and even to democratic elections for workers' committees or workplace trade-union branches.¹⁸ The rationale is that workers are the best monitors of their own conditions. 'Training' involves informing workers of the Chinese Labour Law, the official minimum wage, occupational health and safety measures, or even international labour standards. Many thousands of migrant workers have participated in these training programmes. As for the democratic elections of workers' committees and workplace trade unions, they are only pilot programmes in a few supplier factories that try to make use of the space provided by the Chinese Trade Union Law allowing democratic elections for workplace unions and workers' committees. Such elections are legal as long as the trade unions are not proclaimed to be independent.

Obviously such solutions – in-factory training sessions by outsiders, or, far less often, elections – pose a challenge to the ACFTU. But if Western capitalists insist on raising labour standards and on compliance with Chinese laws, how can China's trade union say no to improvement of worker's conditions? China had to react. To resolve the dilemma, in 2005 China drew up its own CSR standard (initially only for the textile industry, CSC9000T),¹⁹ which is rather similar to

17 'Why Ethical Sourcing Means Show and Tell', *Financial Times*, 22 April 2005.

18 Usually the corporations pay NGOs and commercial firms from outside China to conduct the programmes. If these NGOs can get their own funding from bigger funders they can go into factories to carry out training independently, but it still requires the consent of the corporation and factory management. Some PRC NGOs are also beginning to conduct this kind of in-factory training. I am currently involved in one of these training and election programmes.

19 The Chinese Textile and Apparel Council drew up the 'CSC9000T, China Social Compliance for Textile and Apparel Industry, Principles and Guideline, 2005', CSC9000T ENG 2005 ed.pdf.

The other scenario is large-scale social upheaval, a prospect the political elite is eager to avoid. To this end, they are presently instituting band-aid policies to improve the condition of the disadvantaged social groups to establish a so-called 'harmonious society' (Li 2005). But if gross social injustice continues to prevail, the workers, together with the peasantry, may have to resort to massive protest actions and even violence. Of the two main types of workers, it may be the migrant workers rather than the state workers who will be in the forefront of the struggle. By now, the downsizing of state enterprises has passed its peak. If the government is able to establish a workable social welfare system for the urban poor, it may be able to contain urban discontent. Yet the conditions of migrant workers who are still outside the welfare safety net have shown little improvement. On the other hand, their labour rights consciousness is soaring, ironically developing as a by-product of global capital's corporate social responsibility movement. As yet, the ACFTU has not shown the will to do anything for the migrant workers. This provides an opportunity for the growth of better organised collective protest action. An independent trade union movement could be sparked by any sudden downturn in the economy or a major social upheaval, initiated possibly by the peasantry. In 1989 the intellectuals and the students led the rebellion, but since then they have been co-opted by the state (Unger 2005). At that time migrant workers did not join in the protests, but this time around they may seize the opportunity to organise themselves. As in the past upheavals described earlier in the chapter, at least portions of the ACFTU will possibly come out on the side of workers.

Over the past half-century, predicting how Chinese history will develop has always proved a hazardous enterprise for scholars in China studies. These two scenarios have been drawn up based on how the current situation might logically develop. With China being such a vast country and enjoying such a dominating position in the global labour market, what role can the international labour movement play to help Chinese workers and in turn all workers in the world? The international trade union movement is keeping the ACFTU at arms length, while internally a debate on whether or not to engage with the ACFTU has been going on for some years (Quan 2005; Shailor 2005;

Wong 2005, 2004). As the debate goes on, in the past decade more and more trade union affiliates have established formal or informal relations with the ACFTU. It seems that trade unions or individual unionists who are willing to engage are from countries that have more corporatist structures, for instance, Germany, Denmark, Norway, Sweden, Japan and Singapore.²² Certainly, external intervention in the form of helping the ACFTU is only marginal to China's labour development. These trade unions believe that only by engaging with the ACFTU can they hope to effect some changes in it. Technical assistance and capacity-building are seen as the first step in the right direction. Indeed, the ACFTU also tends to ask for technical assistance such as training programmes in building up knowledge on labour legislation, collective bargaining, the shop steward system and employee buyouts, areas in capitalist industrial relations systems that did not exist under the socialist system, and in occupational health and safety, particularly in mining.²³

In this debate, a point that is missed is that a trade union that originated from a socialist system, though state-controlled, is different from a state-controlled official trade union in a capitalist system. The official socialist ideology nurtures a wish among the workers for the state to act out its socialist mission, and for the official union to play the assigned labour-protecting role. In practical terms, the legacy of the socialist system and its rhetoric preserve some space for both the workers and the union to manoeuvre by taking the moral high ground. I agree with Bill Taylor (2005) who also expresses some optimism in his paper entitled 'So the ACFTU is not a Trade Union, and does it Matter?':

22 This information has been accumulated in the past few years on the basis of personal communication via email, meetings and internal trade union documents.

23 A few of the trade unions that I know of include the Norwegian Confederation of Trade Unions, the Trade Union Congress (UK), the Union Network International and The Australian Construction, Forestry, Mining and Energy Union.

The Chinese government (including the ACFTU) is very keen to build up an image of the ACFTU as a union movement through its international links and propaganda. Behind this, however, are genuine desires for the ACFTU to 'behave' like a union – that is to set the promotion of worker interests as its 'primary goal'. Given the right encouragement and incentives, there is a good possibility that this can happen.

By isolating the ACFTU, the international trade union movement is inadvertently playing into the hands of global and Chinese capitalism and other anti-labour interests. In the past twenty years, all major actors – international organisations, businesses, educational institutions, NGOs and government departments such as labour bureaus, and even the military – have eagerly sought to establish relations with their counterparts in China, except for the international trade union movement. The business sector in particular (including the ubiquitous business schools) is having a profound influence on China, introducing neoliberal ideas and training a large crop of Chinese managers in the art of human resources management through an increasingly capitalist-style corporate structure. But sorely absent is an external countervailing presence to help build up an anti-neoliberal capability in China. The impact of the trade unions and the miniscule number of labour NGOs that run programmes in China is like David versus Goliath.

For the moment it seems most of the relationships with the ACFTU established by unions tend to remain at a formalistic level. With time, these relationships may become more substantive. The case of engagement with the Vietnamese General Confederation of Labour (VGCL) may serve as a precedent. After more than a decade of engagement with some foreign trade unions, the VGCL, like the ACFTU a trade union of a one-party socialist system, is today receptive to behaving more like a trade union²⁴ and is active in

24 Trade unions that have capacity-building programmes in Vietnam that I am aware of include the International Textile Garment and Leather Workers Federation (ITGWF), the Asia and Pacific Regional Organisation of the Union Network International, the Norwegian Conference of Trade Unions and quite a number of trade unions in Australia. The liaison personnel of some of the unions are quite positive about the results of their programmes.

protecting labour rights, at least compared to the ACFTU (Chan and Norlund 1999; Chan and Wang 2004).

There is urgency about engaging with China. Not only is the flood of FDI into China lowering labour standards all over the world, the space that is presently available through the legal system may disappear at any point when the socialist ideology officially gives way to capitalist ideology. Already capitalists are welcomed to join the Communist Party. The present industrial-relations legal framework is of utmost importance in the maintenance of a comparatively pro-labour system, not least because Chinese workers are now relying on it to protect their labour rights and seek social justice.

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DAVID OST

After Postcommunism: Legacies and the Future of Unions in Eastern Europe

Introduction

Postcommunism is over. The grand effort to transform a state socialist economy into a market economy has been completed. Whether it will be a long-term success or failure is still unknown. But the transformation of the economy, the breakup of the state firms, the disciplining of labour, the creation of a class system – these grand historic projects have been completed. Postcommunism began to deteriorate around the beginning of the century, and died with the 2004 enlargement of the European Union. Postcommunism is dead. Globalisation is here.

The aim of this chapter is to explore what this means for labour in the manufacturing and industrial sectors. I will show that after fifteen years in which labour – both everyday workers in the workplace and organised trade unions – have been humbled and marginalised, often with their own conscious complicity, things are now beginning to change. A new generation of workers and of union officials is more eager than its predecessor to defend the interests of those on the job. But this is far from a return to, or a new embrace of, a recently radical past. Today's emerging unionism is much more elitist – male and 'producerist' – than East European unions in the past. It also faces severe obstacles to its growth. As in the past, the obstacles it faces are due to problems of legacy. But in a twist from the old story, today's obstacles are due to the legacy not of communism but of postcommunism, with the peculiar pro-capitalist sensibilities so central to unions in the postcommunist era.