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CHANGING LABOR RELATIONS IN CHINA

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During the last week of February 2018, the Chinese Communist Party (CCP) proposed lifting of term limits for the State President. If passed by the National Assembly, this would pave the way for Xi Jin Ping to stay in power for an indefinite period. Xi, who became president in 2012, has already had a critical effect on the trajectory China's labor relations. This policy brief presents the evolution and current state of labor relations in China

I discern 4 phases in the development of labour relations which are described below.

PHASE 1: PRE-1978

The term "iron rice-bowl" has been used to characterize this phase in Chinese labor relations. Under communism, all industry was owned by the state, which used these industries to provide employment to Chinese workers. The locus of employment provided workers with all benefits, such as healthcare, housing, entertainment, retirement and other benefits and job security, apart from wages that were egalitarian (there were only 8 wage scales in the entire economy). This system of employment reinforced the goals of communism, and provided Chinese workers with "cradle to grave" security.

PHASE 2: 1978-1994

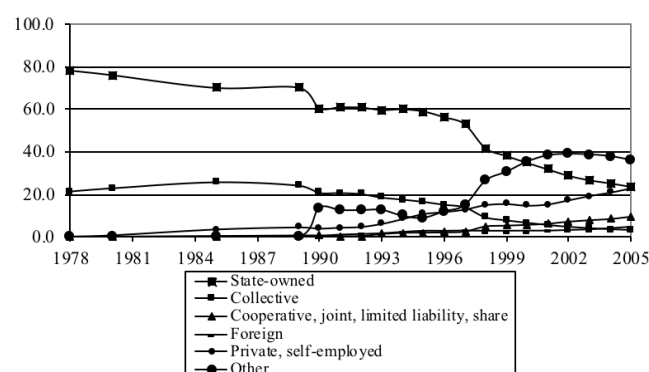
Deng Xiao Ping's momentous decision to open up China by allowing foreign investment in the coastal regions, coupled with privatization, mainly through joint ventures with state owned companies (SOEs), was a sea change, as these companies, for the first time, had to maximize profits. Although profit maximization required layoffs (as many SOEs were bloated), Chinese management was largely hesitant to re-structure, partly because there was no alternate mechanism to provide benefits to former SOE employees. Hence we see a period of differentiated re-structuring, with some companies aggressively laying off workers, while others hesitated.

PHASE 3: 1994-2007

To accelerate re-structuring, the 1994 labor law reforms were designed to fully and finally "break" the iron rice-bowl system by legitimizing the use of short term contracts. The 1994 reforms set in a motion a movement

towards informalization of employment unprecedented in Chinese history. Table 1 sums up this transformation, where the majority of workers, mostly the 250 million strong migrant workforce were working, mostly informally, in the private sector (the "other" category in Table 1).

Table 1. Changes in Employment Patterns



Informalization was not the only employment relations issue during this phase. Employment relations in the low cost export sector, typically staffed with migrant labor, was characterized by sweatshop working conditions (including long hours, lack of adequate overtime pay, social insurance, adverse working conditions, long hours, and generally sweatshop labour practices. These have been documented in extensive reports and academic articles, but a useful summary can be found in Gallagher, Kuruvilla and Lee (2011)'s book appropriately titled "From Iron Rice-Bowl to Informalization".

Crucially though, Phase 3 also evidenced signs of labor unrest. Migrant workers, often not part of established labour unions, engaged in spontaneous acts of resistance in protest against their conditions. So-called "mass incidents" (public protests about a variety of issues including labor issues, typically involving processions and roadblocks as well as strikes) had risen steadily from 9000 in 1994 to 87000 in 2005, the last time the government released such figures. The government does not publish statistics about employment related strikes (Friedman & Kuruvilla, 2015).

Therefore, finding a new approach to regulating employment was an increasingly pressing issue from the perspective of the central government. Worker unrest

was a political threat to the regime (Chan & Hui 2014). Although numerous wildcat strikes, road blockages, and occasional riots did not yet represent a major challenge to political stability (Lee, 2007), the state has been unable to reduce “depoliticized” worker insurgency (Friedman, 2014). Reform in employment relations was also necessary for economic reasons (Friedman and Kuruvilla, 2015). At the level of the firm, high rates of turnover and severe labor shortages had come, by early 2000s to be one of the key limits on future growth. The inability to pin down a stable workforce has pushed employers in the industrial centers in coastal areas to look further afield—either to China’s interior or overseas. At the national level, the central state has espoused the goal of economic rebalancing, i.e. making household consumption, rather than state driven investment, the key engine of economic growth. China’s household consumption as a share of GDP is only 38%, compared to the USA, which clocks in at 70% and is significantly less than the approximately 60% it is in countries such as Brazil, France, Germany and India. Such a rebalancing involved major policy challenges in a number of arenas, including higher wages and an expansion of social services, both of which are likely necessary to foster increased domestic consumption (Chamon & Prasad, 2010). In other countries, particularly the USA, a rationalization of employment relations has played a key role in the movement from unregulated capitalism to a Fordist model of high consumption. Hence, the labor reforms in Phase 4.

PHASE 4: 2007-2015: LABOR LAW REFORM AND INCIPIENT COLLECTIVE BARGAINING.

This phase witnessed several initiatives by the state, consistent with the above arguments. On the one hand, in this context of labor shortages, rising expectations of migrant workers and increased disputes, strikes and protests, the Chinese state has enacted several new laws that seek to strengthen individual worker rights, enhance employment security, reduce informal employment, and widen access to social insurance. A number of new laws have been put in place since 2008, including the Labor Contract Law (2008), the Labour Dispute Mediation and Arbitration Law (2008), the Employment Promotion Law

(2008) and the Social Insurance Law (2011). Gallagher, Giles, Park & Wang (2015) describe the various provisions of the laws, and argue that China’s labour regulations would now rank third amongst the OECD countries in terms of Employment Protection Legislation “strictness”. What is notable about these legislative efforts is that, by and large, they endow workers with an increasing array of individual rights in the absence of collective rights.

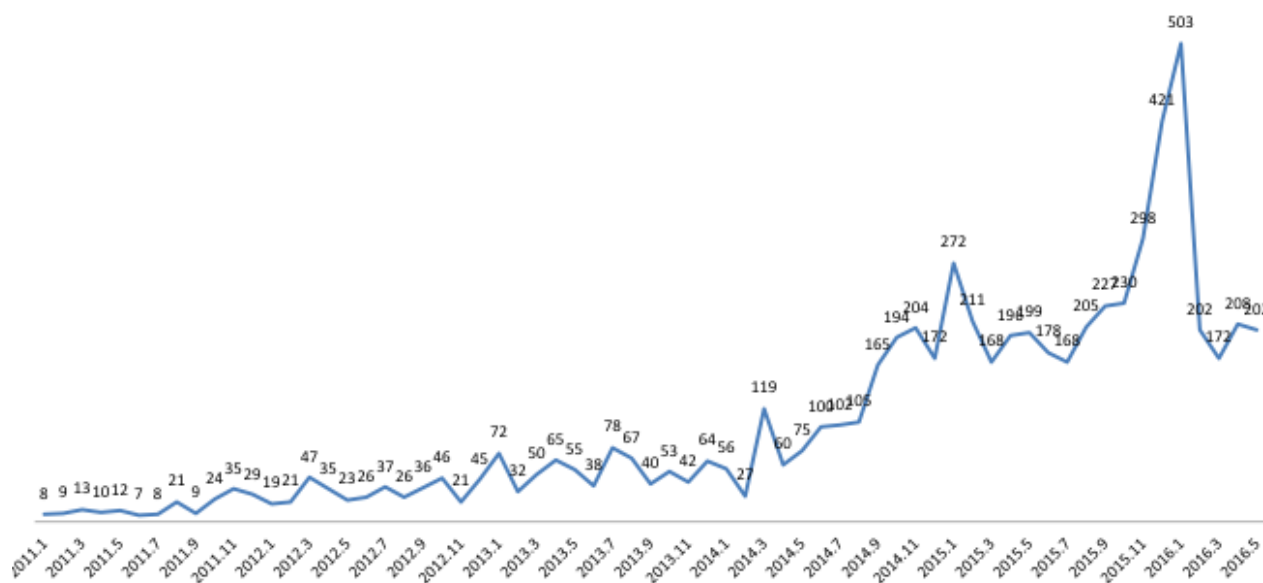
And these laws have had positive impacts. As Gallagher et al. (2015) argue these laws have improved several aspects of employment relations in China. They document a significant increase in formal employment, with more workers now having written contracts, although there is variation across provinces and between urban and migrant workers. Increased formality in employment has also increased access to social insurance generally, although access remains a major problem for migrant workers. Whereas pension insurance coverage for urban workers increased to 88.5%, it was only 22.2% for migrant workers. This, they argue is largely due to the hukou policy, i.e. migrant workers themselves do not wish to participate in social insurance schemes from which they themselves will not benefit, given concerns about portability. However, the 2015 Yue Yuen strike suggests that there are a significant number of employers that are reluctant to provide social insurance even if migrant workers demand it.

On the other hand, the state also began to encourage collective bargaining as a mechanism to contain labor disputes. The All China Federation of Trade Unions—the only legal and state controlled representative of labor, was ordered to organize all workplaces and to bargain collectively to contain industrial unrest. The ACFTU has long been used by the state as an instrument of spreading party ideology and control in all workplaces. Many authors have argued that the uptake of collective bargaining will necessarily be weak as long as workers do not have the freedom to form unions of their own choosing.

This raft of protective labor legislation, coupled with the encouragement of collective bargaining had two important effects. The first was a growth in the number of registered collective bargaining agreements, which can be seen in Table 2.

Table 2. Growth of collective bargaining in China, 2005-2010

	2005	2006	2007	2008	2009	2010	Average Annual Growth Rate
Number of collective bargaining contracts on wages	251,794	304,978	343,329	410,606	512,151	608,483	19.30 %
Number of enterprises covered	41,306	525,964	622,063	774,501	901,665	1,115,874	93.34 %
Staff and workers covered by collective bargaining	35,312,320	37,145,872	39,685,737	51,101,198	61,776,321	75,657,331	16.46 %

Figure 1. Number of Labour Protests and Strikes in China 2011-2016

Source. China Labour Bulletin.

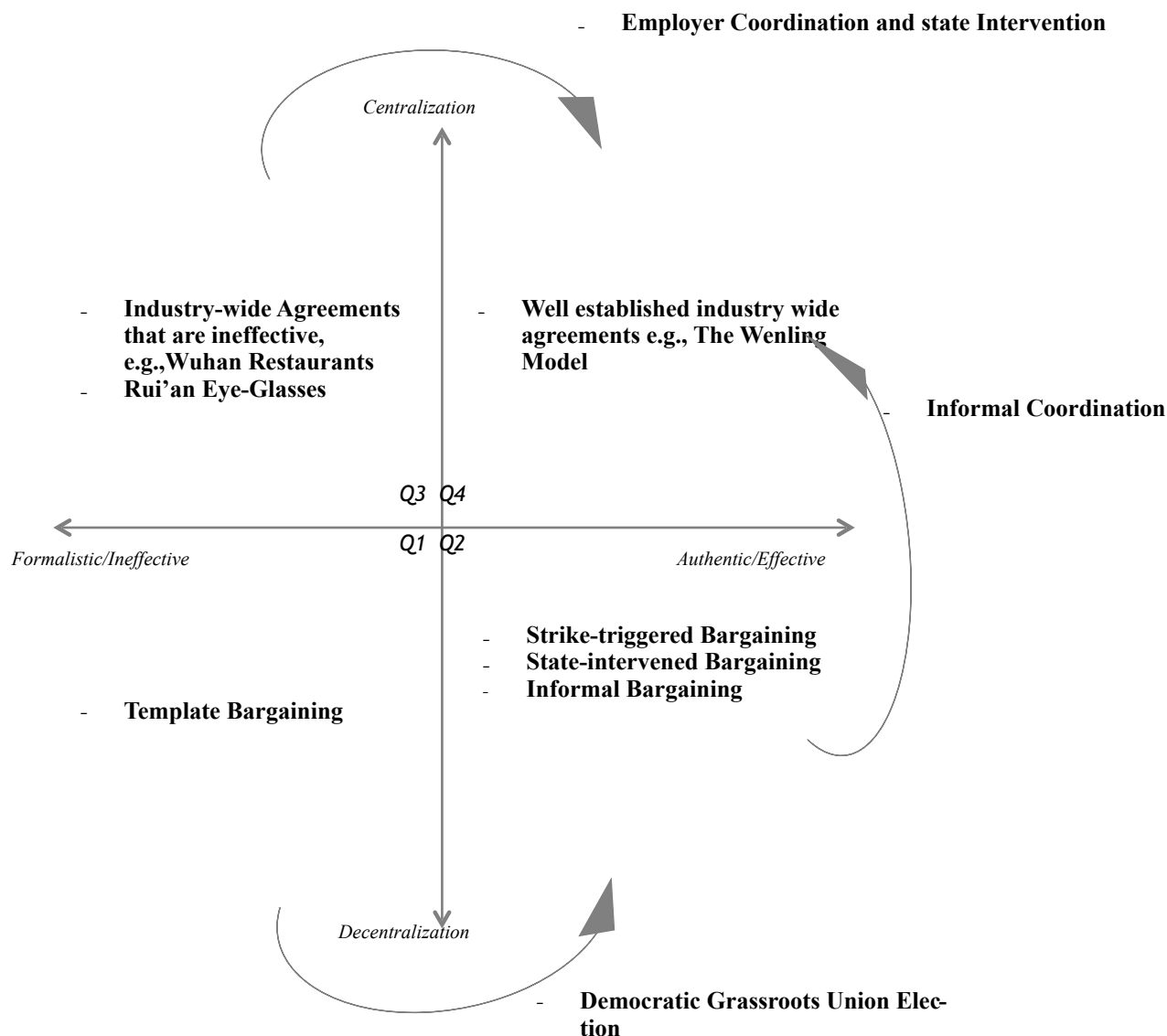
Second, was the growth in strikes. Workers now armed with more protective legislation, now more aware of their rights, had little hesitation in striking, especially when it became clear from several high profile strikes (such as the Honda strikes of 2011), that striking brought with it immediate rewards (the Honda and associated strikes all resulted in wage increases exceeding 25%). Elfstrom & Kuruvilla (2014) document that the number of strikes increased from 43 in 2008 to 385 in 2012. A more consistent count of strikes is provided by *China Labour Bulletin*, which also shows a steady increase from 2011-2016.

Varieties of Collective Bargaining. The growth in collective bargaining did not appear to meet the states' goals of decreasing labor conflict, as the strike data show. This is largely because not all collective bargaining is genuine. Kuruvilla & Hao (2016) depict the types of collective bargaining in Figure 3.

Quadrant 1: Decentralized inauthentic collective bargaining. Perhaps the most common form of collective bargaining is Kuruvilla & Hao (2016) term 'template bargaining' and what other researchers have described as 'collective contracts without collective bargaining' or 'paper contracts' (Chen, 2007). Typically, the local government—often the labor administration and official union—develop a template for a collective contract that employers and the local branch of the union should sign (*jiti hetong fanben*). In some cases, the template agreement contains blank spaces for wage increases, which enterprises can customize to suit their needs. Usually, a template agreement leaves little room for the parties to bargain over interest-based issues. This is the model of collective bargaining most commonly followed by the ACFTU, which provides its unions with these template agreements for various regions that employers are re-

quested to sign, and which re-state minimum legal conditions. Often, employers prepare the contracts and unions simply sign them without engaging in any negotiation (Wu, 2012).

Quadrant 2: Decentralized authentic collective bargaining. A small but growing number of collective bargaining agreements at the firm level can be termed more authentic, although there is some variation to the extent that they truly encapsulate genuine bargaining. There are three different ways in which this type of collective bargaining is happening. One and perhaps the most authentic form of collective bargaining is the negotiations that take place after a strike as Elfstrom & Kuruvilla (2014) suggest. The best known case of strike-triggered bargaining is the Honda Nanhai Transmission plant's strike in 2010 that resulted in substantial wage increases for workers, and later also triggered a strike wave in the local and national auto industry, leading to substantial wage negotiation in many of those cases as well. Since a strike, when it occurs, is frequently settled by negotiations these days, the steady growth in the number of strikes implies growth in more authentic collective bargaining. Some of these strike-based settlements have been often facilitated by the mediation of local governments and official unions, and the state, in various places, has appeared to prefer using this approach rather than suppressing striking workers. Chen (2010) refers to these dispute and strike settlement mechanisms as quadripartite bargaining, involving four actors (the state, the ACFTU, the employers, and the workers). Strikes and post-strike settlements are an important route by which collective bargaining is becoming institutionalized.

Figure 2. A taxonomy of varieties of collective bargaining in China

Quadrant 3: Centralized and inauthentic collective bargaining. The ACFTU intended to carry out regional and industry-level bargaining, seen as necessary to bring employees of small and medium sized firms under collective bargaining coverage (Wu, 2012). And the ACFTU's efforts are complemented by the state apparatus, where key state departments often take the lead in mobilizing employers. While we need more cases to draw firmer conclusions, thus far, what is clear is that many of these industry-wide agreements are either formalistic or have shown themselves to be ineffective and not institutionalized.

Quadrant 4: Centralized, authentic collective bargaining. There are a few instances of centralized sectoral bargaining that qualify as authentic. Unlike the previous examples, where it was either the local government or the ACFTU that was the primary engine behind the development of collective bargaining, in the case of Wenling the employers were the ones who initiated the project.

Wenling, a town in Zhejiang Province, contains a knitwear cluster with more than 130 firms employing about 12,000 workers in 2002. In this case, employers began spontaneous wage coordination, in an effort to deal with the rising turnover as a result of what was an acute labor shortage. They formed an employer association in 2000, and institutionalized wage coordination amongst themselves, although not all employers came on board. By 2003, the local government stepped in, establishing an industrial union, which ultimately signed an industry-wide agreement with the employer association. That contract has been renegotiated every year since, and is stable, although it overwhelmingly focuses on the piece rates and not other working conditions. Moreover, it is a clear case of relatively authentic collective bargaining arrangement, in terms of how well the contract is enforced. The second author interviewed workers in the industry in 2013, and found that the piece-rates that

were used to pay them was higher than or equal to those stipulated in the contract.

The Wenling model is being increasingly diffused to other areas. In all, 15 industries—including the pump sector in a town named Zeguo (Liu, 2010)—have carried out similar bargaining by 2012, covering roughly 6,100 enterprises and 400,000 workers. There are reports of cases developing in other textile and garment (Lüthje, Luo, & Zhang, 2013: 269) as well as other manufacturing clusters. The commonalities across these ‘successful cases’ is that they are negotiating about the piece rate at the industry level, and wage coordination was welcomed by small and medium-sized firms in order to reduce turnover in a labor shortage situation. Therefore, success seems to be in part determined by employer interest and readiness for collective bargaining as well.

From Inauthentic to Authentic Bargaining? The key question is what will it take for collective bargaining to become more authentic. There are three key pathways through which this might occur. The first is the movement towards a more authentic bargaining at the firm level. One strategy recently adopted in Guangzhou and Shenzhen is the grassroots union election (namely direct election for grassroots trade union cadres [*gonghui zhixuan*]). When workers are able to elect their own representatives, rather than having union leaders decided by the regional official union or the enterprise, it builds the local unions’ autonomy and independence, and is one necessary step for the growth of authentic bargaining. This focus on direct election has been growing.

A second pathway to authenticity lies at the industry level. This invariably happens when employers take the first step in coordinating employer associations, or when the local government directly intervenes to create industry wide settlements. It is not clear that these are growing.

A third mechanism has been the role that Labor NGOs play. Especially after the 2007 labor reforms, labor NGOs took a more aggressive role in helping workers organize, protest, resolve their disputes, and create solidarity. Some recent studies suggest that these NGOs played crucial roles in the recent Walmart strikes of 2014.

Labor Relations Implications for Multinationals. During Phase 4, my advice to most MNCs operating in China was to sign the template agreements. My argument was that it was necessary to do so in order to keep good-faith relations with local government, but also because engaging in the collective bargaining process, however simply, would engender a culture of negotiation and collaborative decision making in the long term. My advice was based on the basic idea that the trajectory of China’s labor relations was heading in a clear direction, i.e., towards increased worker voice and more genuine collective bargaining. However, events in Phase 5 (below) have altered the basis for my advice.

PHASE 5: 2015-ONWARDS

Since October 2015, we are seeing a new side of the state’s approach to labor, an alarming crackdown on labor activists and labor friendly NGOs. Seven labor activists have been arrested; four have been formally charged with crimes including the veteran activist Zeng, Feiyang; and some NGOs have been shut down. Further, the state passed the Overseas NGO Management Law in March 2016, which grants the police virtually unchecked power in targeting NGOs and restricting their activities. Some argue that this is a new phase of the Communist Party’s attack on its critics to “reassert control over all sectors of society and economy.” Friedman, in a February 2016 interview suggests “the crackdown appeared designed to warn workers that unrest would not be tolerated at a time when many factories were either closing as a result of China’s slowing economy or relocating to parts of south and south-east Asia where costs were lower. As Geoffrey Crothall, from the China Labour Bulletin, suggests, this wave of arrests against key labour organisers was “definitely part of a wider central party agenda to reassert control over all sectors of society and the economy”. Thus, although strikes continue (there were already 374 reported incidents in January and February 2018), we can expect more crackdowns on labor activism and labor relations as the CCP continues to exert its authority over society. •

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