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Labour Management in China: Legislation, Stratification, and Wages

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Introduction

The Chinese labour market has undergone an extensive restructuring in the last four-and-a-half decades, following the start of the economic reforms, and the open door policy for foreign investment in 1978, under the leadership of Deng Xiaoping. The nature of employment contracts, labour market stratification, and wage levels have all been redefined, and reformulated by this process, as much of the labour force shifted from state-owned-enterprises into other main sectors: domestically-owned-private enterprises, collective-owned-enterprises, foreign-invested-enterprises, and other business entities that also include self-employed people. The most significant change from the pre-1978 economy to the present has been in the allocation of people to jobs, which is now largely governed by the labour market (Ngok 2008: 61). That is, the former system of the state-governed labour allocation (which included lifetime employment for many) gave way to the present system of work, based on labour contracts, and distributed mostly via labour market exchange (Chan and Norlund 1998: 176, Ding and Warner 2001: 315). Once the nature of work was redefined in terms of labour contract, it got sub-divided into different types of contracts, with casual labour (also referred to as dispatch or sub-contracted labour) forming the ground layer. These above elements are some of the main characteristics of the contemporary Chinese style of labour management. Each major economy which is driven by manufactured exports,

develops its own characteristic model of labour management (see the discussion in Pudenko and Harzing 2011), however this paper lacks the space to discuss the contents of the Chinese management model in detail, and instead seeks to present the basic outlines. In China's high economic growth environment, new legislative measures have sought to modify, and improve the nature, and content of labour contracts, and the firm-level labour-management relations. Migrant labour force [people who move to urban areas in search of work, and mostly remain domicile at their workplaces, in dormitories, and worksites, as per the discussion in Kong 2010] has also been inherent to the restructuring process. Migrant labourers do not enjoy the same level of work security as the locals, and the 2008 global financial crisis caused 20 to 45 million migrant workers to return to their rural homes (Meng 2012: 88). This paper will analyse these issues, and define the outlines of the topics of labour and labour management in contemporary China.

1. Economic Growth

In the last four-and-a-half decades, domestic, and foreign investment have fuelled the Chinese economic growth, and a surplus labour force, that has been created from the former employees of state-owned-enterprises and migrant labourers, slowed down the wages growth, for a long period of time (Qi 2014: 1). In the 1980s, the expanding economy could easily

absorb the surplus labour from the state-owned-enterprises' layoffs (Chan and Norlung 1998: 177). Soon, the volume of layoffs began to exceed the available number of jobs, creating the dichotomy of permanent (or semi permanent) workers, and the rest (which is segmented horizontally and vertically, based on gender, age, skill, and geographical origin of the labour, i.e. local versus migrant labour). From 1998 onwards, the shift of labour from state-owned-enterprises to domestically-owned-private enterprises intensified (Deng et al. 2005: 10). Tens of millions of layoffs were a characteristic of the 1990s, when the loss making small to medium size state-owned-enterprises (40% of the total) were shut down to shift capital to larger entities, which was a process that also accompanied a massive expansion of the private sector of the Chinese economy (Meng 2012: 76). Migrant labour numbers also continued to increase. The size of the labour market, the geographical spread of industrialisation process have all meant that the sub-contract labour has become a part of the competitive cost of production equation (see the discussion in FIDH 2013: 19). Continuous economic growth has underwritten the overall labour shift. In the Chinese labour market, the state sector-driven job creation (in the public service, and state-owned-enterprises) still remains significant (Yan 2014: 24-25). Specifically, in the production sector, 'state firms' employ 30.10% of the total production sector workforce, and the figures for the rest are: 'collective firms' (9.42%), 'domestic private firms/self-employment' (48.89%), 'foreign-owned firms' (7.04%), and 'other type firms' (4.55%) (Meng 2012: 81). In 2012, China's

working age population decreased for the first time in the post-1978 era (Qi 2014: 8). The primary labour market stratification of standard wage/low wage will, reportedly, decline in this decade, because the labouring-age population has peaked (Das and N'Diaye 2013: 37). Due to this demographic change, it is probable, from now on, that there may be new legislations to encourage further domestic investment to create a more skilled workforce, increase welfare provisions, and initiate social policies to increase female participation, especially in the migrant labour category. An increasing number of migrant female labourers have been returning to their rural communities that provide non-wage income, and forms of family welfare support, which are unavailable to them in their urban work environments (Li et al. 2013: 20-21). Importing labour [from neighbouring countries with available labour supply], capital investment for technology upgrade and mechanisation, and delaying the retirement age are all possible scenarios that might be able to deal with the demographic change in the Chinese labour market (KPMG 2013: 5). The labour shortage is not a simple problem of insufficient supply of people with basic or average skills. As it stands, the Chinese labour market is also developing a shortage of technicians, which can only be alleviated by more investment in education, and the training of people with technical skills (Mao 2012: 145). Relying heavily on labour migration from other countries would not necessarily increase the value of the skill base of the industrial sector, as has been the experience of other nations of the world that relied on similar labour market measures at times of long-term economic expansion.

2. Legislation and Wage Levels

The Chinese labour market's legislative setting has been subject to continuous improvement. In 2007, the 1994 *Labor Law* was amended three-fold with the *Labor Contract Law*, the *Law on Mediation and Arbitration of Labor Disputes*, and the *Labor Promotion Law* [these legislation titles are often translated differently in other sources] that all came into effect in 2008, which tightened the scope of standard labour contract, regulated work conditions, but also increased employer flexibility, whereby female labourers, youth and migrant labourers continued to form the low-wage, non-permanent segment of the labour market (Allard and Garot 2010: 535). The *Labor Contract Law* did, however, somewhat alleviate the condition of migrant workers as it obligated employers to provide written labour contracts to all their employees, with penalties for employers that do not comply, and the new provisions to the law which was introduced in 2012, reduced the scope for employers' noncompliance (Cheng et al. 2013: 14-15). By 2011, migrant workers formed 44 per cent (159 million) of the total urban employment (Qi 2014: 9). Another estimate states the number to be 262 million [as of the end of 2012] (FIDH 2013: 11). There are variations in wages and conditions across the labour market (see the discussions in Meng 2012: 90-91). This is the case with other nations that experienced rapid industrialization, and may be possibly addressed, in the long run, with further economic growth, and coherent increased domestic investment in skills, upgrading of infrastructure, and technological innovation. Wages and

productivity levels have been increasing continuously in China, and the former have increased at a greater rate than the latter, but the Chinese labour costs still remain competitive in contrast to other emerging economies (Ceglowski and Golub 2012: 17-18). The Chinese state has consistently placed emphasis on maintaining harmonious labour relations (Zhu et al. 2012: 120). The state in China has also been focusing on increasing domestic consumption levels, which are reliant on a steady increase in wages [which, in turn, increases domestic consumption, and expands domestic savings rate] instead of primarily continuing with the post-1978 economic model of low-cost labour-based exports (see Friedman and Lee 2010: 530). The rise in labour costs, in most part due to labour demands for wage increases, will not decrease investment in China due to the present skill levels of its workforce, centralized industrial policies, and the existing business networks (Silver and Zhang 2009: 184-185). As per Lisha et al. (2014), there are five main ownership structures in China, state-owned-enterprises, foreign-invested-enterprises, collective-owned-enterprises, privately-owned [domestic] enterprises, and the others, though all structures display similar profiles in terms of wage levels (and wage growth rates), social insurance provisions, welfare provisions, and job training provisions (2014: 177). The long decades of continuous growth and the increasing bargaining power of labour [in proportion to the decrease in its supply] may have been the main factors in this. In fact, in 2008-2012, the nominal wage level has grown faster than nominal GDP (Qi 2014: 8).

3. Unions

Chinese trade unions form a part of the governance system in the country (Warner and Zhu 2008: 6). All China Federation of Trade Unions (ACFTU), established in 1923, remains the sole trade union organisation in China, federating all workplace-based unions across the country. As per the World Development Indicators, the Chinese labour market consists of over 787 million people, which is approximately double the size of the Indian labour market (see the official figures quoted in World Bank 2014). The ACFTU claims a membership of 213 million labourers across the country (Friedman and Lee 2010: 521). In the past there were periods when the ACFTU was inactive, and no congresses were held between 1957 and 1978 (Perry 1995). China's *Trade Union Law*, which covers the role, and responsibilities, of the ACFTU, was adopted in 1950, and amended in 1992, and again in 2001 (Gao 2006: 97). The *Labour Law* in China is modified also by court interpretation. For example, The People's Supreme Court issued a fourth Interpretation the *Labour Law* ('Judicial Interpretation on Applicable Laws in terms of Trial and on Labour Disputes Cases'), which came into force in 2013. Since the 1990s, trade unions have increased their membership numbers spectacularly in the private sector companies; and their role has remained significant (see Warner and Zhu 2008: 2, 9, 23). Under the laws that came into effect in 2008, the government has provided the ACFTU with more self-direction at the level of relations with employers. The ACFTU covers the workforces of over 200 million enterprises, including most of the Fortune 500 multinational enterprises

that operate in China (FIDH 2013: 14). In most emerging economies, there is a frequent expectation that the labour will somehow assume most of the responsibility for maintaining industrial harmony. Following the 2001 ratification of the *Trade Union Law* amendment, the Chinese unions had more clearly defined tasks to represent their members, and gained the authority to sign collective agreements on behalf of membership (Heuer 2005: 3). In China companies are not under legal obligation to establish labour unions at workplace, but employees have the right to unionise, and seek collective bargaining. It is not uncommon for company management to appoint the workers' representatives once a union is set up at workplace (FIDH 2013: 5, 6). Under the law, local courts have arbitration committees for industrial dispute resolution, but they also can instruct one or both of the parties to settle out of court, as was the case with the 2014 dispute between the laid off workers, and a foreign department store chain which has the third largest market share in China (Qi and Burkitt 2014). The future of union movement in China is continuously debated. It is possible that rather than developing into industry-wide, and occupation-based labour organisation status, the Chinese trade union structure may eventually evolve into a corporate model, the variations of which exist elsewhere in Asia (such as 'company unions') (see Heuer 2005: 26). Such a model could develop into a new system of industrial relations governance; however, this is a point about which it is difficult to conjecture presently, and will have to be the topic of another paper.

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