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workersoftheworld2012@yahoo.co.uk

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<https://workersoftheworldjournal.wordpress.com/>

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Strikes and labour relations in China

Tim Pringle

Introduction

Article One of the Constitution of the People's Republic of China (2004) could not be clearer. China is a “socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants”.¹ This apparent collective “exceptionality” of China stands in stark contrast to the dominant political ideologies of the current individualistic neo-liberal era of capitalist globalisation. However, when I look at China through a lens of labour relations and the class struggles they generate, the case for China's “generality” – as opposed to “exceptionality” – hoves into view: it is very clear that the country is marked by high inequality, a poor implementation of labour laws and an obvious power imbalance between the forces of capital and the forces of labour relations in which the state mostly supports the former. Seen through this lens, China no longer resembles a state “led by the working class” but rather a state focussed on containing one that is finding its voice. It is this contentious dynamic that I examine in this paper.

My paper is organised into four sections and concludes with some cautious observations on the future development of the nascent labour movement in China. The first section shows how economic reform has brought structural changes to China's working class while placing the processes that generated these changes in a global context. I conclude the section with data on the incidence of resistance to the processes. Section two briefly unpacks the

¹ Constitution of the People's Republic of China. Available at [http://www.npc.gov.cn/englishnpc/Constitution/2007-11/15/content_1372963.htm] Accessed May 20, 2015.

trajectory of resistance which, I suggest, has moved from defensive to offensive although hardly in a uniform manner. In the third section, I turn to the state's response – including the ACFTU – to class struggles. The fourth section discusses specific examples of significant strikes in Guangdong province and attempts by the party-led ACFTU to support, deflect or squash them.

The data and motivation for this paper comes from interviews with workers, workers' representatives, labour NGOs (LNGO) and union figures during two fieldwork trips in the summers of 2013 and 2014. In total, I carried out semi-structured interviews with six workers representatives, 12 LNGO staff members and two trade union officials in Guangdong, Beijing and Hong Kong. I also draw on data from supervised field work with 23 sanitation workers conducted in July 2013 by an LNGO with almost two decades of experience of operating in Guangdong. This research was supplemented with two days of focus group discussions with four workers' representatives from the Lide strike in July 2015. Furthermore, I also make use of secondary materials drawn from academic journals and books, traditional and alternative media resources and labour NGO reports in Chinese and English. Some of the latter material is not publicly available, but on file with the author. Dictated by my fieldwork location of Guangdong, this paper draws chiefly on evidence and strikes in this province.

1. The Socialist Market Economy and Capitalist Labour Relations

The death of Mao Zedong in 1976 opened up a power struggle that would determine the future direction of China. Put crudely, on one side the Maoists argued for (a) a continuation of the command economy based on the privileging of ideology over empirical-technical realities; (b) relative equality and; (c) a Party-determined mass line. On the other side were more centrist CPC cadres lined up behind a resurgent Deng Xiaoping. A veteran revolutionary and senior Communist Party of China (CPC) leader, Deng had been a target of Mao's Red Guards during the turbulent early years of the Cultural Revolution (1966-69) and was sent to the countryside to ponder his ideological shortcomings as a "capitalist roader" while, among other duties, cleaning public toilets. Mao's death cleared his path back to power. After two years of manoeuvring, Deng and his supporters emerged as winners and in 1978, the Third Plenum of the 11th Party Congress confirmed Deng as China's new leader and signalled the beginning of the "reform and opening up" era. China's transformation from a command economy to a socialist market economy in which capitalist labour relations would be gradually re-introduced and eventually come to dominate had begun.

However, this was to be no Chicago-school influenced explosion of privatisation as witnessed in Chile in the 1970s or following the collapse of the USSR in the 1990s.² The Chinese road away from state socialism is summed up in the Chinese idiom “crossing the river while feeling for the stones”, that highlights the gradual nature of the transition. Nevertheless, with the benefit of hindsight, the writing was on the wall for the Chinese working class fairly early on in the process: in 1982, the CPC removed the right to strike from the Constitution. At the time, this was justified on the basis that Chinese workers “owned” the enterprises that most of them were employed in. As a consequence, labour disputes were not seen as disputes between labour and capital but as “internal” and between the “people” rather than between classes.³ Again with hindsight, the net result was that just as China began to welcome foreign capital back to its Eastern and Southern shores – albeit cautiously and incrementally – the party announced its position in the new era: pro-capital in order to be pro-employment. Throughout the reform era, the CPC has consistently linked its political survival with the social stability it believes employment promotion brings.⁴ In this situation, the legality of strikes remained a grey area. They were neither criminalised nor protected under law. In any case, the dramatic increase in strikes since 2004 suggests that workers have not been deterred by the lack of legal clarity and, on occasion, have even used it to their advantage.

In the transition period, a perfect storm was brewing for the working class: in the then largely unknown world beyond Chinese borders, neoliberalism heralded a “momentous shift towards greater social inequality and the restoration of economic power to the upper class”.⁵ Within China, the gradual return of private capital and competitively-driven labour markets heralded the demise of industrial relations based on the integrated interests of managers and workers within a 单位 (work unit – usually involving at least one state-owned enterprise) working to meet production targets

² PRINGLE, T. AND CLARKE, S. *The Challenge of Transition: Trade unions in Russia, China and Vietnam*. Basingstoke: Palgrave Macmillan, 2011.

³ INTERNATIONAL HONG KONG LIAISON OFFICE. Available at: [<http://www.ihlo.org/IS/000805.html>] Accessed on 20 May 2015. See also: [<http://www.ihlo.org/LRC/ACFTU/000204.html>]. 2002. Accessed 27 May 2015.

⁴ WHITE, G. “Restructuring the working class: labor reform in post-Mao China”. In: DIRLIK, A. and MEISNER, M. (eds.) *Marxism and the Chinese experience*. New York: M.E. Sharpe, 1989, pp. 152-170; NAUGHTON, B. *Growing out of the plan: Chinese economic reform 1978-1993*. Cambridge: Cambridge University Press, 1995; BLECHER, M. “Hegemony and workers’ politics in China”. *China Quarterly*. 170, 2002. pp. 283-303.

⁵ HARVEY, D. *A Brief History of Neoliberalism*. Oxford University Press, 2005, p. 26.

negotiated with the central planners. In their place came contract-based time-defined capitalist labour relationships as the state worked to create an investment friendly environment aimed at attracting foreign investment initially led by capitalists from Hong Kong, Taiwan, Japan and South Korea.

The storm did indeed hit the Chinese working class, but the warning flag was not officially hoisted in full view until the 15th Party Congress held in 1997 with the slogans 裁员增效 (shed jobs to increase efficiency) and 抓大放小 (let go of small and medium size enterprises and hold on to the large ones).⁶ The Congress announced full-scale restructuring and at least partial privatisation of the state sector. Small and medium-sized state-owned enterprises (SOEs) and some larger ones were privatised or bankrupted while the state held on to larger enterprises in key sectors such as energy and construction. The storm struck hardest in the urban heartlands of Maoist industry generating up to 50 million lay-offs of state-owned workers by 2004.⁷ This traumatic and contested unmaking of the traditional working class⁸ was accompanied by the making of what some researchers refer to a “new working class”⁹ or 新工人群体 – literally new groups of workers.¹⁰

By the end of 2009, China had just under 230 million internal migrant workers,¹¹ most of whom were working in the private sector: joint ventures between foreign capital and Chinese companies, foreign-owned firms, Chinese-owned firms – including labour dispatch agencies providing agency workers to SOEs and township and village enterprises known as TVEs. These were the relics of agricultural communes that were privatised following a period of local government-led enterprise.¹² The pluralisation of ownership took full advantage of a transition period with characteristics

⁶ PRINGLE, T. *Trade Unions in China: the challenge of labour unrest*. Abingdon: Routledge, 2011, pp. 56-86.

⁷ PRINGLE, T. and LEUNG, A. “Causes, implementation and consequences of ‘xiagang’”. In: LUK, P. (ed.) *Xiagang: Sacrifice in the Transformation of Labour Policy in the China from State to Market*. Hong Kong: Asia Monitor Resource Centre.

⁸ CHEN FENG. “Industrial restructuring and workers’ resistance in China”. *Modern China*. 2003, pp. 236-62.

⁹ CHAN, Jenny; PUN, Ngai; SELDEN, Mark. “The Politics of Global Production: Apple, Foxconn and China’s New Working Class”. *New Technology, Work and Employment*. Vol. 28, n. 2, 2013, pp. 100-15.

¹⁰ 吕途。中国新工人迷失与崛起。北京：法律出版社。2013。p. 11

¹¹ ILO. “Labour Migration”. Available at: [<http://www.ilo.org/beijing/areas-of-work/labour-migration/lang--en/index.htm>]. Accessed 10 January 2015.

¹² WU FULONG. “China’s changing urban governance in the transition towards a more market-orientated economy”. *Urban Studies*. Vol. 39, n. 7, 2002, p. 1075.

often found in post socialist states: an evolving and largely non-enforced regulatory framework for labour relations; close links between powerful local government officials and agents of capital; a monopolistic trade union under the leadership of the ruling Party¹³; and severe repression of workers who attempted to organise autonomously.¹⁴

Capitalists in China have proved adept at operating in this pro-investor/pro-capital framework and have worked hard at either taking advantage of existing fragmentary pressures in labour forces or creating new ones. The large-scale labour migration of the reform era has been conducted under the administrative constraints of the *hukou* system that restricts access to public and welfare services to one's place of birth. The consequent absence of state support for labour migrants has forced workers to rely on informal networks of support such as hometown associations. In some cases, capitalists were able to manipulate these networks as instruments of division; in other cases, they served to unite workers as struggles unfolded.¹⁵ Processes of informalisation associated with neoliberalism have also been important to capitalists. For example, workplace solidarity has been weakened by the widespread use of student interns by companies such as Foxconn¹⁶ as well as agency workers in key sectors such as the auto industry.¹⁷

Incidents of resistance arising from the return of capitalist labour relations and related protests have increased numerically over time. Official data for so-called "mass incidents" (群体性事件), which are loosely defined as expressions of "civil unrest"¹⁸ involving significant numbers of people, state there were 87,000 such protests in 2005.¹⁹ Researcher Yu Jianrong argued that there were over 90,000 in 2009 – with over 30 per cent of these related to labour incidents.²⁰ However, the number of strikes as a component

¹³ This was not the case in the former USSR where the state trade union split from the Party in 1987 eventually forming the FNPR.

¹⁴ PRINGLE AND CLARKE. Op Cit.

¹⁵ KING-CHI CHAN, Chris. "Strike and changing workplace relations in a Chinese global factory". *Industrial Relations Journal*". Vol. 40, n.1, 2009, pp 60-77.

¹⁶ CHAN, Jenny; PUN, Ngai; and SELDEN, Mark. "Interns or Workers? China's Student Labor

Regime." *Asian Studies* 2016 (forthcoming).

¹⁷ ZHANG, Lu. *Inside China's Automobile Factories: The Politics of Labor and Worker Resistance*. New York: Cambridge University Press, 2015.

¹⁸ JUSTINE ZHENG REN. "Mass incidents' in China". Available at: [<http://www.eastasiaforum.org/2011/07/13/mass-incidents-in-china/>] Accessed on 12 January 2015.

¹⁹ FREEMAN, W. "The accuracy of "mass incidents"". *Financial Times*. 2 March 2010.

²⁰ 于建嵘. '群体性事件症结在于官民矛盾'. *中国报道*. 2010. pp. 50-51.

of these figures is not known, and the state prohibits publication of national statistics on strike days lost. Indeed, in 2006 it stopped publishing data on “mass incidents” altogether. An alternative indication of unrest can be found in official records of labour dispute mediation and arbitration committees along with civil court records. These sources reflect the state’s efforts to construct formal institutions of labour dispute settlement that I will discuss in the next section. Despite the well-documented problems with the data collection²¹, they suggest a story of rising rights consciousness²² and a willingness to pursue employers through juridical channels. Figure 1 below shows the significant rise in arbitration via cases and numbers of workers involved. The leap in 2008 was the outcome of the promulgation of the Labour Dispute Mediation and Arbitration Law and the impact of the financial crisis that led to over 26 million lay-offs.²³

Interesting though these figures are as a guide to overall trends, they tell us little about the changing forms of labour unrest or, indeed, the emergence of a labour movement.²⁴ Increased reporting of strikes in the state media has prompted the use of internet technology to compile strike maps based on media and witness reports. China Labour Bulletin (CLB) recorded 1793 strikes in the 2013-14 period with just over a quarter occurring in Guangdong province.²⁵ The map records 235 incidents in the first quarter of 2014, an increase of 49 per cent on the same period in 2013 that had 158 incidents, and 180 per cent higher than the second quarter of 2012, which featured 84 strikes. CLB qualify this increase by stating that the rapid development of verifiable social media reports of disputes included in their database that have made strikes more visible.²⁶

²¹ PRINGLE AND CLARKE. *Op. Cit.* pp. 120-123.

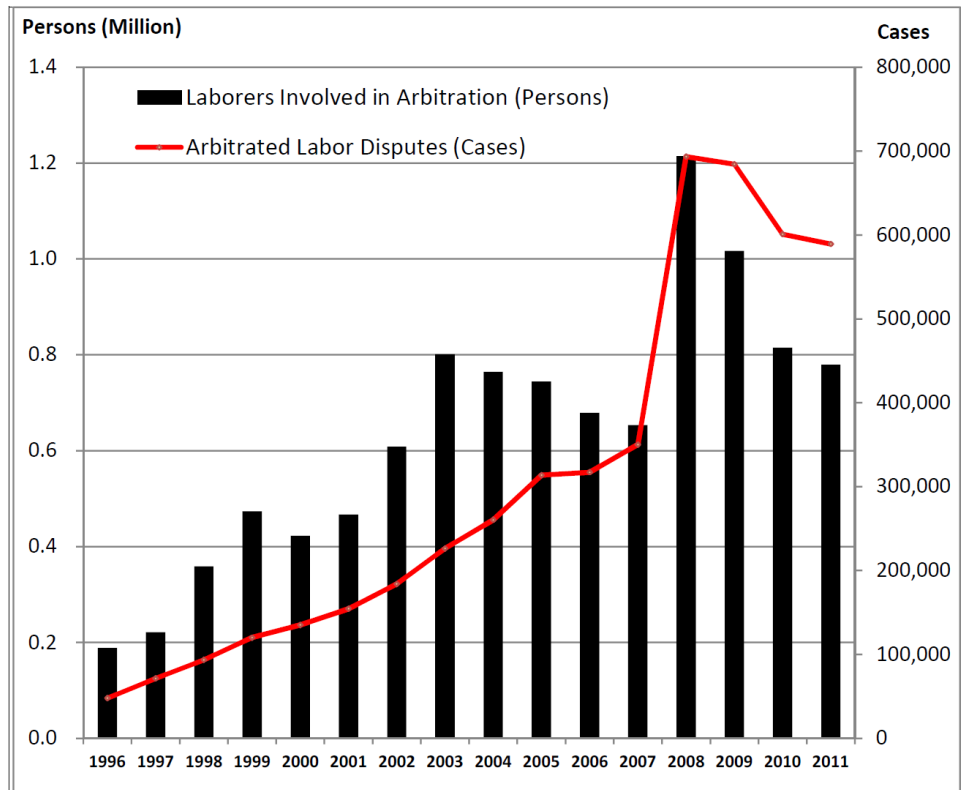
²² GALLAGHER, M and DONG, B. “Legislating Harmony: Labor Law Reform in Contemporary China”. In: KURUVILLA, Sarosh; LEE, Ching Kwan and GALLAGHER, Mary E. (eds.) *From Iron Rice Bowl to Informalisation*. Ithaca: ILR Press, 2011, pp 36-60. COONEY, S., BIDDULPH, S. and YING ZHU. *Law and Fair Work in China*. London: Routledge, 2013.

²³ MITCHELL, T. “China’s Migrant Workers Face Bleak Outlook”. *Financial Times*. 9 February 2009.

²⁴ PRINGLE, T. “Reflections on Labor in China: From a moment to a movement”. *South Atlantic Quarterly*. 112, 1, 2013, pp. 191-202. CHINA LABOUR BULLETIN. “The Workers Movement in China: 2011-13”. Available at: [<http://www.clb.org.hk/en/research-reports>]. Accessed 17 January 2015.

²⁵ CHINA LABOUR BULLETIN. ‘中国工人运动观察报告2013-14’. Available at: [<http://www.clb.org.hk/en/content/stepping-breach-labour-groups-start-take-role-trade-union-china>] Accessed on 21 May 2015.

²⁶ CHINA LABOUR BULLETIN. The strike map is available here: [<http://www.numble.com/PHP/mysql/clbmap.html>] Accessed 12 May 2015.

Figure 1: Labour Arbitration 1996-2011

Source: *China Labour Statistical Yearbook 2012* (2013: 352-53).

As dramatic as the statistics are, the changing nature of resistance is perhaps more important for our discussion here. Put very generally, there has been a transformation in the methods workers deploy to pursue demands. Strikes aimed at forcing employers to negotiate over wages, conditions and more recently social insurance payments have replaced short protests that had a much lower impact on production and were aimed at pressuring state officials to intervene directly and discipline employers over below-minimum wages, wage arrears, overtime payments as well as compensation for factory movement to other areas. Over the last five years, the rise in what might be termed non-defensive strikes with demands that go beyond state-determined minimum wages has been further nuanced by a marked trend in strikes related to arrears in social security contributions or compensation relocation. While seemingly defensive in nature, this additional set of rights-based demands nevertheless reflects the same

increased capacity to organise against capital and state that has resulted in wage-based strikes.

This shift in the forms of labour unrest is certainly not uniform across the country, and I do not suggest that a protest aimed at involving the state rules out a strike aimed at bargaining with capital. It has been characterised by some as a transition from protests over rights that have been fragmented by state juridical procedures into individual disputes to strikes over interests that are based on collective bargaining as an instrument of dispute resolution and even dispute avoidance.²⁷ The state, the ACFTU and labour representatives and their supporters have, to various degrees and for different reasons, advocated forms of collective bargaining.²⁸ Employers have been less enthusiastic.²⁹ In the following section will attempt to unpack, briefly, the logistics of this complicated and nuanced transformation.

2. The changing trajectory of labour unrest

Labour protests throughout the 1990s and the first few years of this century reflected the early processes of China's transition from a command to a market economy outlined above. As we have said, the main tactic of workers in both the state and private sectors was to get state officials involved in reaching a solution. But the logic behind these tactics was not the same for state workers as it was for migrants. The latter were many hundreds of miles from their home – often in special economic zones set up in south or east China. As we have seen, their ability to survive without wages away from family support networks was severely constrained by administrative restrictions on their rights to stay in a city without work or access to welfare associated with urban residence. Moreover, there was a large reserve army of labour in the countryside enabling employers to

²⁷ CHAN, C.K.C. and HUI, E.S.I. "The Development of Collective Bargaining in China: From 'Collective Bargaining by Riot' to 'Party State-led Wage Bargaining'". *China Quarterly*. N.217, 2014, pp. 221-242.

²⁸ THE PEOPLE'S DAILY. '中共中央国务院关于构建和谐劳动关系的意见'. Available at: [http://paper.people.com.cn/rmrb/html/2015-04/09/nw.D110000renmrb_20150409_2-01.htm] Accessed 20 May 2015. CHUN HAN WONG. "China aims to smooth labour unrest". *Wall Street Journal*, 2015. Available at: [<http://www.wsj.com/articles/china-aims-to-soothe-labor-unrest-1428478396>] Accessed 7 May 2015.

²⁹ HUI, E.S.I. and CHAN, C.K.C. "The politics of labour legislation in southern China: How foreign chambers of commerce and government agencies influence collective bargaining laws". *International Labour Review*. N.153, 4, 2014, pp. 587-607.

replace “troublemakers” with or without the coordinated assistance of the local state. As the scholar Han Deqiang observed in 2002:

Outside the gates of every enterprise in our so-called Special Economic Zones you can see small crowds of workers who are waiting to be hired even if the factory has no hiring policy at the time. When they do hire, this small crowd quickly turns into a crush of desperate migrant workers.³⁰

Trade union representation for migrants was weak to non-existent. In fact, the ACFTU did not recognise migrant workers as potential members until 2003 and generally referred to them by using the state-constructed parlance of “peasant workers” (农民工). Faced with these constraints, workers’ tactics focussed on a mix of marches down to government offices or even a highway blocking – as opposed to declared strikes and picket lines – as well as testing the evolving juridical procedures of arbitration and the courts sometimes with the help of labour NGOs that were especially active in the southern province of Guangdong.

In contrast, the logic underpinning resistance by workers in the restructuring state sector was determined by a somewhat different context. There were four main differences. First, although SOE workers were being automatically enrolled into the union, the possibility of the Party-led ACFTU leading opposition to a key CPC policy – SOE restructuring – were almost zero. Constitutionally, the ACFTU’s role was – and is – blurred by references to its mission to protect “the overall interests of the entire Chinese people” rather than the sectional interests of groups of workers. It works to “implement the Party’s basic line of centring on [the] economic construction”.³¹ As such, the union spent far more energy persuading its members to accept phased lay-offs and seek alternative employment – often vulnerable self-employment – rather than challenging the policy itself. In this way, the organisation adhered to its traditional role developed in the command economy era as a productivity orientated labour welfare bureaucracy rather than a trade union representing the interests of its members. Second, the redundancy policy was partially ameliorated by state-imposed obligations on SOEs to keep laid off workers on their books for three years, provide retraining and livelihood stipends as well as medical

³⁰ Observation from the floor made at the Asia Pacific Research Network *China and the WTO* conference, 4-6 November 2002, Guangzhou.

³¹ CONSTITUTION OF THE ACFTU (1998). Available at: [<http://www.acftu.org.cn/template/10002/file.jsp?cid=48&aid=237>]. Accessed 24 May 2015.

expenses. While these obligations were often ignored, acquisition of such entitlements nevertheless became the focus of widespread, but scattered protests³² and workers rarely demanded their jobs back. Third, the development of more actively class conscious and linked up resistance was constrained by the political framing of restructuring itself as references to the sensitive term of “privatisation” were studiously avoided in the official discourse. When the term was deployed either by radical market reformers or in the narrative of resistance, workers were more likely to refuse to “enter new property relations disadvantageous to them”.³³ Finally, the material conditions necessary for strike action were rarely in place. The careful sequencing of the restructuring project by the state meant that workers’ protests erupted *after* they were stood down.³⁴ As one labour academic from the ACFTU’s Labour Relations Institute pointed out at a seminar in Hong Kong in July 2001 there was often “no work to strike against!” (无工可罢!)

As we can see, throughout this period the balance of class forces was heavily weighted in favour of capital. Migrant workers’ wages in Guangdong did not rise in real terms for 12 years³⁵ and across China up to 50 million SOE workers found themselves moved “from the centre to the margins of society”.³⁶ This grim scenario began to change from 2003 onwards and as a result, the passive and defensive nature of both migrant and urban worker protests depicted above has gradually transformed into resistance primarily based on strikes or at least the threat of them. For reasons of space, I will only highlight what I think are the three most important factors explaining this change. There are, of course, many more. Firstly, a bank of knowledge on the factory system itself has accumulated among migrant workers sometimes with the assistance of LNGOs. In turn, these LNGOs are nurturing a cadre of worker representatives with experience of collective bargaining and organisational leadership – sometimes both. In more recent years, the internet and social media has facilitated both the transfer of such knowledge and the dissemination of information on strikes. Workers and their supporters have used the

³² CAI, Y. *Op. Cit.* p. 343.

³³ CHEN FENG. *Op. Cit.* p. 242.

³⁴ CHEN FENG. “Privatization and its discontents in Chinese factories”. *China Quarterly*. n.176, 2006, pp. 1006-28. See also PRINGLE, T. “Paying the Price: Workers Unrest in Northeast China”. *Op. Cit.*

³⁵ LIU, K. *A Social Structure of Lost Entitlements*. Shenzhen: Institute of Contemporary Observation, 2005.

³⁶ 邹中正 and 秦伟. ‘政府，企业和家庭在成都市下岗女工的社会支持网络中的作用’ in *人口与经济*. June 2001, pp. 55-60.

technology as a tool to organise in and beyond a given strike location. For example, mobile phone apps have been deployed to organise solidarity actions by sympathetic groups (群) of activists, lawyers, scholars and students – such as raising money to pay hospital fees of strikers injured by police attacks on picket lines.³⁷ In another example, workers representatives at Lide shoe factory used the Chinese mobile phone and computer application *weibo* to publish up to 28 strike and organising updates.³⁸ Secondly, the political and material space between migrants and urban workers has diminished over the last decade. This is the result of a mix of factors, but primarily the privatisation of SOEs and convergence with private sector labour relations regimes; and the state's alarm at growing inequalities and policies to address them, especially the policy of rapid urbanisation of central and western areas and the concomitant loosening of urban residence restrictions referred to earlier. While this has not yet produced a significant trend of examples of sustained solidarity between urban and migrant workers, the material conditions for such a scenario are increasingly in place as the distance between production and the reproduction of labour narrows.³⁹

But perhaps the most important factor driving the emergence of a labour movement based on well-publicised strikes as opposed to isolated protests has been the labour shortages that began in South and East China and are now a key feature of Chinese labour markets in many parts of the country.⁴⁰ This has put workers in a much stronger bargaining position. The aforementioned absence of statistics on strike days lost renders this change difficult to quantify but there is a growing body of labour academics referring to the “collectivisation of labour relations” emerging in the wake of labour unrest in part generated by structural labour shortages.⁴¹ While some of this literature is based on legal reform,⁴² others have analysed labour unrest, strikes and institutional responses to track this shift in the

³⁷ The author is a participant in two such groups that raised money in this way during 2015.

³⁸ See @利得工人

³⁹ FRIEDMAN, E. “China in Revolt”. *Jacobin*. n.7-8. 2012 [<https://www.jacobinmag.com/2012/08/china-in-revolt/>]

⁴⁰ PRINGLE, T. “Reflections on Labor in China: From a moment to a movement”. *Op. Cit.*, p. 195.

⁴¹ See. ‘中国连续曝出劳资纠纷’. Available at: [<http://www.chinanews.com/gn/2014/06-03/6236735.shtml>] 2014. Accessed 26 May 2015.

⁴² COONEY, S. et al. *Op. Cit.*

balance of class forces.⁴³ As we shall see in the following section, the combination of shortages of labour and increasing militancy moderated state policy under the previous leadership of Hu Jintao as the consolidation of a legal framework seemed to open up the space for labour militancy and foster a qualified tolerance of LNGOs activities at least in the South. The current regime of Xi Jinping has been far less tolerant although strikes continue to be a significant feature of labour relations keeping them near the top of the state's agenda.⁴⁴

3. The State Response to Labour Unrest

The response of the Chinese state – including the ACFTU – to labour militancy fits into three broad categories: legal, representational and political. My focus here is on the first two categories, but I will contextualise the discussion with a brief foray into a political analysis of the state's response to unrest in general.

In the broadest terms, the Chinese state moved from repression to concession in dealing with unrest in general and labour unrest in particular during the Hu Jintao era.⁴⁵ Finding a balance between stability and rights has been an obsession with Chinese officials in Guangdong for over a decade. Failure to prevent an enterprise-based strike from developing into a strike wave can have serious career-related repercussions for state officials, and there is a reluctance to resort to repression for fear of providing the proverbial spark that ignites the prairie fire. The “soft” approach of the Hu-Wen era is well-documented in the literature⁴⁶ and represented a significant drain on non-police budgets as resources were re-directed towards upholding social peace. There is also the strong possibility that the legacy of this approach will constrain the development of more sustainable forms of dispute resolution as have been already piloted such as annual collective bargaining.⁴⁷

⁴³ CHAN, C. *The Challenge of Labour in China: strikes and the changing labour regime in global factories*. New York: Routledge, 2010. PRINGLE, T. *Trade Unions in China: The challenge of labour unrest*. London: Routledge, 2011. FRIEDMAN, E. *The Insurgency Trap: Labor, politics in post-socialist China*. Ithaca: ILR Press, 2014.

⁴⁴ CHUN HAN WONG. *Op. Cit.*

⁴⁵ PRINGLE AND CLARKE. *Op. Cit.*

⁴⁶ GALLAGHER, M. “China's Workers Movement and the End of the Rapid-Growth Era”. *Dædalus: The Journal of the American Academy of Arts and Sciences*. 143(2), 2014, pp. 81-95; CHEN, XI. *Social Protest and Contentious Authoritarianism in China*. New York: Cambridge University Press, 2012.

⁴⁷ I am grateful to Jenny Chan for highlighting this outcome and pointing me towards the “activist state” literature. On annual collective bargaining see PRINGLE, T. and MENG

In contrast, the Xi Jinping era has displayed a far less tolerant attitude towards both civil society and labour activism since 2012.⁴⁸ In Guangdong and no doubt beyond, this has spilled over into violent assaults on labour activists by unidentified men and the deployment of riot police in some strikes but does not appear to have had any marked impact on the willingness of workers to take such actions.⁴⁹ Indeed, the anti-corruption campaign that has accompanied the Xi crackdown has also been directed at both state officials and capitalists. It may even be an opportunity for workers to pursue non-wage claims such as embezzlement of workers' social security funds as was partly the case at the Yue Yuen strike discussed below.

After years of gradualism, China's legal framework for labour relations received a considerable boost in 2008 when three important labour-related laws were passed: the Labour Contract Law (LCL); the Labour Dispute Mediation and Arbitration Law (LMAL) and the Employment Law that was designed to coordinate employment agencies and reduce discrimination in the labour market. The LCL was an attempt to slow the rate of informalisation of employment and discipline employers into issuing permanent contracts to employees who had completed two consecutive fixed-term contracts (Article 14). In contrast to the earlier national Labour Law on 1995, the LCL carries an entire chapter on collective contracts signalling the state's intention to move away from the individualised nature of the first national Labour Law promulgated in 1995 and perhaps giving more credibility to the 'collectivisation' literature referred to earlier.

The LMAL was part of a general policy of channelling disputes into a two-tiered juridical system of dispute resolution thus containing militancy in a rights-based discourse that keeps people in the courts and off the streets. As we can see from Figure 1, this certainly had an effect in terms of the sheer numbers of workers applying for arbitration, and the data trend is largely the same for court settlements.⁵⁰ It also facilitated a consolidation of "legal

QUAN. "From structural power to 'appropriated associational power' – class struggle and collective bargaining on a Chinese waterfront". *ILR Review* (forthcoming), 2017.

⁴⁸ GLOBALIZATION MONITOR. "Stop violent assaults on labour organisations in China". 2015. Available at: [<http://www.globalmon.org.hk/content/urgent-appeal-stop-violent-assaults-labour-organisations-china>] Accessed 12 May 2015.

⁴⁹ CHINA LABOUR BULLETIN. "At the sharp end of the workers' movement in China". Available at: [<http://www.clb.org.hk/en/content/sharp-end-workers%E2%80%99-movement-china-zhongshan-cuiheng-strike>]. Accessed 20 May 2015.

⁵⁰ CHINA LABOUR BULLETIN. "Migrant workers start to win significant compensation awards in the courts". Available at: [<http://www.clb.org.hk/en/content/migrant-workers-start-win-significant-compensation-awards-courts>]. Accessed 15 February 2015

activism” that crossed over into ACFTU output as it trained substantial numbers of lawyers to represent members. However, the union has tended to stick to cases it can win. In Guangdong province, the subsequent vacuum has been filled partially by LNGOs alongside growing numbers of self-trained paralegal activists and labour lawyers. The attitude of the Guangdong Federation of Trade Unions (GFTU) towards such groups has wavered between offers of cooperation to wariness and suspicion of foreign funding and interference – stances that usually reflect the wider political climate of the time.

An important addition to the framework came in 2011 with the Social Insurance Law. Article 95 expanded all five components of social insurance to all workers including migrant workers. The five components are pensions, unemployment, medical, work-related injury and maternity insurance. Importantly for migrant workers, the law stipulated that social insurance accounts may be moved from one workplace to another. However, this has proved very difficult to implement due to the “highly localized nature of the social welfare system...getting different jurisdictions to share information is fraught with bureaucratic and technical difficulties, especially for workers coming from rural areas of China”.⁵¹ Coverage for migrant workers remains very low. For example, according to a survey conducted by the National Bureau of Statistics in 2013, only 15 per cent of migrant workers employed outside their home province had pension accounts.⁵² At the same time, its promulgation has served as a legal context for strikes over social insurance premiums especially among older migrant workers. The strike discussed below by 40,000 workers at the Yue Yuen shoe factory in April 2014 was an important example.

The second tier of the Chinese state’s response to labour unrest relates to the crucial question of representation – in my view the “elephant in the room” that impinges on all discussions on labour relations in China. As we have seen, the ACFTU remains a Party-led institution that has been slow and constrained in its adaption to the challenges presented by capitalist labour relations. Its role during the command economy era was primarily directive rather than representative and prioritised the meeting of production targets

⁵¹ CHINA LABOUR BULLETIN. “China’s social security system”. 2014. Available at: [<http://www.clb.org.hk/en/view-resource-centre-content/110107>] Accessed 29 November 2015.

⁵² NATIONAL BUREAU OF STATISTICS. “National report on migrant workers 2013”. Available at: [<https://translate.google.co.uk/#auto/en/2013%E5%B9%B4%E5%85%A8%E5%9B%BD%E5%86%9C%E6%B0%91%E5%B7%A5%E7%9B%91%E6%B5%8B%E8%B0%83%E6%9F%A5%E6%8A%A5%E5%91%8A>]. (In Chinese). Accessed 28 November 2015.

and welfare rather than defence of their members' interests.⁵³ The organisation was hit hard by SOE restructuring losing up to 30 million members and a large number of experienced cadres prompting a membership drive that focused on migrant workers and the private sector. This has been enormously successful as the union had over 239 million members and rising in 2010 and a much stronger formal presence in the private sector.⁵⁴

However, the organisation remains limited in its capacity to represent members' interests. At enterprise level, the issue is not just party leadership, but how the absence of freedom of association produces a structural reliance on capital. As I make clear in the following analysis of significant strikes, until recently, enterprise-level trade union representatives were almost always appointed by the employer and reliant on the latter for their livelihood – indeed this is often still the case despite regulatory constraints on such practices. While union appointments are supposed to be ratified by the next level up in the trade union, higher unions rarely get involved in such matters unless actions by workers compel them to do so. Strikes in which workers call for a re-organisation or re-election of an enterprise trade union committee are particularly important as improved representation is germane to developing an effective system of collective bargaining. But it is not elections in and of themselves that are the crucial issue here. Rather, it is the sustainability of, and support for, the trade union committee that emerges from an election process.

4. Significant Strikes

The famous 19-day strike in May 2010 by auto-parts workers and student interns on “vocational training” at the Nanhai Honda factory in Foshan kick-started a strike wave that generated wage increases of up to 40 per cent in and beyond Guangdong.⁵⁵ While most of the copy cat strikes that followed focused on pay, the Nanhai strike also demanded a re-organised trade union

⁵³ PRINGLE AND CLARKE. *Op. Cit.* p. 10.

⁵⁴ ACFTU. “Chinese trade unions make progress in 2010”. 2011. Available at: [<http://www.acftu.org.cn/template/10002/file.jsp?aid=622&keyword=membership>] Accessed 12 May 2015.

⁵⁵ CHAN, C.K.C. and HUI, E.S.I. “The dynamics and dilemma of workplace trade union reform in China: The case of the Honda workers’ strike”. *Journal of industrial Relations*. Vol. 54, n. 5, 2012, p. 659.

committee at the plant.⁵⁶ Following opposition to the strikers' demands from management at the factory *and* the local district-level union – the latter leading to physical scuffles – more reform-minded union organisations located at a higher level stepped in and organised the election of a trade union committee. The higher union also facilitated talks between management and elected worker representatives that won a 32 per cent pay rise for the workers and a 70 per cent increase for the student interns.⁵⁷ Subsequent rounds of collective bargaining at the plant produced well-above-inflation pay rises. However, the union committee has since been consistently undermined by management with union elections restricted to small sections of 20 or 30 workers electing a union committee that is largely devoid of shop floor representatives.⁵⁸ Despite another short and victorious strike in 2013, key activists have left the factory and the previously ground-breaking union branch appears to have “retreated to the backwaters of the workers' movement”.⁵⁹

Nevertheless, the Nanhai strike is often referred to as a watershed moment in the emergence of China's labour movement.⁶⁰ There are two aspects of the strike that justify this status. First, the widespread global and local publicity that the strike received has finally put to bed the passive victim narrative that had underpinned much mainstream opinion of workers in China up until the strike. Of course, the growing confidence of Chinese workers to constrain capital by collective action had been discussed in academic papers, internal reports of both LNGO staffers, capitalist networks and the state as well as the occasionally insightful media report from approximately 2008 onwards. But the channelling of this energy into a globally supported 19-day strike that included the demand for an elected trade union committee eliciting the public support of senior trade union officials in Guangdong province was new territory.

Furthermore, as the momentum continued and the strikes spread, they generated an outcome significant from an ACFTU policy perspective and,

⁵⁶ CHAN, C.K.C. and HUI, E.S.I. “The Development of Collective Bargaining in China: From ‘Collective Bargaining by Riot’ to ‘Party State-led Wage Bargaining’”. *Op. Cit.*

⁵⁷ CHAN, C.K.C. and HUI, E.S.I. “The dynamics and dilemma of workplace trade union reform in China: The case of the Honda workers' strike”. *Op. Cit.*

⁵⁸ CHINA LABOUR BULLETIN. “Five years on, Nanhai workers want more from their trade union”. 2015. Available at: [<http://www.clb.org.hk/en/content/five-years-nanhai-honda-workers-want-more-their-trade-union>] Accessed 20 May 2015.

⁵⁹ *Ibid.*

⁶⁰ CHINA LABOUR BULLETIN. *Ibid.* PRINGLE, T. “Reflections on Labor in China: From a moment to a movement”. *Op. Cit.* CHAN, C.K.C. and HUI, E.S.I. “The Development of Collective Bargaining in China: From ‘Collective Bargaining by Riot’ to ‘Party State-led Wage Bargaining’”. *Op. Cit.*

more importantly, a labour movement perspective. The demands for representation at Nanhai did not suddenly emerge. Similar demands for improved accountability had been growing in Guangdong for some time. However, traditional regulatory conditions for direct elections of trade union representatives had been the *absence* of labour disputes or militancy of any form as well as restrictions on the size of factories.⁶¹ But the dilemma facing the ACFTU was that the increase in strike action lent urgency to the need for a more proactive response from trade unions on issues of both representation and bargaining. In Guangdong, the combination of predatory capital, labour shortages, experienced LNGOs and increased strike activity persuaded reform-minded leaders in union federations at city and provincial level to allow contained experiments in the direct election of enterprise-level trade union representatives and processes of bargaining. While not unprecedented⁶², these initiatives go way beyond previous pilot projects elsewhere in China.⁶³ However, they are largely restricted to specific sectors where workers enjoy significant structural power having won significant pay rises and concessions. In terms of policy, union elections were no longer confined to safe havens of strike-free factories and came to be seen by more forward-thinking union officials as a way of improving the representative performance of the ACFTU. This change in policy was motivated in part by wanting to defend workers' interests but equally, if not more so, by the need to maintain broader stability via the reduction of strikes. As the former chair of the Guangzhou Federation of Trade Unions explained during a discussion in 2014:

We were concerned about the strike for two reasons. First, it was a manifestation of the power workers had acquired under the conditions of globalisation. Secondly, it was a threat to the upholding of social stability and economic development. These two things are closely linked and they are both a concern and challenge for our trade unions and their future development.⁶⁴

Following further strikes and elections of trade union committees, the Shenzhen Federation of Trade Unions (SFTU) announced in May 2012 that direct elections for enterprise-level trade unions would be rolled out across

⁶¹ PRINGLE, T. *Trade Unions in China: the challenge of labour unrest*. Op. Cit. pp. 163-70.

⁶² HOWELL, J. "All China Federation of Trades Unions beyond reform? The slow march of direct elections". *China Quarterly*. 196, 2008, pp. 845-63; PRINGLE, T. *Trade Unions in China*. Op. Cit. pp 160-82.

⁶³ PRINGLE, T. *Trade Unions in China: the challenge of labour unrest*. Op. Cit. pp. 163-70.

⁶⁴ Interview. Beijing, 14 December 2014.

163 enterprises in the city with more than 1,000 employees. Though significant from a policy perspective and opening up organising space for activists in the workplace, there is overwhelming evidence to suggest that trade union elections are not as effective as strikes. Moreover, as the history of trade unions all too painfully demonstrates, employers can undermine elections by ensuring middle managers are elected rather than workers or by harassing, dismissing or promoting elected representatives as well as denying union time. In October 2013, university student researchers from the LNGO Student and Scholars Against Corporate Misbehaviour (SACOM) wrote an open letter to the SFTU. They claimed that only two out of the five factories their researchers visited clandestinely had effective union branches.⁶⁵

Potentially more important is the impact strikes are having in generating both experience and leadership in an emerging labour movement that appears to be acquiring a momentum despite attacks on activists and a repressive environment. Two strikes in the shoe industry demonstrate my point. A significant strike shook the authorities of Dongguan city both in its scale of 40,000 workers and the intensity of ill-feeling toward management. The strike was ostensibly over the failure of management at the giant Taiwanese-owned Yue Yuen shoe plant to pay full social security premiums into workers' accounts. However, while this was definitely an issue, activist blogs, interviews with veteran workers and LNGOs providing support revealed that the strike was also connected to frustration with overall pay levels. There was no direct bargaining with management and the strike was important due to its size, duration of almost two weeks and the symbolic message of shop-floor power and solidarity. As the strike died down in the face of management concessions and strong pressure on workers to return to work by the authorities, including the GFTU, one veteran worker predicted in an interview on a blog called Worker View Point that there "will be a big strike within half a year and there will only be one demand – a raise of at least 30 per cent. Workers can't live on 2,300-2,400 Yuan!"⁶⁶ The impact and lessons of the strike, in particular the need for accountable representatives and collective bargaining re-emerged not at Yue Yuen, but bore fruit at a much smaller shoe factory approximately 40 miles away.

⁶⁵ SACOM. "Power to the workers". 2013. Available at: < [<http://www.clb.org.hk/en/sites/default/files/Image/general/Chinese%20Student%20Trade%20Union%20Report%202013.pdf>] Accessed 12 May 2015.

⁶⁶ 工评社. '与裕元一位老工人的深度访谈'. Available at: < [http://blog.sina.com.cn/s/blog_ed2baf420101wdoo.html] Accessed 2 May 2015.

The capacity of workers to elect and re-elect bargaining representatives was illustrated by a series of strikes and negotiations at the Lide Shoe Factory. The initial dispute was triggered in April 2014 by concerns over the factory's planned relocation and subsequent attempts by management to force workers to sign new contracts in order to avoid social insurance arrears dating back to 1995.⁶⁷ During the following six months, increasing numbers of the 2,500 workers at Lide took part in three strikes, the last involving 1,000 workers in December 2014. The time between April and December was used by workers to acquire training in collective bargaining, electing representatives and organising with support from local LNGOs. During the third strike, workers' representatives immediately set about organising a solidarity fund and a social media blog as well as appointing picket marshals and media coordinators. Arrests of workers, issues with accountability and frequent bargaining in bad faith by management⁶⁸ eventually led to a five-night and six-day picket of the factory gates by 300 workers and their representatives in April 2015 to prevent management from moving equipment and goods to another location.⁶⁹ Following meetings with Lide and local government representatives, Lide agreed to pay all outstanding social insurance payments and pay relocation compensation in accordance with the law. The New Citizen Movement's website referred to the victory as an historic breakthrough in terms of solidarity building and collective bargaining as well as a significant breakthrough for the labour movement in Guangdong's Pearl River Delta.⁷⁰ This said, the focus group discussions I attended with four – and this has to be said – “inspiring” women organisers from Lide in the aftermath of their victory also revealed the challenges for the future evolution of a labour movement growing from below. Chief among them is the industrial upgrading in Guangdong province that was at least in part behind the Lide decision to relocate and downsize. All the organisers I spoke with had taken the redundancy pay outs they had won through struggle rather than offers of re-employment with due seniority of up to 19 years in the case of one

⁶⁷ CHINA LABOUR BULLETIN. “Shoe factory workers show collective bargaining is already a reality in Guangdong”. 2015. Available at: [<http://www.clb.org.hk/en/content/shoe-factory-workers-show-collective-bargaining-already-reality-guangdong>]. Accessed 20 May 2015.

⁶⁸ LIDE UPDATE 28. Available at: [<http://www.weibo.com/p/1001603843556757369247>] 2015. Accessed 23 May 2015.

⁶⁹ See ‘利得工人集体维权行动升级300多工人雨夜集体保护’. Available at: [<http://www.weibo.com/p/1001603834006134222688>] Accessed 22 May 2015.

⁷⁰ NEW CITIZENS' MOVEMENT. ‘利得工人集体维权经验小洁’. Available at: [<http://xgmyd.com/archives/17147>]. Accessed 25 May 2015.

organiser. Two of them said they would work with the LNGOs that had offered assistance throughout the struggle. One was not sure and a fourth planned to help run her son's business. The trend of experienced workplace representatives leaving workplaces – often due to dismissal – following a dispute will likely continue against a background of relocation and closures arising from increasing diversity in capital flows to other provinces or abroad and an ongoing drop in exports. While the experience of such leaders and organisers is unlikely to be entirely lost, the labour movement would gain more from their ongoing presence *in* the workplace, negotiating and constraining capital, ensuring union accountability and building sector-level networks. Training from the outside is no substitute for representation and experience on the inside.

Conclusion

I have argued that when viewed through a labour relation lens, China's "exceptionality" fades somewhat. It is replaced, or perhaps upstaged, by the growing militancy of a working class that is beginning to constrain capital. Also in sharp focus are the efforts by the party state to neutralise an emerging labour movement. Its strategy has included attempts to slow the rate of informalisation with legal reforms, notably via the Labour Contract Law; and experimentally, via toleration of accountable collective bargaining between workers' representatives and employers – albeit in what often amounts to factory "closure bargaining". In cases of annual collective bargaining, both state union and capital have moved to head off the potential for accountable collective bargaining. They have generated further militancy by taking back representation, to various degrees, under ACFTU control. This happened at Honda Nanhai factory and in the auto sector in general. Nevertheless, what is new and most significant in this scenario is the emergence of a layer of workers' representatives, collective bargaining representatives and organisers who are acquiring significant experience due to the sheer frequency of strikes. This small group does not directly challenge the ACFTU but instead focuses almost entirely on collective bargaining and organisational skills in the workplace. Its members have so far survived the state's more recent attempts to intimidate, co-opt and in some cases imprison them in order to reduce their influence. Their ability to continue to have an impact on the ongoing evolution of China's labour relations and labour movement will depend on the party state not resorting to more comprehensive repression and equally important, the continuing frequency of strikes.

