

Working Paper No. 7

**Industrial relations and
collective bargaining in China**

Chang Hee Lee

**Industrial and Employment
Relations Department
International Labour Office • Geneva
October 2009**

Copyright © International Labour Organization 2009

First published 2009

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered in the United Kingdom with the Copyright Licensing Agency, 90 Tottenham Court Road, London W1T 4LP [Fax: (+44) (0)20 7631 5500; email: cla@cla.co.uk], in the United States with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923 [Fax: (+1) (978) 750 4470; email: info@copyright.com] or in other countries with associated Reproduction Rights Organizations, may make photocopies in accordance with the licences issued to them for this purpose.

ILO Cataloguing in Publication Data

Lee, Chang Hee

Industrial relations and collective bargaining in China / Chang Hee Lee ; International Labour Office, Industrial and Employment Relations Department. - Geneva: ILO, 2009
1 v. (Working paper ; no.7)

ISBN: 9789221228417;9789221228424 (web pdf)

International Labour Office; Industrial and Employment Relations Dept

labour relations / collective bargaining / China

13.06.1

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our website: www.ilo.org/publns

Printed in Switzerland

Preface

This paper is a part of a comparative study examining industrial relations developments in different countries and regions of the world. It examines the remarkable changes China has undergone in the field of industrial and employment relations, in particular after the transition to a market economy after 1978. Economic reform in China has been accompanied by the introduction of a new legislative and institutional framework for industrial and employment relations and this paper studies those developments.

This study helps to fill a knowledge gap on industrial relations in developing countries and regions of the world. Knowledge on China's employment and industrial relations practices is relatively scarce and this paper helps to analyze and demystify China's progress since 1978. Indeed, recent focus on China as an emerging global power and its clear presence in the world economy further increases the need for understanding industrial relations practices and their implications for workers in China.

China saw a rapid increase of industrial and employment relations developments in the 2000s with the development or revision of eleven major labour laws and industrial relations structures. This progress can be understood in the context of the extraordinary growth in China's market economy and corresponding changes in the social and economic structure, as well as against growing inequality, widening income gaps and declining wage share of GDP. Labour disputes and collective protests in China have risen steadily during the past decades, in particular since the 2000s and though data on strike activity is unreliable, it is clear that labour issues have given rise to social conflict in China.

The foundations for labour law structures were developed in the 1990s with the first Trade Union Law (1992) and Labour Law (1994), providing the important structure for collective bargaining and labour dispute settlement. Actual progress during the 1990s was fairly limited due to the Party-State's objectives in economic development, competition between provinces in attracting investment, and the difficulty of state trade unions in coping with the market economy. A change of leadership in the early 2000s created a platform for socially balanced development in China, allowing industrial relations institutions to adopt a more important role, including the development of tripartite consultative mechanisms. Importantly, collective bargaining spread rapidly in the 2000s owing to improved legal frameworks, tripartite mechanisms and as a result of interaction with government wage policies.

This working paper is a welcome contribution to understanding the legal, social, political and economic factors influencing the development of the industrial relations system in China.

I wish to thank Chang Hee Lee for undertaking this study and commend the report to all interested readers.

October 2009

Tayo Fashoyin
Director,
Industrial and Employment
Relations Department

Contents

Preface.....	iii
1. Introduction.....	1
2. Context of industrial relations and collective bargaining in China:	1
2.1 Growing inequality and declining wage share of GDP	2
2.2 Explosion of social conflicts and labour disputes	3
2.3 Industrial relations developments in the 1990s	4
3. Industrial relations development under the policy paradigm shift of the 2000s	5
3.1 ‘Building harmonious society’ and corporatism with Chinese characteristics.....	5
3.2 Creating legal and regulatory framework for industrial relations in the 2000s.....	7
3.3 Institutional cloning of tripartite consultation systems in China.....	9
3.4 Employers’ organizations and the tripartite consultation mechanism	10
3.5 The ACFTU’s organizing campaign	11
4. Collective bargaining developments in the 2000s.....	12
4.1 Overall features of collective bargaining developments in the 2000s	12
4.2 Coordinated bargaining with Chinese characteristics?	14
5. Effects of trade unions and collective bargaining in the workplace and beyond	15
5.1 Effects of political incorporation of trade unions: A double-edged sword.....	16
5.2 Changing union governance and collective bargaining at the enterprise and local level: What do unions do?	16
6. Discussions	18
References	19

1. Introduction

Employment and industrial relations in China have undergone tremendous transformation along with China's journey towards a market economy in 1978. After 30 years of economic transition, China has become the 'factory of the world'.

In 2008, which marks the 30th anniversary of economic reform (1978-2008), China introduced a series of high profile labour and social legislation, such as the Labour Contract Law, the Employment Promotion Law, and the Labour Dispute Mediation and Arbitration Law. This signals China's entry into a new phase of economic and social development, after the turbulent 1990s when the old social contract was discarded while a new social order was yet to emerge.

Changes in the 2000s are not confined to the labour law regime. China has accelerated industrial relations institution building, which includes the creation of tripartite consultation bodies from the central down to district levels, the promotion of collective bargaining and wage negotiation, and concerted union organizing campaign. As a result, China now boasts one of highest union densities. Collective bargaining coverage has also risen rapidly since the early 2000s. Considering that the concept of collective bargaining was virtually unknown till the early 1990s in China, this is remarkable progress.

At the same time, however, labour conflicts of various forms – whether formal complaints to the arbitration councils, wildcat strikes or street protests – within and outside the formal labour relations system have also seen explosive growth since the 1990s. The simultaneous growth of collective bargaining coverage and labour protests/disputes indicates that the institutionalization of industrial relations by the official industrial relations actors may not be producing the desired effects of social harmony.

This paper will attempt to offer an overview of industrial relations and collective bargaining developments since the early 1990s. The following section will describe the political, economic and social context of the industrial relations developments. In section three, the paper will analyze key features of the emerging industrial relations regime in China, including political imperatives behind the industrial relations development, the new legal framework of industrial relations, tripartism, employers' organizations, and finally, recent union organizing campaigns. Section four will offer an overview of collective bargaining and an analysis of a new attempt to develop coordinated bargaining in interaction with the government policy framework. Also, a preliminary attempt to examine the effectiveness of union governance and of collective bargaining in improving working conditions in the workplace will be made. In the final section, major findings will be summarized.

2. Context of industrial relations and collective bargaining in China

The 2000s has witnessed a sudden surge of concerted efforts to build new industrial relations practices. This can be understood properly against the background of the social upheavals caused by China's move towards a market economy at an unprecedented scale and pace in the last 30 years. The economic reform has turned China – once in complete isolation from the global trading system – into the 'factory of the world' and the third largest economy. The economic growth of the past 30 years enabled China to dramatically reduce poverty at the

largest scale and fastest pace in the world history. The economic transformation has also brought sweeping changes to the social and economic structure.

- In 1978, only 17.8 per cent of the population lived in urban areas, rising to 43 per cent in 2005
- In 1978, 71 per cent of the total workforce worked in the agricultural sector, it went below 50 per cent in 2005 as the secondary and tertiary industry accounted for around 20 per cent and 30 per cent, respectively
- In 1978, virtually all workers worked in the public sector in urban SOEs or rural collective farms. In 2005, more than 80 per cent of workers were in the non-public sector, including subsistence farmers who comprised 47 per cent of the total workforce.

In the 1980s the economic reform produced benefits for the entire population, reviving rural economies, narrowing urban-rural gaps and lifting the majority of population from poverty without producing clear losers in the process (Naughton, 2007). However, as China's economic growth became increasingly dependent on urban export sectors in the 1990s and the economic reform reached the crucial stage of affecting public enterprises in urban areas, the economic reform began to produce clear winners as well as losers in Chinese society, generating high social tensions.

2.1 Growing inequality and declining wage share of GDP

China, previously one of the world's most equal societies, has in the last 30 years become one of the most unequal societies. In 2005, China's Gini coefficient reached 0.46, surpassing India and the Philippines which were known for their extreme degrees of unequal distribution of incomes. According to the Asian Development Bank, inequality has been growing faster in China than in most other developing countries. Inequality has grown between regions, industries and occupations.

After a brief period of rural economic revival in the early years of the economic reform in the 1980s, the rural economy lagged far behind the urban economy. As a result, the urban-rural per capita income ratio became 3.33 to 1 in 2007, worse than 2.6 to 1 in 1978. The ratio of GDP per capita of the richest to the poorest province grew from 7.3 in 1990 to 13 in 2003. The decentralized fiscal regime in China tends to widen the regional gaps, as is evidenced by the fact that the richest province has more than eight times per capita public spending than the poorest province.

The ratio of the average wages of highest paying industry to lowest paying industry grew from 1.76:1 in 1990 to 4.88:1 in 2005. Under China's highly decentralized minimum wage system, the highest local minimum wage (in Shenzhen, Guangdong province) has become 2.25 times higher than lowest local minimum wage in Jiangxi province.

Overall, it is believed that real wage growth for workers – particularly those with low skills – lagged behind overall productivity gains and GDP growth. As a result, the wage share of GDP has declined from 52 per cent in 1999 to 40 per cent in 2007, while private consumption declined from 47 per cent to 37 per cent of the GDP during the same period.

A host of factors are at work in widening income gaps and declining wage share of GDP, including the government policy favouring urban industrialization geared toward export-oriented economic development at the expense of rural population, decentralized fiscal policy regime (which penalizes underdeveloped localities), artificial barriers between rural and urban labour markets (which puts rural workers in a disadvantaged position vis-à-vis their urban

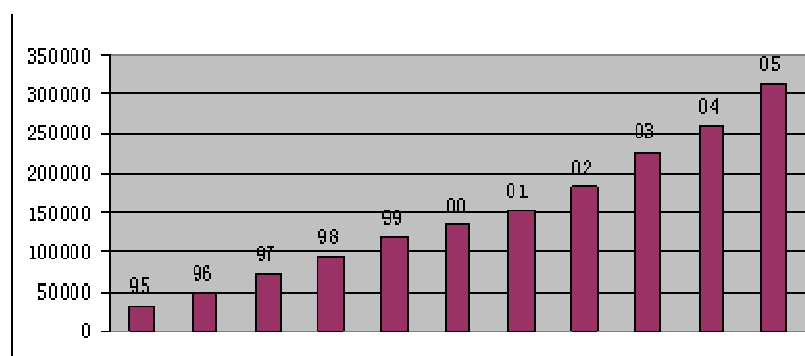
counterparts), unbalanced bargaining power between employers and workers (due to weak labour market institutions such as trade unions and collective bargaining), and others.

The growing income/wage gaps and the rapidly declining wage share of GDP have become one of the top concerns of the country's political leadership and policy-makers for two reasons: first, the declining wage share lies at the heart of the country's economic imbalance. The slow wage growth has led to much slower private consumption growth relative to overall economic expansion in China, causing a continuous decline in the share of consumption in GDP while leading to a rising dependence on export and investment as drivers of the country's growth. In turn, it creates the possibility of global trade conflicts with major trading partners. Second, the widening income/wage gaps, if unchecked, can threaten social cohesion and stability.

2.2 Explosion of social conflicts and labour disputes

Along with greater disparity undermining sustainable economic development, China has witnessed explosive growth in social conflicts in general and in labour disputes in particular during the last two decades. The incidences of 'collective protests' of various natures rose to 60,000 in 2003 from around 10,000 in 1993.¹ The fact that labour-related protests accounted for 46.9 per cent of the collective protests in 2003 clearly demonstrate that labour issues have become a major source of social tension and conflicts in China. The number of labour disputes referred to local arbitration councils across China has shown explosive growth (as shown in the graph below). The growth rate of labour disputes was somewhere between 30 and 50 per cent per year in the 1990s. Even though there is no reliable data on strikes, it is commonly believed that strike actions are on the rise as well.

Number of labour disputes in China



Note: This is the number of labour disputes referred to China's labour arbitration councils, not the number of strikes. There are no official statistics on strikes, which are believed to be considerable.

The explosive growth of various forms of labour conflicts in the 1990s and early 2000s is closely associated to the transformation of China's economy from centrally planned to a market economy, resulting in upheavals in the employment regime in both state and non-state

¹ 'Collective protest (*quntixing shijian*) refers to various collective actions, often outside China's legal procedures. It can take place over a variety of issues, including labour, land, the environment and others. The data is collected by the Public Security Bureau and is seldom made public. China does not produce data on strike actions, as the right to strike is not mentioned in any Chinese legislation. Instead, the Ministry of Human Resources and Social Security collects data on labour dispute cases referred to local arbitration councils. When this paper refers to statistics on labour disputes, it means the number of cases officially referred to arbitration councils.

sectors. Before the reform, China maintained an unusually strict barrier between the urban and rural population, preventing the rural population from moving into urban labour markets where state-owned enterprises (to a lesser extent collective enterprises as well) offered lifetime employment with considerable social benefits such as medical insurance, pension and housing attached to jobs.² The market reform challenged both rural-urban divisions and stable employment relations in SOEs. Millions of people from rural areas moved to coastal cities – where special economic zones had been established – in search of urban jobs created by non-state enterprises. In spite of some recent improvements, rural migrant workers did not enjoy the same legal rights and social benefits (such as medical insurance and pension) as their urban counterparts did. The second-class citizen status allowed employers to exploit migrant workers by forced overtime for excessively long hours in hazardous working conditions and often non-payment of wages as well.

At the same time, the restructuring of public enterprises – SOEs, collectives, and township and village enterprises (TVE) – entered a decisive phase in 1990s with large-scale lay-offs. The share of the public enterprise collapsed from 25 per cent of the labour force in 1996 to only 7 per cent in 2003. As a result, from the mid-1990s to the early 2000s, 30 million workers lost their jobs in the SOE sector alone, as some SOEs went bankrupt while others made drastic reductions in their workforce for survival. Workers who were laid off or in a danger of being laid off took protest actions against the SOEs' failure to honour their liability in terms of pension and medical and housing benefits.

As Lee put it, SOE workers in the rustbelt of China undertook *protest out of desperation* over the unfulfilled government commitment to provide *goods of collective consumption*, while migrant workers in the sunbelt of China undertook *protest against discrimination over wages and working conditions* in newly emerging non-state sectors (Lee, 2007). The old social contract was discarded by the state, while the new social contract was yet to emerge. This situation led to the explosive growth in labour conflicts in both the sunbelt and the rustbelt of China throughout the 1990s and the early 2000s.

If unchecked, widening income gaps of all sorts and the explosive growth of labour conflicts could threaten social stability in China. Yet China lacked labour market institutions and labour politics which could address the above problems of achieving 'equity through voice mechanism' in the 1990s when protests of workers in the rust belt and the sunbelt regions of China converged to produce social tensions.

2.3 Industrial relations developments in the 1990s

In hindsight, it is fair to say that the 1990s was a crucial period of laying the basic legal foundations for market-based employment relations and industrial relations in China, as the country took the important first step of introducing various legal regulations, including the very first Trade Union Law (1992) and Labour Law (1994). Since the Cultural Revolution in the 1960s, China's employment and labour relations had been administered without national laws.³

The Labour Law was an attempt to create new legal norms governing contract-based employment relations, while introducing legal provisions for collective bargaining⁴ and labour

² As Naughton noted, China was a dualistic egalitarian society before the economic reform (Naughton, 2007). Under the planned economy, China maintained a dualistic society where urban residents enjoyed far better living conditions at the expense of the vast rural population. But within rural and urban sectors, there was high degree of egalitarianism.

³ During the Cultural Revolution period, the operations of the ACFTU were suspended until Deng Xiaoping rehabilitated national union as a part of his reform programmes in the late 1970s.

⁴ In all legal documents, China uses the term *jitixieshang* (collective consultation) instead of *jititanpan* (collective bargaining). Though industrial relations practitioners increasingly use *jititanpan* in recent years, the official term for 'collective bargaining' in

dispute settlement. However, the legal provisions of the Labour Law were far too sketchy or abstract to provide any meaningful protection to workers exposed to entirely new market-based employment relations, while they offered convenient legal grounds to convert state sector jobs (known as iron-bowl jobs or lifetime employment) into contract-based ones. It cannot be underestimated, however, that the adoption of the Labour Law was significant for the evolution of modern industrial relations in China because it laid down the legal foundations for collective bargaining and the formal mechanism of dispute settlement for the first time since the mid-1950s⁵. With the new legal provisions, the All China Federation of Trade Unions (ACFTU) made its first nationwide attempt to carry out collective bargaining in the mid-1990s.

But actual progress on the ground was very limited for a number of reasons in the 1990s. The Party-State's goal was firmly set on economic development, to be achieved at any cost. The 'race-to-the-bottom' of lowering labour standards was under way between the provinces in their fierce competition to attract more investment, while struggling to deal with the legacy of the socialist economy in their efforts to restructure public enterprises. In this atmosphere, the enforcement of labour laws was often conveniently ignored. As local governments did not regard rural migrant workers as their citizens deserving legal protection, labour law meant little for millions of rural migrant workers.

On the other hand, trade unions were not ready to cope with new reality of market-based employment relations. In fact, ACFTU was facing its own crisis. Between 1995 and 1999, ACFTU lost 17 million members due to the large-scale restructuring of SOEs. While losing its members in its traditional organizational base of SOEs, ACFTU struggled to adjust its functions and find its feet in the rapidly expanding non-state sector, with little success. Collective bargaining campaigns were largely formalistic exercises, resulting in collective agreements which were no more than mere copies of legal minimum conditions. With the Party-State's policy priority firmly on economic growth at whatever cost, trade unions under the control of the Party-State had neither political motive nor organizational incentive to push for representation of workers.

Overall progress in the 1990s was very limited due to the abovementioned circumstances.

3. Industrial relations development under the policy paradigm shift of the 2000s

3.1 'Building harmonious society' and corporatism with Chinese characteristics

A turning point came in the early 2000s when the new leadership of Hu Jintao shifted the Party-State's policy priority. Under the overarching slogans of 'building harmonious society' and 'people centered development', the new political leadership set ambitious goals of redirecting China's economic and social development strategies towards more balanced development: balancing rural and urban development through support for rural development;

China is still *jitixieshang* as it does not have a connotation of conflict or confrontation. Considering that the right to strike is still not officially recognized, the term *jitixieshang* may better describe the current situation of collective bargaining in today's China, as collective bargaining can function fully under the *shadow of a possibility* of industrial actions.

⁵ Collective bargaining was actively promoted in the early years of the People's Republic of China. But as Mao declared China's transition towards socialism in the mid-1950s, the unitarist labour relations system of socialist economy emerged where there was supposed to be no separation of interests between workers and 'enterprises'. Until the 1990s, collective bargaining did not take place at all (except a very few experiments in the 1980s – mostly in foreign joint ventures).

sustainable development through better environmental protection; balance between export and domestic sector development, and; balance between economic efficiency and social equity. This shift was obviously a political response to the social tensions and economic imbalance built up during 20 years of uneven economic development. It is yet to be seen whether the proclaimed goals can be achieved as the political masters of the country desire. In democratic polities, the abovementioned balance is usually achieved through a democratic policy-making process where competing stakeholders, through a pluralistic political system and associational politics, articulate their positions and produce compromise solutions. In the absence of a competitive democratic process, the Party-State in China tries to aggregate and incorporate all stakeholders' interests through its hierarchical links with various associations which are provided with monopoly right of 'representing' and 'serving' their designated constituencies.

It was in this context that the Party-State discovered the new value of trade unions as a key pillar of social management in stabilizing 'core social relations', i.e. labour relations. The Party-State realized that trade unions should be able to function as a 'protector' of workers – not just as a subordinate partner of the government – within parameters set by the Party-State. The institutionalization of new industrial relations practices such as collective bargaining and tripartite consultation gained new importance as they are seen not only as a social safety valve but also as an economic mechanism to reduce the gaps generated by unbridled market forces. This is why, for example, the promotion of collective bargaining – including wage negotiation and regional/sectoral bargaining – was mentioned in the Prime Minister's report to the National People's Congress and found its place even in the government's five-year social and economic development plan. With such strong political support coming from the top political leadership, it is not surprising that the local Party apparatus and the government have suddenly come to support the institutionalization of collective bargaining.⁶ Trade unions and the work of building industrial relations institutions have become crucial parts of the Party-State's 'pre-emptive corporatist' strategy which aims to pre-empt social conflicts by expanding the sphere of the monopoly union and incorporating workers into official systems of industrial relations (Lee, 2006).

Under the above strategy, China began to witness waves of initiatives taken by the State and social partners – the ACFTU and the China Enterprise Confederation (CEC) – with a view to improving the legal framework for employment relations and industrial relations, and building new institutions of industrial relations such as tripartite consultation mechanisms and collective bargaining at various levels in 2000s.

⁶ In many localities, the vice-mayors of the municipalities act as the head of tripartite industrial relations task force responsible for promoting orderly collective bargaining and other labour relations priorities.

Major development of labour laws and industrial relations in the 2000s

- 2000: implementation decree on collective wage negotiation, issued by the MOLSS
- 2001: revision of Trade Union Law
- 2001: establishment of national tripartite consultation committee for coordination of industrial relations
- 2001: the National Tripartite Committee issued 'Joint Notification for Promotion of Collective Bargaining and Collective Agreements'
- 2003: At the 14th National Congress, the ACFTU announced its new policy of actively organizing rural migrant workers
- 2003: the ACFTU began its experiment in direct election of enterprise union leaders in some localities
- 2004: revision of Provisions on Collective Agreements, by the MOLSS
- 2006: National Tripartite Committee issued 'Common Views on Promoting Regional/Sectoral Collective Bargaining
- 2006: the ACFTU made a breakthrough in organizing Wal-Mart branches
- 2007: the National People's Congress (Chinese legislature) adopted the Labour Contract Law, the Employment Promotion Law, and the Labour Disputes Mediation and Arbitration Law, all of which came into effect in 2008
- 2008: the Shenzhen municipal people's congress adopt a new regulation on 'harmonious industrial relations' which for the first time delineated official procedures for handling strikes, giving partial recognition to strikes.

3.2 Creating a legal and regulatory framework for industrial relations in the 2000s

The legislative reform of China's industrial relations in the 2000s started with seemingly trivial changes made to the 1992 Trade Union Law in 2001. The revision of the Trade Union Law in 2001 neither altered the political environment for union operation nor addressed the representational deficiency of the trade unions at the workplace. However, it opened up several new and significant institutional opportunities for the ACFTU. First, the revised Trade Union Law put 'safeguarding the legitimate rights and interests of workers' as the basic duties and functions of trade unions before protecting the 'overall interests of the entire Chinese people' (the 1992 Law put safeguarding the workers' rights as additional duties after the overall interests of the entire Chinese people).⁷ Second, the revision opened new ways to organize workers in small enterprises, by stipulating that workers can set up joint trade unions if their enterprises are too small (i.e., employing less than 25 workers, which is the threshold for organizing an enterprise union). This seemingly small change allowed Chinese trade unions to experiment with various forms of trade unions (such as street-level unions, sectoral unions) for workers in SMEs who are otherwise difficult to organize. This change contributed not only to the increase in trade union membership but also to the emergence of new forms of collective bargaining at the local and sectoral levels, going beyond the traditional enterprise-centered union model and collective bargaining, as we will see later. Third, Articles 33 and 34 of the revised Law provides a legal basis for unions' participation at the government policy level on a wide range of labour and social policy issues, and tripartite consultation at various levels on major issues of labour relations. Based on these provisions, tripartite actors in China began to

⁷ Article 6 of the 1992 Trade Union Law stipulated that "in addition to safeguarding the overall interests of the people of the whole nation, trade unions should safeguard the legal rights and interests of staff members and workers". But the revised Trade Union Law says that "the basic duties and functions of trade unions are to safeguard the legitimate rights and interests of workers and staff members. While protecting the overall interests of the entire Chinese people, trade unions shall represent and safeguard the legitimate rights and interests of workers and staff members".

establish tripartite consultation committees (TCCs), allowing trade unions at various levels to mobilize the support of the government and employers' organizations in pursuing their agenda.

In the early 2000s, China also adopted a number of national-level regulations aimed at promoting collective bargaining and wage negotiation. The MOLSS adopted an Implementation Decree on Collective Wage Negotiation (2000). The Implementation Decree intended to promote wage negotiation as a major way of determining wage increase and distribution. As most collective agreements were little more than replications of legal minimum conditions, they often failed to address wage increase and distribution issues. The policy-makers and the ACFTU increasingly began to see that wages should be determined through negotiation within the market principle, and that without addressing the wage issue, collective bargaining would be of little relevance. With the adoption of the above decree and creation of the wage negotiation section within the ACFTU at the national level, the ACFTU started to promote wage negotiation in particular in addition to promoting collective bargaining in general.

The revision of the Provisional Regulation on Collective Agreement in 2004 also helped trade unions and employers in spreading and developing new practices of collective bargaining by clarifying procedural rules on collective bargaining, expanding the scope of the collective bargaining agenda, and introducing the concept of 'bargaining in good faith'.

A number of joint communiqués issued by the National Tripartite Consultation Committee was instrumental in promoting collective bargaining. For example, the 'Common Views on Promoting Regional/Sectoral Collective Bargaining' issued by the Committee in 2006 gave a great impetus for spreading regional/sectoral collective bargaining practices. Until the Labour Contract Law gave legal recognition to regional/sectoral bargaining (article 53 & 54) in 2007, there was no legal foundation for collective bargaining beyond the enterprise level. Chinese labour laws in the 1990s supposed that industrial relations existed only at the enterprise level. Therefore, the tripartite 'Common Views' played a crucial role in giving political support to regional/sectoral bargaining which was under way on a pilot basis in some localities, and therefore encouraging other localities to develop regional/sectoral bargaining.

Although the Labour Contract Law (2007) is primarily about legal norms on individual employment relations, it is likely to have direct and indirect impact on collective bargaining development in China. First, the Labour Contract Law requires employers to have consultation with trade unions or workers' representatives in making decisions on such matters as dismissal and redundancy, and also in drafting or revising work rules (company rules). Second, the entire Chapter 5 of the Law codifies what was already in practice, including wage negotiation and regional/sectoral bargaining, reaffirming the legal foundations for those practices. Third, there are likely to be indirect effects through the Law's better protection of individual workers' rights such as improved rules for non-fixed contracts, improved rights of job-agency workers. With better job security and improved legal rights, workers are more likely to seek improvement of their working conditions through a 'voice' mechanism (i.e. collective bargaining) rather than through an 'exit' mechanism.

In addition, local regulations play a significant role in shaping local industrial relations developments. In a number of provinces, the provincial people's congresses (provincial legislature) adopted provincial regulations which tend to offer more favourable legal environments for trade unions and collective bargaining developments. At present, 22 provinces (out of 31) adopted their own regulations on collective bargaining. The ACFTU is planning to lobby for a separate national law on collective bargaining based upon experiences gained from local regulations in most provinces. Most recently in 2008, the Shenzhen municipal legislature passed a new regulation aimed at regulating strike actions by allowing lawful 'stoppage of work' after a 30-day mandatory cooling-off period. Though far short of international standards on the right to strike, this is seen as a significant move because it is the

first official regulation which legally recognizes the strike phenomena after the right to strike was removed from the country's Constitution in 1982.

In spite of new legal initiatives, China's legal framework for industrial relations remains problematic as it does not recognize either the freedom of association or the right to strike. In the absence of freedom of association, the ACFTU, which has official monopoly of workers' representation, does not face credible challenges which can trigger genuine union development. The absence of official recognition of the right to strike makes it hard for unions to put collective pressure on employers in order to break deadlocked negotiation. While the Party-State's strong support for the trade union agenda of organizing and collective bargaining appears to work as a functional equivalent of strike action in balancing bargaining power under the current political atmosphere, this can work only as far as the Party-State continues to support union initiatives. The absence of freedom of association and the right to collective action is likely to lead to more intervention on the part of government as it tries to achieve social harmony and more equitable labour market outcomes. The freedom of association and the right to strike are fundamental conditions for industrial relations to produce equitable labour market outcomes through voluntary interaction between two parties. In the absence of those rights, whether it wants to or not, the government will have to intervene every step of the way towards achieving social policy goals, as industrial relations without those rights is not likely to produce social equilibrium through a 'voice mechanism'.

3.3 Institutional cloning of tripartite consultation systems in China

As described in the above section, the revision of the Trade Union Law created a legal foundation for tripartite and bi-partite (government-union) consultations at various levels. Based upon these provisions, tripartite actors in China have begun to establish tripartite consultation committees (TCCs), starting from the creation of the National TCC in 2001.⁸ The national TCC is headed by the vice-minister of the Ministry of Labour and Social Security (MOLSS), the vice-chairperson of the ACFTU and the vice-president of the CEC. The TCC has been established to improve coordination among the three parties in their efforts to develop harmonious labour relations, reflecting the overriding concern of the Party-State to maintain social stability through better labour relations (Lee and Clarke, 2003).

By 2004 TCCs had been established in all provinces and most municipalities. Now tripartite joint efforts are being made to set up TCCs at the district level. The pace at which TCCs have spread down to the lower levels of administration clearly indicates that this 'institutional cloning' of tripartite mechanisms was apparently conducted in a top-down manner. There is a certain degree of local variation in the actual operation of TCCs. For example, it has been reported that there are local TCCs (such as those in the Heilongjiang province) where broader labour policy issues such as employment and social security policy issues are discussed among the three parties. However, in most cases, the TCC's mandate is generally limited to narrowly defined labour relations issues such as the promotion of collective bargaining, joint inspection of labour law enforcement and sometimes, new local regulations on industrial relations, as is defined by guidelines at the national level. In spite of the apparent top-down bureaucratic manner and limited scope of the agenda, the institutionalization of TCCs has been a catalyst in the recent evolution of industrial relations in China. TCCs have become a major vehicle for spreading new practices of collective bargaining across localities and sectors, as we will see later.

⁸ It is to be noted, however, that a tripartite consultation mechanism was established in a number of municipalities (such as Nanjing and Dalian) on an experimental basis in the late 1990s before the establishment of the National TCC.

There has been scepticism about the nature of tripartism in China, as regards the value of tripartism in the absence of independence of the parties involved. For this reason, some have called it ‘multi-headed monologue’. It certainly appears that the TCCs at local levels are more about implementing joint decisions made at the national level rather than consulting for joint decision-makings, and that each actor’s policy choice is constrained by Party-State’s political and policy imperatives.

However, it should be noted that there is growing divergence among the three parties in the TCC at various levels, as the highly contested process of legislative debate on the Labour Contract Law has demonstrated. The ACFTU lobbied for better legal protection of workers’ rights and interests against both local and foreign business positions. The recent adoption of a series of pro-worker legislation appears to have become a wake-up call for business communities in China to strengthen their ability to influence the law and policy-making. In turn, this is likely to spur the parties to sharpen their positions, leading to further divergence among official industrial relations actors.

3.4 Employers’ organizations and the tripartite consultation mechanism

A particularly tricky problem has arisen in the process of institutional cloning of TCCs at the lower levels of the government administration: the absence or the underdevelopment of employers’ organizations at lower levels of the administration. The China Enterprise Confederation is the only officially designated organization of employers in China. However, the CEC does not have branches at the lower level of administration (e.g., in some cities and most districts where TCCs have been set up). At the lower level of administration where the CEC has no branches, representatives of employers are sometimes ‘elected’ from influential employers of the localities as an interim measure until a CEC branch is established. In this regard, the state’s imperative of replicating the TCC has been driving the institutional ‘implantation’ of quasi ‘employer’ organizations’ down to municipal and district levels in China.

Another problem with employers’ representation is the CEC’s state-owned enterprise origin. The CEC was established by the State Trade and Economic Commission (STEC) as China began to experiment with decentralization of the management of SOEs at the beginning of the 1980s. Its purpose was to maintain links between STEC and the SOEs that had formerly been under the direction of the State Planning Commission. In 1998, the STEC authorized the CEC to act as the representative of all enterprises in industrial relations matters; in 1999 it issued instructions to all provincial governments requiring them to delegate this authority to the CEC (Lee and Clarke, 2003).

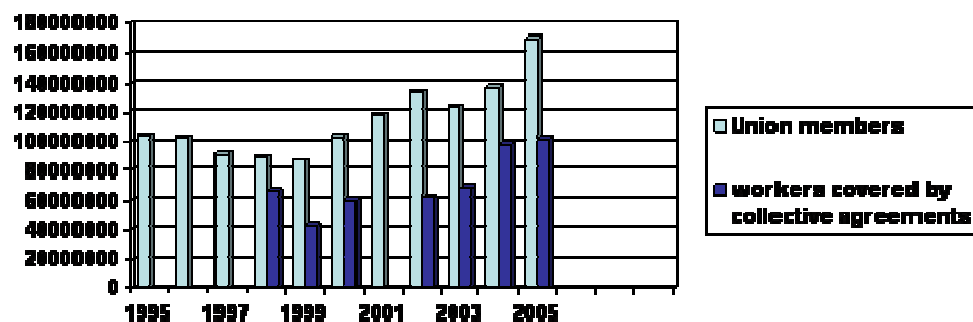
This historical origin of the CEC poses a problem for employers’ representation. Due to its origin linked to SOEs, the CEC is yet to develop an organizational capacity to represent all types of employers. Other associations, which are supposed to represent foreign enterprises, local private enterprises and other enterprises, are nominally affiliated to the CEC as associational members. However, this nominal association does not make the CEC a genuine representative of all types of employers in China.

Among other business associations, the *Gongshanglian* (the organization of local, private businesses) is believed to be the most powerful organization, representing Chinese private businesses (not foreign or public enterprises). Top leaders of *Gongshanglian* concurrently hold senior positions within the National People’s Congress and the National Political Consultative Body. Recently, the *Gongshanglian* officially challenged the CEC’s monopoly of employers’

representation at the tripartite consultation process, demanding participation.⁹ In a number of provinces, provincial *Gongshanglian* organizations have already succeeded in getting into the provincial tripartite committee under the so-called 3 + X formula. The *Gongshanglian*'s participation is likely to make tripartite system a more real forum for decision-making.

3.5 The ACFTU's organizing campaign

Perhaps the most important progress in the 2000s is the expansion of trade union organizations. In the early 2000s, the ACFTU's organizing campaign gained momentum. In fact, the 13th National Congress of the ACFTU was a crucial turning point, as it adopted a resolution for organizing a campaign under the slogan of 'Set up unions wherever workers work'. The graph shows that trade union membership has expanded rapidly since 2001, reversing the decline in the 1990s.



The rapid increase in trade union membership is closely associated with the revision of the Trade Union Law and the 2003 decision for organizing migrant workers.¹⁰ First of all, as noted earlier, the revision of the Trade Union Law opened new ways to organize workers in small enterprises. Different forms of trade unions (such as street unions or regional/sectoral unions) were already tried on an experimental basis in a limited number of localities before the revision. But the revision accelerated the spread of trade union organizing beyond the enterprise level, enabling local trade unions to organize workers who were previously often beyond the reach of trade union organizers

Secondly, the decision at the 14th National Congress of the ACFTU in 2003 to formally accept rural migrant workers as a part of the 'working class' and therefore legitimate part of trade unions accelerated the unionization drive. As of the end of 2006, 40.9 million rural migrant workers were organized, a record 24.1 per cent annual increase from 2005 – higher than overall growth rate of union membership of 13.1 per cent. The ACFTU decision to organize rural migrant workers was a part of the overall Party-State policy of gradually integrating rural and urban labour markets by gradually removing institutional barriers and discrimination.

⁹ This unusual act of open challenge appears to be associated with the overall unhappiness of Chinese domestic private employers with the new Labour Contract Law. As a formal member of the tripartite consultation committee, the CEC was directly involved in the legislative debate on the Labour Contract Law. Many private employers think that the Law is clearly biased towards workers. *Gongshanglian*, as an organization representing Chinese private capital, must have felt that they needed to be a part of the tripartite consultation committee in addition to other channels of influence they have secured.

¹⁰ Until 2003, rural migrant workers were not regarded as a part of working class. Therefore, rural migrant workers who are working in urban labour markets were in principle outside the unions' organizing targets.

Finally, the ACFTU attempted a ‘bottom-up’ organizing campaign to organize enterprises with strong anti-union stance, as in the famous campaign to organize Wal-Mart stores in China in 2006.¹¹ Local union officials traditionally approached employers, without even contacting workers, to get employers’ permission to set up trade unions. If employers agreed to unionization, trade unions at the higher levels often let employers decide how to set up enterprise unions, leading to many enterprise ‘unions’ controlled by employers. In the face of Wal-Mart employers’ resistance, however, the ACFTU approached rank-and-file workers, persuading them of the advantages of unions. After gaining 25 workers’ support, the ACFTU declared unionization of a Wal-Mart branch and demanded recognition of the union branch by employers. This approach, which is a major departure from the traditional organizing, was followed by some local unions.

As a result of the ACFTU’s concerted efforts, with significant political support by the Party-State, China now boasts of one of highest trade union densities in the world. However, the officially reported number of trade union members in China is most likely to have a statistical ‘bubble’, exaggerating the real bargaining power of Chinese unions. The number is more likely to be a result of local union cadres’ competition to report the achievement of the target numbers rather than genuine trade union organizing. The fact that the fee-paying members’ ratio to total membership has constantly declined in recent years may be indirect evidence that the quantitative outcome of union organizing campaign has only loose correlation with the genuine process of unionization and the strength of workers’ organizations at the workplace.

Nevertheless, organizing rural migrant workers, experiments with new forms of trade union organizations and new ways of bottom-up organizing create new opportunities for Chinese trade unions to expand their sphere of influence and to try new ways of collective bargaining, as we will see in the following sections.

4. Collective bargaining developments in the 2000s

4.1 Overall features

Under the new political imperative of the current political leadership, collective bargaining development gained crucial momentum in the 2000s, helped by an improved legal framework, tripartite support and expanded union membership in a variety of new forms of trade unions. First of all, collective bargaining coverage has expanded at an unusually rapid pace. In particular, the number of collective agreements and workers covered by those agreements has surged since 2001, which was the year that TCCs were first established. In 1999, ‘only’ 42.7 million workers were reported to be covered by collective agreements. But this number increased to 61.6 million, 97.7 million and 128 million in 2002, 2004 and 2007, respectively. Secondly, the number of workers covered specifically by wage agreements has shown modest but steady growth. In 2002, 27.4 million workers were covered by wage agreements.¹² Modest growth is shown in the succeeding years – 35.3 million in 2004 and 39.6 millions in 2007. Thirdly, collective bargaining has begun to take place at multiple levels of the economy, not just at the enterprise level. This new development was closely associated with the creation of diverse forms of trade unions (such as street unions, regional/sectoral unions), made possible

¹¹ While organizing unions in MNCs has been a priority since the late 1990s, it was President Hu Jintao’s urge in March 2006 to set up trade unions and party organizations in foreign invested enterprises which prompted the ACFTU to take prompt action.

¹² Before 2002, there were no official statistics on wage agreements and regional/sectoral agreements, as there was no nationwide policy of promoting wage negotiations and regional/sectoral agreements.

by the revised Trade Union Law and facilitated by the tripartite ‘Common Views on Promoting Regional/Sectoral Bargaining’. In 2007, 45.6 million workers were reported to be covered by these agreements.

Many observers – both foreign and domestic, including some officials of the government and the ACFTU – agree that there are serious deficiencies in the current collective bargaining system in terms of the quality of the agreements and of the bargaining process. In this respect, a sudden increase in collective agreements can be more easily explained by bureaucratic competition to meet targets, than by a real increase in collective bargaining (as is the case with union membership). Indeed, many collective agreements tend to be little more than replication of the legal minimum conditions with minor modifications, while the collective bargaining process tends to be a ritualistic preparation of joint documents with little or formalistic involvement of workers and without a genuine process of negotiation (Lee, Clarke and Li, 2004; Taylor, Chang and Li, 2003).

In this respect, it is interesting to note that while the number of workers covered by general collective agreements has risen remarkably, the number of workers covered by specific wage agreements has grown at a slower, more normal pace. Workers initially did not show any responses to the ACFTU’s campaign for collective bargaining agreement; they viewed it – with reason – as another bureaucratic exercise of signing off a document with employers. When workers learned that ‘their union’ was negotiating their wages with employers, however, the workers’ response was very different. Wage negotiations created a greater degree of immediate interest amongst workers in the conduct of negotiation in particular and the union’s functions in general, because their vital interests were at stake. The author’s field research confirms this pattern: wage negotiation increases interest and participation of union members in union affairs, and in turn enterprise unions come under greater pressure to become more accountable to and more representatives of their members.

The rapid spread of regional/sectoral bargaining deserves special attention. Chinese trade union officials and academic observers attach increasingly high importance to this development, as regional/sectoral union organizations can be independent from individual employers’ influence in theory and in practice. Indeed, a recent empirical study (Liu, 2007) found that regional/sectoral unions were generally more capable of articulating workers’ demands in the same sector concentrated in the same locality, acting independently from individual employers. Some regional/sectoral agreements succeeded in negotiating higher minimum wages for various occupations than the mandatory local minimum wages set by the government.

Labour shortage between 2003 and 2008 in industrialized localities also created an enabling environment for sectoral bargaining. During this period, employers were struggling with an unusually high turnover which was damaging their production and resulting in more labour disputes. Therefore, employers had collective self-interest in acceding to regional/sectoral bargaining when they were approached by local unions. The regional/sectoral bargaining is far more advanced geographically in the provinces around the Yangtze River delta (Zhejiang, Jiangsu and to less extent Shanghai), rather than in the Pearl River delta, Southern China, and in localities where small and medium-sized Chinese enterprises are concentrated, rather than in localities where foreign or joint ventures are dominant players. This pattern appears to be associated with domestic employers’ dense organizational network (and forward/backward industrial links among them), which enable the aggregation of their individual interests into collective ones. Also, regional/sectoral bargaining appears to occur more often in domestic service sectors such as hotels and restaurants, as they are shielded from global competition.

4.2 Coordinated bargaining with Chinese characteristics?

In the previous section, the overall situation of collective bargaining has been described. This section attempts to analyze the emerging pattern of interaction between government policy and collective bargaining at the local level, which clearly displays Chinese characteristics based upon the author's field research in 2007. To illustrate the new pattern of interaction, we will review the interaction between the government's wage guideline policy and wage negotiation.

The Chinese government has a number of wage policy instruments designed to influence wage trends in labour markets, which include local minimum wage fixing,¹³ the wage information system,¹⁴ and non-binding wage guidelines at the local level. Among them, the non-binding wage guideline is more directly related to wage negotiation. The guideline was introduced in the 1990s to influence or control wage trends in SOEs which were gaining their autonomy for wage-setting. It also served as a reference for wage negotiators in all types of enterprises, in parallel with the promotion of wage negotiation in the 2000s.

The author's 2007 field research found unique patterns and mechanisms of interaction between the government wage guideline and wage negotiation, as described in the box.

Interaction between government wage guideline and wage negotiation: The case of X city

X city is a medium sized city in Yangzhi river delta with 2 million population. Local trade unions succeeded in organizing 660,000 workers out of total 680,000 workers.

The city trade union federation started its campaign for wage negotiation in 2000. At initial stage of wage negotiation campaign, no labour relations actors were familiar with practice of wage negotiation, as wages were never properly negotiated before. In their efforts to promote the new practice of wage negotiation, the trade union federation together with the city labour bureau and CEC began to hire part-time 'wage negotiation councillors' who could provide advice and guidance to representatives of workers and employers at the enterprise level¹⁵. The councillors are trained not only in negotiation and facilitation skills, but also in various regulations regarding wage determination, including wage guideline policy.

Since 2004, the union federation has made a new attempt of 'spring demand campaign'. Similar to Japanese *Shunto* (spring offensive) practice, the union federation attempted to coordinate and synchronize wage negotiation through its innovative 'spring demand campaign'. Trade unions are encouraged to send their wage negotiation demands to their respective employers before or around the Chinese New Year (usually late January or early February). Within 20 days after employers receive trade unions' demand, they are obliged, by law, to give their reply regarding their intention of bargaining, including timing of the bargaining. This means that the first round of bi-partite discussion regarding wage increase would take place mid March (or at latest late March). By April, most enterprises are likely to enter a final stage of wage negotiation between workers' and employers' representatives. And it is April when the non-binding city wage guideline – together with the publication of city-level wage survey result – is usually issued.

¹³ The first regulation on minimum wage was adopted in 1994 and revised in 2004. In line with a new government policy designed to increase the wages of ordinary workers, the MW across China has risen rapidly in recent years – particularly since 2004. Between 1994 and 2004, the MW grew at eight per cent a year. Since 2004 when the MW regulation was revised, it began to grow much faster – at 14 per cent. Labour shortages which emerged in 2003 also contributed to higher adjustment rates, as each locality competed to raise the MW in a race to retain or attract more migrant workers, reversing the previous competition to keep wages low. As elsewhere, MW-fixing is designed to protect workers from unacceptably low wages.

¹⁴ The wage information system provides individual job seekers and employers information on the current wage rates for a variety of occupations based on local wage surveys.

¹⁵ In the beginning, the councillors were recruited mostly from either retired labour bureau officials or trade union officials. Now they are selected from qualified lawyers, accountants and other professionals. After joint selection by tripartite parties, new councillors are trained in wage negotiation skills and relevant regulations, then assigned on part-time basis to assist workers and employers in a number of enterprises, often in the same sector.

The system of 'wage negotiation councillors' and 'spring demand campaign' appears to offer institutional linkages between the government wage policy instrument and bi-partite wage negotiation process at enterprise level through human linkage of 'wage negotiation councillors' and through sequencing of spring demand campaign and April wage guideline (together with city-level wage survey result). This may create an indirect effect on bi-partite negotiators to take the wage guideline as a strong reference point in their final stage of wage negotiation

Source: Lee (2008).

The above model is not confined to X city – many localities have introduced the 'wage councillor system' of wage negotiation and synchronized collective bargaining initiatives, though there are local variations. The above model is still evolving,¹⁶ and the author cannot at this point assess whether the above approach produced the desired bargaining outcome across the board in the different localities.

However, the above model displays a number of embryonic elements of Chinese-style mezzo-corporatism, which appears to suit the Chinese political configuration under which industrial relations institutions are being shaped: (1) trade union organization covering the majority of workers; (2) the deliberate creation of human and organizational linkages among the three parties and between industrial relations actors at city and enterprise levels through the wage councillor system, and; (3) ensuring the influence of the government's non-binding wage guideline on wage negotiation through the above human/organizational linkages and through careful sequencing of wage guideline and wage negotiation.

5. Effects of trade unions and collective bargaining in the workplace and beyond

We described a decade-long process of institution-building in China's fledgling industrial relations, largely engineered by the Party-State and the official trade unions under the wing of the ACFTU. As a result of concerted efforts by the Party-State and the ACFTU, collective bargaining has spread across China and has come to cover the majority of workers in China (as far as the official numbers are concerned). Can China's new industrial relations arrangements produce the desired labour market outcomes, as it does in other developed economies?

Trade unions in developed economies demonstrated, admittedly until the neo-liberal globalization took hold, that trade unions could contribute to more equitable labour market outcomes in terms of narrower wage gaps, and standardization of wages across firms and sectors, primarily through collective bargaining. Also, the existence of trade unions tends to lower employee turnover, as workers can choose to improve their working conditions through 'voice' rather than 'exit' mechanisms (Freeman and Medoff, 1986). All these outcomes are closely associated with trade unions as democratic and representative organizations where majority rank-and-file workers can have a bigger say in the formulation of union bargaining strategies. The well-functioning voice mechanism is likely to produce more equitable outcomes. Not much is known about unions and collective bargaining's effects on labour market outcomes in China.

¹⁶ According to the author's interviews and investigation, the above model did emerge not by design, but by trial-and-error over a decade in a limited number of localities in the Yangtze River delta. It then gradually spread to other localities beyond the Yangtze River delta, primarily through the ACFTU's nationwide organization which is relatively effective in promoting best practices across the vast country.

5.1 Effects of political incorporation of trade unions: A double-edged sword

At the political level of decision-making, Chinese trade unions have shown their effectiveness in pursuing their agenda. Of course, the political support of the Party-State was crucial for pro-worker legislation such as the Labour Contract Law and other initiatives. Throughout the legislative process, the ACFTU has shown its political and technical capacity and savvy in overcoming opposition from both domestic and foreign capital, not only at the national level. The ACFTU has successfully put its agenda into the provincial and municipal legislative bodies, leading to the adoption of local regulations favourable to union operation and collective bargaining. In this respect, the newly created tripartite consultation committee was also useful vehicle for local trade unions in terms of translating those new regulations into practice by mobilizing the support of the local government and employers' organizations to promote collective bargaining and other initiatives. With enhanced political influence at various levels, it would be fair to say that Chinese trade unions produce positive outcomes for workers in the form of better legal provisions and building new institutions.

The enhanced political influence of trade unions is closely related to a significant elevation of the ACFTU leadership's political profile within the political structure of China. In 1995, there were only five provincial trade union federation chairpersons who were also vice-presidents of the provincial legislatures (out of 31 provinces), and six chairpersons who were members of the provincial party's standing committees. These numbers have increased to nine and seven respectively in 2001, and 12 and 11 in 2006 (Feng, 2008).

However, the concurrent appointment of union leadership and senior party/political posts is a double-edged sword. It can certainly enhance trade unions' political influence over the legislative and decision-making process, particularly when they need to overcome opposition of the increasingly powerful lobby of the business community in China. At the same time, a deeper incorporation of trade unions into the formal state structure allows the Party-State to exercise more direct control over the trade unions.

5.2 Changing union governance and collective bargaining at the enterprise and local levels: What do unions do?

Understanding workplace labour relations in China is very challenging. Labour relations at the enterprise level display a great degree of diversity arising from their locality and different types of enterprise ownership. Also, rapid changes are under way at the workplace in response to the changing legal environment, policies of the official industrial relations actors at higher levels, and the labour market situation.

Generally speaking, trade unions at the enterprise level are mostly seen as ineffective, as reflected in various surveys which showed over and over again that workers' satisfaction with trade unions was usually very low.

The ineffectiveness of enterprise trade unions can be explained by the fact that enterprise union chair posts are occupied by either senior party figures (like SOEs, where party organizations are well established), or by managers (like non-state enterprises where party organizations are relatively rare). According to a survey of 524 union heads conducted by the China Institute of Industrial Relations (2007), 49.6 per cent of union heads held concurrently leading party positions, while 34.9 per cent of them held managerial positions (Qiao, 2007). Even in companies where unskilled production workers are in the majority, trade union leadership usually comes from the high echelon of management. Enterprise unions cannot become effective in representing workers and bargaining collectively when union leaders are actually managers. Therefore, both foreign and local observers of China's trade unions and

industrial relations tend to conclude that Chinese trade unions are ineffective (Taylor and Li, 2007).

However, there is emerging evidence that some trade unions are becoming more effective in securing benefits such as higher wages, shorter working hours, and better social insurance coverage in some localities. The Zhejiang University research group undertook a survey of 205 enterprises and 3,700 workers in six cities in Zhejiang province to see whether Chinese unions can produce similar effects as indicated in Freeman and Medoff (1984) study in the United States. They grouped workers into four types: union members whose union leaders are elected; union members whose union leaders are not elected; non-union workers of a company where union leaders are elected, and; non-union workers of a company where union leaders are not elected. After controlling all other factors such as ownership, sector, size and others, the study found that union members whose union leaders are elected were more likely to have higher wages, shorter working hours and better social insurance coverage, among others (Yao et al, 2008).

Lee and Liu have taken one step further (Lee and Liu, 2009, forthcoming) through their survey of 500 enterprises in four major cities in China (Shenzhen in Southern China, Shanghai and Hangzhou in East China, and Changchun in Northern China). This study aimed to determine the effects of union-related independent variables – such as union structure (whether enterprise unions have a well-established delegation structure down to the workshop or team level), union participation in collective bargaining and joint consultation, and direct election of enterprise union leaders – on various human resource management practices such as lay-offs, job security, training, intra-firm wage inequality, and additional social benefits (such as supplementary pension and medical insurance schemes).

The preliminary results show that intra-firm wage inequality is negatively associated with union structure and union participation in collective bargaining and joint consultation. The study finds that direct election of enterprise union leaders is not directly associated with wage (in)equality outcome, but is positively associated with unions' participation variable. Therefore, the direct union election variable would indirectly contribute to wage equality through improving unions' participation (including collective bargaining). It also finds that among unionized enterprises, the level of labour conflicts is negatively associated with independence of union leadership, with well-established union structure down to the workshop level, and union participation in management decision-making. Also, when unions actively participate in management decision-making either through joint consultation or collective bargaining, workers' voluntary turnover rates and frequency of collective redundancy is likely to be lower than in enterprises without established practice of union participation in management decision-making. In addition, union participation in the management decision-making is closely associated with less use of short-term contracts and more use of open-ended contracts, even after controlling all other factors. The above result clearly shows that the new practices of collective bargaining significantly reduce intra-firm wage inequality and improve job security, among other effects.

The above two surveys try to capture the changing union governance in China and its impact on wages and benefits at the workplace. In recent years, there has been growing recognition among trade union officials at political levels that employers' dominance of enterprise unions is a great hindrance to well-functioning trade unions and therefore to 'building harmonious labour relations', as desired by the Party-State. This recognition of the problems with enterprise unions has led to a number of experiments in various localities in China. Since 2003, the ACFTU has been experimenting with direct election of enterprise union leaders in some localities. In fact, Zhejiang province, which is covered by the two studies, is seen as a pioneer of various experiments in union reform (direct election) and collective bargaining (regional/sectoral bargaining).

As described in an earlier section, regional/sectoral union organizing and collective bargaining can help in overcoming the weaknesses of traditional enterprise unions, as they are more effective in articulating workers' interests, acting independently from individual employers' influence. Within the typical regional/sectoral union structure, workers' representative congresses composed of union representatives of different enterprises within the bargaining unit function as a decision-making body in charge of formulating, reviewing and ratifying collective agreements.

Recently, there emerged a new approach called 'socialization (*shehuihua*) and professionalization (*zhuan'yehua*)' of trade union cadres. This is an attempt of local trade unions to recruit professional union organizers and negotiators, not from within the enterprise union but from ordinary citizens with relevant professional backgrounds and interests, who will be trained as professional union negotiators and activists. They are usually sent to enterprise unions to help in protecting workers rights and negotiating better terms. Given the political incorporation of the local union apparatus into the local political structure, the so-called socialization and professionalization of union cadres, while ensuring their independence from individual employers, can become an effective instrument for local unions to implement the Party-State policy lines down to the enterprise level. Combined with the wage negotiation councillors system, this attempt can be useful in aligning enterprise level labour relations development with the overall policy directives of the government at the local level.

6. Discussions

There has been a rapid expansion of industrial relations institutions in China since the early 2000s, including a rise in trade union membership, collective bargaining and tripartite social dialogue mechanisms. The speed and scale of the state-driven institutionalization of industrial relations in China is unprecedented in the modern history of industrial relations. This process is driven by the Party-State, as a key pillar of its pre-emptive corporatist strategy to stabilize labour and social relations, and to address social and economic policy challenges.

A key question for industrial relations practitioners and researchers is whether China's new industrial relations can deliver outcomes for workers and society, measured by better working conditions, more voice for workers, and a more equitable distribution of economic gains. The predominant views among seasoned observers – not only foreign but also local – have so far been sceptical about the impacts of the new industrial relations practices on labour market outcomes. There are number of legitimate reasons for this. Trade unions are seen as lacking representational foundation, while collective bargaining is often believed to be a matter of formality which does not involve genuine negotiation between the labour market parties.

As we have seen above, however, there is growing evidence that trade unions and collective bargaining are starting to impact on labour market outcomes, including less intra-firm wage inequality, better social security provisions at the firm level and better job security. Nonetheless, to establish how trade unions at the workplace carry out their functions, and how this leads to better labour market outcomes for workers would require a series of well-structured case studies of workplace industrial relations, trade union dynamism and both the formal and informal process of labour-management interaction at the workplace.

Recent industrial relations developments in China require the broad attention of the international community of industrial relations researchers and policy-makers, as the Chinese pattern of industrial relations development appears to be distinct from that in other countries; this poses an intellectual and policy challenge to which the industrial relations research community needs to respond.

References

- All China Federation of Trade Unions (ACFTU). 2007. *Chinese Trade Union Statistical Yearbook* (Beijing, China Statistics Press).
- Feng, C. 2008 “Union power in China: Source, operation and constraints”, unpublished paper presented at the Seminar on Chinese trade unions and labour relations, organized by the China Industrial Relations Institute, Beijing.
- Freeman, R.; Medoff, J. 1986. *What do unions do?* (New York: Basic Books).
- Gallagher, M.E. 2005. *Contagious capitalism: Globalization and the politics of labor in China* (Princeton, Princeton University Press).
- Lee, Changhee. 2008. *Emerging Chinese model of industrial relations? – An analysis of recent transformation of industrial relations at national, local and enterprise level in China*, (Korea Labor Institute).
- . 2006. “Transformation of industrial relations in East Asian transition economies: Review of industrial relations changes in China and Viet Nam”, in *Journal of Industrial Relations*, Vol. 48, No. 2.
- ; ———. 2003. “Towards a system of tripartite consultation in China”, in M. Warner (ed.): *The future of Chinese management: Studies in Asia Pacific Business* (London, Routledge).
- ; Li, Q. 2004. “Collective consultation and industrial relations in China”, in *British Journal of Industrial Relations*, Vol. 42, Issue 2.
- ; Liu, M. 2009. forthcoming. *What do unions do in China?*
- Lee, C. 2007. *Against the law: Labor protests in China’s Rustbelt and Sunbelt* (Berkeley and London, University of California Press).
- Liu, M. 2007. “Bottom-up change? Reforms in Chinese regional unions”, Working Paper, School of Industrial and Labor Relations, Cornell University.
- Naughton, B. 2007. *The Chinese economy: Transitions and growth* (Boston, MIT Press).
- Qiao, J. 2007 “Between state, enterprise and workers: Multiple roles of trade unions during market economy transition” (*Zai Guojia, Qiye he Laogong Zhijian: Gonghuixiang Shichangjingji zhuangxingzhongde Duozhong Juese*, in Chinese), in China Industrial Relations Institute (ed.): *2007 Beijing Trade Union Forum (2007 Beijing Gonghui Luntan Lunwenji)* (Beijing, CIIR).
- Taylor, B.; Li, Q. 2007. “Is the ACFTU a union and does it matter?”, in *Journal of Industrial Relations*, Vol.49, No.5, pp. 701-715.
- ; Chang, K.; Li, Q. 2004. *Industrial relations in China* (London, Edward Elgar Publishing).
- Yao, X.; Li, M.; Han, H. 2008. “Effects of trade unions in labour relations: Empirical analysis of Zhejiang Province case” (*Gonghui Zai Laodong Guanxizhongde Zuoyong: Jiyu Zhejiangshengde Shizhengfenxi*, in Chinese), unpublished paper presented at the Seminar on Chinese trade unions and labour relations, organized by the China Industrial Relations Institute, Beijing.