

## **Eli Friedman and Sarosh Kuruvilla** **Experimentation and decentralization in China's labor relations**

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# **Experimentation and Decentralization in Chinese Labor Relations**

Abstract:

In this introduction to the special issue, we argue that China is taking an experimental and decentralized approach to the development of new labor relations frameworks. Particular political constraints in China prevent interest aggregation among workers, as the central state sees this as posing a risk to social stability. Firms and local governments have been given a degree of space to experiment with different arrangements, as long as the categorical ban on independent unions is not violated. The consequence has been an increasingly differentiated labor relations landscape, with significant variation by region and sector. We note some countervailing tendencies towards re-centralization, but emphasize that this phenomenon remains largely confined to the municipal level. The five papers in this special issue address different aspects of both experimentation and decentralization in labor relations.

The changes in work, labour and employment relations in China that are the subject of this special issue must be viewed against the broader context of economic reform. Over the past thirty years, China's approach to economic reform has been marked by a high degree of experimentation and decentralization. As has been well established in the literature, China began moving away from central planning of the economy in the late 1970s, and allowed for a variety of initiatives with market reforms to develop in the provinces. This resulted in experiments with decollectivization of land (Unger, 2002), the emergence of market-oriented but collectively owned "town and village enterprises" (Naughton, 1994; Walder, 1995), fully private firms (Liu, 1992; Nee and Opper, 2012; Tsai, 2007), and spatially circumscribed special economic zones. If regions proved successful, their "models" were often promoted throughout the country. The central state has proven willing to relinquish quite a bit of control over local governments during this process, as long as such autonomy is oriented towards increasing economic growth. The consequence is that China's economy has become increasingly differentiated throughout the reform era.

Our argument is that the state is taking a similarly experimental, gradualist and decentralized approach to reform of the system of labor relations. Perhaps there is nothing surprising about this. Indeed, highly differentiated labor relations institutions would seem to be the corollary of a highly differentiated economy. A unified approach would be unable to accommodate the requirements of a hugely diverse set of employment relations that vary widely by region, sector, workforce composition, and form of ownership. And yet there is a key distinction with the process of economic reform: On the one hand, decentralization of economic decision-making has created a space where private capital is meaningfully autonomous from the central state – if, importantly, remaining deeply integrated with local governments. Private firms (both domestic and foreign) as well as public firms owned by the municipality are not integrated into a hierarchical organization that extends all the way to Beijing.<sup>1</sup> On the other hand, the All

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<sup>1</sup> It should be noted that many of these firms do have CCP branches. Nonetheless, there is little evidence to suggest that the central Party leadership is actively involved in shaping investment or managerial decisions within private firms.

China Federation of Trade Unions --the only legal representative of labor – *is* integrated into a hierarchical national organization. The ACFTU has long been used by the state as an instrument of spreading party ideology and control in all workplaces. Alternative federations have never been allowed. The central government is keen to allow for experimentation in labor relations, (the ACFTU for example has been asked to organize all workplaces and to bargain collectively in order to contain industrial unrest), but with the important proviso that independent forms of worker organization are banned. In this sense, labor relations reform *has* proceeded, but it faces greater constraints than has been the case with economic reform. It is within this political framework that employers, unions, and governments largely at the municipal level have been trying new approaches to regulating employment. Thus, while capital has been granted meaningful autonomy, labor at the local level continues to operate with constrained autonomy. The consequence of this asymmetric politics is that diverse efforts to rationalize employment relations have rarely been successful.

Finding a new approach to regulating employment is an increasingly pressing issue from the perspective of the central government. Politically, worker unrest has been growing for many years (Chan & Pun, 2009; Chan, 2010). Although numerous wildcat strikes, road blockages, and occasional riots do not yet represent a major challenge to political stability (Lee, 2007), the state has been unable to reduce “depoliticized” worker insurgency (Friedman, 2014b). Reform in employment relations is also necessary for economic reasons. At the level of the firm, incredibly high rates of turnover and severe labor shortages have come to be one of the key limits on future growth. The inability to pin down a stable workforce has pushed employers in the industrial centers in coastal areas to look further afield – either to China’s interior or overseas (Zhu and Pickles, 2014). And at the national level, the central state has espoused the goal of economic rebalancing, i.e. making household consumption, rather than state driven investment, the key engine of economic growth. China’s household consumption as a share of GDP is only 38%, compared to the USA, which clocks in at 70% and is significantly less than the approximately 60% it is in countries such as Brazil, France, Germany and India. Such a rebalancing involves major policy challenges in a number of arenas, including higher wages and an expansion of social services, both of which are likely necessary to foster

increased domestic consumption (Chamon and Prasad, 2010). In other countries, particularly the USA, a rationalization of employment relations has played a key role in the movement from unregulated capitalism to a Fordist model of high consumption. These factors explain the central state's granting of constrained autonomy to experiment with labor relations reforms.

Each of the papers in this special issue address different aspects of labor relations in China. In so doing they make important contributions to our overall argument about experimentation and decentralization in employment relations and regulation in China. We briefly introduce the papers below and later will show how each is integrated into our argument.

Gallagher, Giles, Park and Wang (this issue) focus their article on the government's efforts in the legal arena, particularly with respect to labor law. They find that although the government and local labor bureaus are increasingly focusing on enforcement of the 2008 labor contract law, there is substantial variation in actual enforcement across regions and across different provisions of the law. Chung (this issue) in his article tries to explain why there are differences in enforcement of different legal provisions and regions by highlighting that successful enforcement is a function of both top down as well as bottom up pressure from a variety of social actors, whose interests diverge on different aspects of the law. Compliance is better, he argues, when the interests of different actors converge. The variation in enforcement is one significant aspect of the decentralization that is one of the core arguments of this paper. Frenkel and Yu (this issue) highlights just how young workers are increasingly aware of their legal rights, and hence constitute some pressure for better enforcement, but also to increased labor unrest. In the absence of an effective labor relations framework, managers have been taking matters into their own hands. Although representing very different sorts of approaches, both the "humanized management" discussed in Choi and Peng's article and the unfree labor of student interns in Smith and Chan's contribution are unilateral responses by management to ongoing instability. It is notable that none of our contributions pay significant attention to the trade union or recent collective bargaining initiatives, which is a key part of our argument. Although there have been some important developments in this realm, most scholars remain pessimistic about the capacity of the

ACFTU given its fundamental weakness. Nonetheless, it is noteworthy that different models of trade union activity have proliferated around the country, and there is certainly important diversity.

Below, we outline the diversity of reforms that employers, unions, local governments, and civil society actors are pursuing in contemporary China. After a brief overview of the primary sources of employment instability in China, we will proceed to analyze three spheres of reform: 1) legal; 2) unions & collective bargaining; and 3) managerial strategy. In each section we will draw on the papers in this special issue.

### **Labour Market Instability**

The Chinese labour market, characterized by significant oversupply during the 1990s, is currently witnessing unprecedented instability, with acute labor shortages, rising industrial conflict and high levels of turnover.

#### *Labour Shortages*

A key change during the decade of the 2000s has been the transition from a labor surplus economy to one dominated by labor shortages (Golley and Meng, 2011). As the market economy expanded in the 1980s, private employers in coastal regions enjoyed a seemingly limitless supply of low-cost migrant labor. However by the late 2000s, it became clear that a structural shift in the labor market was underway. As early as 2004, employers along the coast had begun to report shortages. Although 20 million migrants in the export-processing sector were thrown out of work by the economic crisis in 2008, tight labor markets re-emerged almost immediately thereafter. The emergence of labor shortages in rapidly growing inland regions provides further evidence that a structural shift is underway.<sup>2</sup>

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<sup>2</sup> For example, Sichuan province, historically a labor exporting province, reported 1.5 positions for every job seeker following Chinese New Year, 2014. See: February 13, 2014. “yonggonghuang cong yanhai xiang neidi manyan, zhaogong qiuzhi liangnan quyue changtai.” *Zhong Xin She*.

A number of reasons have been advanced for this labor scarcity. First and obviously, shortages are a function of the rapid growth of the Chinese economy. But, arguably the seeds of the shortage were planted much earlier by China's birth control policy, which has reduced the number of people entering the labor market. In addition, there has been a major expansion of tertiary education so more young people are choosing to go to college rather than factories. Ma and Adams (2013) note that the number of people enrolling in higher education programs increased from 2.2 million in 2000 to over 6.6 million in 2010. A further explanation is the stated preference of employers for young migrant workers rather than older ones (Ma and Adams, 2013).

An important cause of the labour shortage is reflected in the differences between the younger generation of rural migrant workers, and earlier generations. Young migrant workers are not only better educated, have hardly worked on the farm, and are no longer satisfied with low level jobs, but are also motivated more by their own career advancement and individual interests, whereas their forbears were content to work in a state owned facility under the "iron rice bowl" system of employment. What's more, they put a premium on social justice and fair treatment, which the Chinese government's extensive legislative changes that protect and increase workers rights (described below) have facilitated to no small extent. As such, when confronted with the sweatshop conditions of standard factory work, this new generation tends to "vote with their feet", or they are more inclined to raise disputes or engage in strike activity. In this volume Frenkel and Yu persuasively argue that the new generation of migrant workers can no longer be described as members of an "underclass" and are not significantly different in their work orientation and strategies for work-life improvement than regular workers.

Yet another reason for the labor shortage has been the institutionalized discrimination against migrant workers as a result of the hukou system (the system of household registration originally introduced by the Communist Party in 1958 to regulate movement of people between rural and urban areas). Given that migrant workers who work outside their hukou area do not automatically qualify for a range of benefits, they are less likely to work in the cities, and more likely to seek work in their home provinces. This is especially true given recent reforms to agriculture that provide an incentive to

move back (Zhan and Huang, 2013), as well as the movement of employers from the coastal cities to more inland locations in search of cheap and less scarce labour.

The net impact of this demographic shift from labor surplus to labor scarcity is a steady decline in China's working age population. According to the Chinese National Bureau of Statistics, the working age population was 972 million in 2012, a decrease of 3.45 million over the previous year. And it is predicted that this number will decline to 870 million by 2050. The core group of industrial workers, (ages 25-39), born during the middle of the one child policy, will reduce even more rapidly. Dass and Diaye (2013) estimate that China's excess supply of labor peaked in 2010 (after the financial crisis) and has declined rapidly since then, suggesting that China will reach the Lewisian turning point by 2020 (Das and N'Diaye, 2013).

But in the short run, as Gallagher (2012) argues, the labour shortage has created volatility in the labor market, and enlarged the economic and political space for Chinese workers. On the one hand, it has increased their bargaining power, and workers have increasingly resorted to strikes and protests. On the other hand, workers are more likely to move from company to company in search of better wages and working conditions, resulting in high attrition. And rising worker protests have motivated the state to enact more protective labor legislation. We turn to these two issues in turn.

### *Attrition*

The labour shortage is reflected in increased attrition, as workers use "exit" in the absence of adequate "voice" mechanisms. Although turnover rates vary across different sectors and industries, the average national turnover rate is about 20% (Wong, 2011). The range is much larger however.

Voluntary attrition has a number of causes. Job induced physical stress and injuries are a significant reason why people leave their jobs, and the working conditions and long hours at China's sweatshops are well documented in the literature. Mandatory overtime has also been cited as a reason for turnover, although migrant workers are frequently willing to work overtime given the low base wages and lack of alternative ways to spend time in factory dormitories. As the effects of the labor shortage are felt,



manufacturers are increasingly demanding excessive overtime hours to meet production targets, which workers are increasingly refusing. In addition to long hours, low wages and wage arrears are also significant drivers of turnover. Although minimum wages have risen steadily since 2004, many employers have not been paying the minimum stipulated in provincial legislation and the problem of unpaid wages continues. Dangerous or unhealthy working conditions, the poor quality of factory dormitories and meals, the high rents of factory subsidized housing, further spur workers to vote with their feet. Many authors (e.g., Elfstrom and Kuruvilla, 2014) highlight increased worker intolerance of the autocratic and "militaristic" management practices of Chinese manufacturing, the need for better treatment and respect from management. The institutionalized discrimination against migrant workers via the hukou is also a key cause of attrition. The inability to get benefits at their place of employment means that workers who wish to have a family are often forced to return to the village. Also, workers with rural hukou are more likely to be employed as temporary workers.

The high levels of worker turnover in China are clearly exacerbated by the labor shortage. Workers are aware that alternative employment opportunities are abundant and are willing to use exit for even minor changes in working conditions and wages. Clearly, attrition is a key issue for employers. In a survey of manufacturers from Shanghai, 34% cite poor employee retention as the top issue in 2007 and 2008. Elfstrom and Kuruvilla (2014) report an interview from an apparel manufacturer who notes "turnover has increased to 20% from zero 'back in the day'." The instability caused by such high levels of turnover can be quite disastrous for employers. Okudera<sup>3</sup> (2011) reported an unexceptional experience from the Pearl River Delta:

"At an electronic parts factory in Dongguan, Guangdong province, operated by a Japanese company, more than half of the workers quit within six months. The factory has to hire about 400 new workers every month to maintain a workforce of 4,200"

Thus, labor shortages and attrition cause substantial labour market instability. But instability is also increased by labor unrest, to which we turn to next.

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<sup>3</sup> <https://ajw.asahi.com/article/asia/china/AJ2011091811081> September 19 2011, Atsushi Okudera

## *Industrial Conflict*

Industrial conflict has been rising. So-called “mass incidents” (public protests about a variety of issues including labor issues, typically involving processions and roadblocks as well as strikes ) have risen steadily from 9000 in 1994 to 87000 in 2005, the last time the government released such figures. The government does not publish statistics about employment related strikes. Most current estimates are drawn from news reports or independent reports by activists and so forth, and hence are not completely reliable. But they are indicative. Elfstrom and Kuruvilla (2014) report 435 industrial actions between January 2008 and March 31 2012. They find that strikes and protests by workers are distributed throughout China, that there have been several well publicized strike "waves" that suggest some degree of coordination, and that strikes are more common at foreign owned companies. Given their method of data collection, their estimates of the numbers of strikes are at best a gross under-estimate of the true picture. Their data however is consistent with data reported by the China Labour Bulletin (a Hong Kong based NGO).

Elfstrom and Kuruvilla argue that there has been a change in the causes of strikes in China. While prior literature noted that strikes were largely "defensive" in nature, (to uphold existing rights and benefits), they find that strikes are increasingly "offensive" i.e. for improvements in pay, working conditions, and increased respect in the workplace. For example, 102 out of 435 strikes were for increased wages and benefits. The huge strike at Yue Yuen in April 2014 indicates that migrant workers have moved beyond simple wage demands and are increasingly concerned with social insurance (including pensions). This is a significant departure from just a few years ago.

It is important to put worker strikes in a larger context, i.e. they are part of a general increase in worker militancy and wider variation in worker tactics. Thus, workers use "exit" as opposed to "voice", and engage in every day acts of resistance such as "shirking" or "holding back", as well as increased aggression and violence. Workers continue to take advantage of legal options through the dispute settlement process, and particularly in the Pearl River Delta, they increasingly rely on emergent institutions such

as labor NGOs. In contrast to Lee's characterization of early Chinese protests as being strikes of desperation (by state owned workers who have lost their jobs) and protests of discrimination (by migrant workers who work under sweatshop conditions without benefits), Elfstrom and Kuruvilla suggest that the current generation of strikes indicate that worker are using their improved bargaining position to go on the offensive.

Why has worker militancy increased? Certainly pervasive labor shortages have increased workers' leverage, and workers are now more aware of their rights. While local governments continue to view strikes with hostility and frequently resort to coercion, higher levels of the state may be somewhat more supportive. Rising wages and increased domestic consumption is in line with the central government's wishes to "rebalance" the economy, so they may provide tacit support (e.g. by allowing media coverage to continue) if workers can capture their attention. Finally, there may be a learning process at work in which younger workers see that striking is the most effective way to have their grievances addressed.

### **Legal Experiments**

In this context of labor shortages, rising expectations of migrant workers and increased disputes, strikes and protests, the Chinese state has enacted several new laws that seek to strengthen individual worker rights, enhance employment security, reduce informal employment, and widen access to social insurance. A number of new laws have been put in place since 2008, including the Labor Contract Law (2008), the Labour Dispute Mediation and Arbitration Law (2008), the Employment Promotion Law (2008) and the Social Insurance Law (2011). Gallagher, Giles, Park and Wang (this issue) describe the various provisions of the laws, and argue that China's labour regulations would now rank third amongst the OECD countries in terms of Employment Protection Legislation "strictness". What is notable about these legislative efforts is that, by and large, they endow workers with an increasing array of individual rights in the absence of collective rights – necessarily implying a high degree of decentralization in implementation.

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

Yet, despite the positive impact the law has had for some workers, there is major variation across region and sector, and widespread violations remain. Enforcement is highly decentralized, and local administrations have re-written or passed regulations, a process Kuruvilla, Lee, and Gallagher (2011) term "loopholization", in order to attract foreign investment and enhance local competitiveness. Employers have evaded the law through the use of labor dispatch agencies i.e., through labour subcontracting. Although the government has recently revised the labor contract law to close this loophole via restricting the use of "dispatched" or "agency" labor to only 10% of the workforce, it is likely that compliance will continue to be uneven.

There are some areas in which enforcement has been somewhat more effective. Chung (this issue) points to the importance of non-state actors such as labor NGOs, legal aid centers, and other social organizations in the enforcement of labor law. His argument is that a bottom-up approach to labor law enforcement, with workers and non-state actors working together is more effective than the traditional top down method. But if NGOs are a key actor in the multi-stakeholder approach that he identifies, there will continue to be major geographic unevenness. NGOs are highly concentrated in the Pearl River Delta, with a smaller number in the Yangzi River Delta and Beijing. Such a bottom-up approach to enforcement is necessarily highly decentralized, as labor NGOs are subject to

extremely constrained autonomy and are not allowed to organize nationally (Franceschini, 2014). To the extent that civil society plays a role in setting labor standards, we will likely see increased diversification of conditions.

Although much attention has focused on national level laws, provinces and municipalities have also been experimenting with a variety of arrangements. As was the case with marketization in the 1970s and 80s, Guangdong province has been the most experimental. While the province has yet to enact fundamental collective negotiation reform, two major pieces of legislation have been drafted since 2008. The “Regulations on Democratic Management” were first drafted in 2008, then shelved as a result of the economic crisis, and finally resuscitated in the wake of a major strike wave in the summer of 2010. The regulations would have created a system for workers to demand collective negotiations and to elect their own representatives. However, after facing fierce resistance from the Hong Kong Chamber of Commerce, the draft regulations were once again shelved. In late 2013, Guangdong proposed a somewhat different legal framework for collective negotiations. This time, however, the conditions were less favorable to workers. Labor NGOs and scholars were almost unanimously opposed to the draft regulations, as many feared it would result in criminalization of strike activity that had become somewhat tolerated. Employers too, expressed opposition out of concern that employees would put forth excessive demands in collective negotiations. At the time of writing, the fate of the draft regulations is still unclear.

Given that Guangdong has experienced severe instability in labor relations, it is likely that the province will continue experimenting with institutional responses. While the central government has been tolerant, it seems unlikely that they will be able to contain basic rights such as collective bargaining and legal strikes to specific provinces in the long term given the high mobility of migrant workers.

### **Collective Bargaining Experiments**

In recent years, trade unions have made major efforts to move beyond a strictly welfarist function (Yang, 2013) to try to represent workers in collective negotiations. As collective negotiation has received greater support from the central state and national union leadership, there has been a continuous effort to ensure a high level of decentralization. The ACFTU has consciously undermined the power of the nationally organized industrial unions in favor of regionally based federations. Since industrial unions do not mirror the Party structure, the fear is that if given greater leeway in representing workers, they could serve as a potential independent base of political power and would therefore threaten stability. Thus, most experimentation with collective negotiation has been at the firm level. Increased experimentation with sectoral bargaining has emerged, but it has been almost entirely restricted to the municipal level (see below for a notable exception). And negotiations have been largely restricted to wages, with issues such as benefits, hours, seniority structures, workplace rules, and other topics still determined unilaterally by management.

As with all economic endeavors in China, local governments have played a major role in promoting collective negotiation. While in many places this has been restricted to clichéd rhetoric about “harmonious labor relations,” some governments have been more active. One recent example comes from the Binhai New District in Tianjin, where the district government has provided material incentives to private firms. Since 2011, firms have been able to receive a subsidy equivalent to 15% of the total increase in wage bill that comes about through collective negotiation.<sup>4</sup> The government has provided subsidies to more than 1000 firms employing nearly 300,000 workers. While this approach is still exceptional, it suggests a possible alternative for local governments looking to raise wages outside of the crude lever of minimum wage regulations.

Frequently the most effective collective negotiations come as an ad-hoc response to wildcat strikes. As is well known, there are no independent unions or right to strike in China, so management frequently has little incentive to take negotiations seriously. But in the wake of autonomous worker-led strikes, these dynamics change, and the union often

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<sup>4</sup> September 24, 2013. “tianjin binhai xin qu yi jili jizhi tuijin gongzi xieshang, zhigong zhang gongzi qiye ke huo zhengfu butie.” [Tianjin Binhai new district uses incentive system to promote collective negotiation, firms can receive government subsidies for worker wage increase] *Gongren Ribao*.

intervenes as an intermediary to negotiate a settlement (Chen, 2010). This was particularly apparent during the major strike wave in the auto industry in 2010 (Butollo and ten Brink, 2012). Although serious concerns remain about the sustainability of bargaining arrangements, there was greater space for successive rounds of wage negotiations in some of the firms that experienced strikes, particularly the heavily publicized Nanhai Honda plant (Chan and Hui, 2012; Friedman, 2013). Given that there is no right to strike in China, this approach to collective negotiation will necessarily remain reactive, ad-hoc, and highly localized.

Although decentralization has been the unmistakable trend over the past thirty years, recently there have been some countervailing tendencies towards a modest degree of centralization. This has been particularly apparent in the sanitation industry in Guangzhou, which after being radically marketized and decentralized after WTO entry in 2001 experienced ongoing strike waves (Friedman, 2014a). Another highly publicized effort in Wuhan led to city-wide bargaining in the food and beverage industry, and the final agreement claimed to cover 450,000 employees. Even more surprising, in early 2014 the Financial, Commercial, Light Industry, Textile and Tobacco Workers' Union, China Cuisine Association, and China Hotel Association announced they had successfully negotiated the, "2014 Food and Beverage Industry Wage and Benefits Guidelines." This was the first time such an agreement was reached at the national level, and it included guidelines for base wages, wage increases, benefits, and job training, in theory covering 22 million employees.<sup>5</sup> With enforcement tenuous to non-existent, it is certain that these guidelines are of little consequence for most of China's food and beverage workers. Nonetheless, the guidelines represent an important political development and perhaps recognition of the limits of decentralization. It is also worth emphasizing that this agreement remains highly exceptional, and nearly all efforts with sectoral bargaining continue to appear at the municipal level.

### **Managerial experiments**

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<sup>5</sup> January 28, 2014. "wo guo shou ge hangye niandu gongzi fuli zhidao yijian gongbu." [China's first annual industrial wage and benefits guidelines announced] *Gongren Ribao*.

HRM has changed dramatically in China over the past thirty years – and even in the past five. From the 1950s until the 1980s, employment in SOEs was characterized by the “iron rice bowl” of lifetime employment. Managerial actions were explicitly politicized, and while there was essentially no labor market, enterprise cadres maintained a great deal of unchecked authority over their employees (Walder, 1983). The basic features of this system were unchanged in the early phases of reform (during the 1980s), but were now joined by alternative approaches in the burgeoning private sector. Foreign-owned firms in the special economic zones of the southeast were characterized by a lawless environment and coercive management practices (Chan, 2001). In the small domestically owned private firms of Zhejiang, on the other hand, a roughly egalitarian collectivist approach predominated (Chen, 2008), and there was little differentiation between management and employees (indeed, workers were often drawn from extended kin networks). Only one decade into the reform process, China’s managerial landscape had already become highly diversified.

More recently, managers have been using a variety of strategies to respond to the challenges posed by high turnover, labor conflicts, increased labor costs, and the changing legal environment. One trend that appears across various forms of ownership and sectors of the economy is the increased use of labor subcontracting – frequently referred to as “dispatch labor” in China. In large part this has been a response to the higher cost of dismissal imposed by the Labor Contract Law, and indeed the number of dispatch workers in China grew from 27 million before the law was enacted to 60 million in just three years.<sup>6</sup> It appears as if SOEs have in fact been most aggressive in expanding the use of dispatch labor, with some firms relying on dispatch agencies for up to 2/3 of their workforce (Wang, 2012). Managers have been attracted to dispatch labor because of the enhanced flexibility, reduced costs, and ability to skirt regulations relating to social insurance, non-fixed term contracts, and severance pay. As noted above, the Ministry of Human Resources and Social Security recently put into effect the, “Provisional

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<sup>6</sup> February 25, 2011. “quanwei baogao cheng ‘laowu paiqian’ da 6000 wan ren quanzong jianyi xiugai ‘laodong hetongfa.’” [authoritative report claims ‘labor dispatch’ has reached 60 million people, ACFTU suggests revisions to Labor Contract Law] *Jingji Guancha bao*.



Regulations on Dispatch Labor.” Among other features, the regulations ban firms from hiring more than 10% of their workforce from dispatch agencies. With a two-year grace period, it will be of great interest to see how various types of firms respond to these regulations.

On the other hand, it has been private firms that have been more enthusiastically expanding their use of student or intern labor. As argued by Chris Smith and Jenny Chan (this issue) this represents a new form of “constrained labor” in China. It is highly constrained in the sense that technical school students are frequently not given any choice over whether they will take an internship, where they will be placed, and they are not allowed to negotiate over the terms of employment. Since completion of the internship is required for graduation, this form of labor violates the basic principle of free labor. Although there are not comprehensive studies on the expansion of student labor, anecdotal evidence suggests that this has been particularly pervasive in light manufacturing. In particular, Foxconn has come under fire for its pervasive use of forced student labor.<sup>7</sup> Student labor is a clear attempt to stabilize the migrant workforce in the face of massive and seemingly unsolvable labor turnover and shortage.

A final approach – and one that has certainly been incorporated with the above methods – is an attempt to construct less coercive means of management. Official trade unions have long advocated a paternalistic form of management, as embodied most clearly in the slogan of “harmonious labor relations.” But recent indications suggest that firms are changing their management styles of their own accord. Choi and Peng (this issue) argue that in their research, “humanized management” was consciously a response to a tightening of the labor market in the Pearl River Delta. Indicating ACFTU support for this approach, the official *Workers Daily* reported positively on the method of “using feelings to retain people” among small enterprises in Zhejiang province.<sup>8</sup> Even Foxconn, best known for its harsh and militaristic style of management, turned to a softer approach following the string of worker suicides in 2010. In addition to holding rallies adorned

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<sup>7</sup> October 14, 2013. Chakraborty, Aditya. “Forced student labor is central to the Chinese economic miracle.” *The Guardian*.

<sup>8</sup> February 12, 2014. “zhejiang qiye ‘yi qing liu ren’ yingdui yonggong huang” [Zhejiang enterprises ‘use feelings to retain people’ to respond to labor shortage]. *Gongren Ribao*.

with banners reading, “care for and love each other,”<sup>9</sup> the company hired teams of mental health counselors. As Choi and Peng suggest in this issue, it is not clear that rhetorical shifts in the absence of significant material improvements will be sufficient to stabilize the workforce. Nonetheless, it is clear that both managers and the state have been promoting a variety of paternalistic approaches to HRM.

## **Conclusion**

We have argued that China is taking an experimental and decentralized approach to the construction of new labor relations regimes. The papers in this volume exemplify experiments and developments in China. Although there have been a number of important national-level legislative reforms, the state has largely prevented the emergence of any regional – let alone national – efforts. As a result, much of the action has taken place at the municipal or enterprise level. Despite the admiration with which Chinese unionists frequently speak of Northern European-style centralized bargaining, in practice they have pursued a highly decentralized approach. “Experimental” here refers to the fact that the central state has been tolerant of regional unions and employers trying out a variety of different approaches to stabilizing labor relations.

Nonetheless, it is important to emphasize that this experimentation takes place within clearly demarcated political boundaries. First, and probably most importantly, is that workers do not enjoy freedom of association. Thus, employees are still confined by the conservative and generally ineffectual ACFTU, which remains subordinate to management within the firm. Second, there is no right to strike. Under such conditions, employers have little incentive to take negotiations seriously, and there is plenty of evidence to suggest that little substantive bargaining occurs. Of course strikes do happen all the time – but typically workers must strike simply in order to get management to the table. Third, any kind of cross-enterprise organization that involves workers is likely to be shut down by the government for fear of fomenting social instability. Given these constraints, efforts by the state and union to institutionalize robust labor relations will

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<sup>9</sup> August 18, 2010. “Foxconn rallies China workers amid suicide concerns.” *BBC*.

continue to face major challenges – and indeed, wildcat strikes are often still the most effective way for workers to have their grievances addressed.

Finally, we would like to reemphasize and problematize countervailing trends towards increased centralization. In a number of industries and regions around the country, the state and union appear to be moving away from the extreme individualization that characterized most of the 1990s and 2000s. Even if collective negotiations are expanding only at the enterprise level, this represents an increase in centralization over the purely individual bargaining of the *laissez faire* labor market. These tendencies might, somewhat awkwardly, be thought of as “decentralized centralization” in the sense that this centralization rarely extends beyond the enterprise or municipality. Inevitably, movements towards centralization will bump up against the state’s political concerns about interest coordination and aggregation. In this sense, we see an emergent tension between the imperatives to institutionalize an effective system of labor relations on the one hand, and the state’s political commitment to atomization of society on the other.

The papers in this special issue represent starting points for a number of promising avenues of research inquiry. First, we are in need of more comprehensive studies of legal enforcement and implementation. Especially important here would be regional and sectoral comparisons, such that we have a clearer understanding of how national level legislation is instantiated in a variety of contexts. Second, studies of turnover could help clarify how managers and local governments have responded to persistent labor shortages. We do not have a solid understanding as to why China has such high levels of labor turnover, or what sorts of approaches might stabilize the workforce (short of unfree labor). Third, how have changes in the dynamics of labor protest affected labor relations? Will increased interest-based demands as well as non-wage demands result in more substantive collective negotiations? Finally, and we believe this is applicable to all the above, what are the implications for labor relations of the massive inland movement of labor and capital? How will social, economic, and political conditions in China’s central and western provinces impact the development of labor relations? This will likely be the major story over the next decade, and thus far we are sorely lacking in strong empirical analyses of this new frontier. Looking further into the

future, we will need research that examines the effect on labor markets and labor relations of a number of recently announced proposals including changes to the birth control policy, reforms to the hukou system for smaller and medium sized cities, and a rise in the retirement age. Regardless of the outcomes, we anticipate that experiments with labor relations frameworks will continue to proceed in a largely decentralized manner.

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