Frequently asked questions about labour relations in China

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How have labour relations changed since the onset of economic reform?

There has been a fundamental shift from a tightly controlled and planned economy based on state-ownership of enterprises in the late 1970s towards what is basically a market economy today. Under the planned economy, workers made up a relatively small proportion of China's largely rural population and had a so-called job for life with a wide-range of welfare benefits. During the 1990s some 30 million state-owned enterprise employees were laid off, while the urban job market opened up to hundreds of millions of rural migrant workers. The Chinese government gradually abdicated its power in labour relations to business owners, and workers were employed on terms and conditions largely dictated by the employer.

What rights do workers have under the law?

Workers' rights in China are set out primarily in the 1994 Labour Law, the 1992 Trade Union Law (amended 2001), the 2008 Labour Contract Law (amended 2013), the 2008 Labour Dispute Mediation and Arbitration Law and the 2008 Employment Promotion Law. Individual employees have the right to an employment contract, a minimum wage, a 40-hour working week with fixed overtime rates, social insurance covering pensions, healthcare, unemployment, work injuries and maternity, severance pay in the event of contract termination, equal pay for equal work, and protection against workplace discrimination. Workers also have the right to form an enterprise trade union (see below for more details), and the enterprise union committee has to be consulted by management before any major changes to workers' pay and conditions are made.

How is the law enforced?

Local governments in China are responsible for enforcing labour law and ensuring that workers' rights are protected. However, the local labour authorities are generally under-funded and under-staffed and lack the ability and the will to enforce the law. For many years, governments were far more concerned with boosting the local economy and creating a business-friendly environment than in protecting workers' rights. It has largely been up to the workers themselves to ensure that the law is enforced by demanding that wages and overtime are paid in full and on time, proper contracts are signed, social insurance contributions are paid in full and that compensation is paid in the event of injury or contract termination.

How is the minimum wage set?

The minimum wage is determined by individual regional governments under guidelines established in 2004 by the national government. Regional governments take into account local living costs, local wages and the overall supply and demand for labour in calculating monthly and hourly minimum wage levels. As a result, there is considerable regional variation in minimum wage levels across China. The highest monthly minimum wage in 2014 was in Shanghai (1,820 yuan), roughly double the minimum wage in the poorer rural districts of inland China. The minimum wage is usually adjusted every year, although local governments are not legally required to do so.

Is the minimum wage a living wage?

National government guidelines stipulate that the minimum wage should be at least 40 percent of the local average wage. In reality, the minimum wage is usually only between 20 and 35 percent of the average wage, barely enough to cover accommodation, transport and food costs. Workers on the minimum wage, including most production line workers, unskilled labourers, shop workers etc. have to rely on overtime, bonuses and subsidies in order to make a living wage. As a consequence, if the employer cancels or reduces overtime, bonuses and other benefits, low paid workers will often demand immediate restoration. Likewise, workers on the minimum wage are determined to ensure that every last cent of what they are owed is paid in full if and when they are laid off.

Do workers in China have freedom of association?

No. There is only one legally-mandated trade union, namely the All-China Federation of Trade Unions (ACFTU). All enterprise trade unions have to be affiliated to the ACFTU via a hierarchical network of local and regional union federations. See simplified organizational chart below.

The ACFTU is primarily under the control and direction of the Chinese Communist Party. Any attempt to establish an independent trade union movement is seen by the Party as political threat. The only time in the history of the People's Republic of China (PRC) that an independent union was established was the short-lived Beijing Workers' Autonomous Federation in 1989. The BWAF was declared an illegal organization and disbanded in the wake of the military crackdown in Beijing on 4 June 1989.
What does the ACFTU do?

The ACFTU is the world's largest trade union, with (according to its own figures) around 276 million members in 2.75 million grassroots trade unions. In reality, the vast majority of union members either do not know that they are union members or have little faith in the ability of the union to represent their interests. The majority of enterprise trade unions are controlled by management and represent the interests of management. Only very occasionally will an enterprise trade union actually support workers against management, as was the case at the Walmart store in the central city of Changde in April 2014. There are an estimated 900,000 full-time union officials employed in various federation and committee offices across China. They are essentially government bureaucrats with little understanding of the needs of workers or how to represent them in negotiations with management. The ACFTU still sees itself as a bridge or mediator between workers and management rather than as a voice of the workers.

Do workers in China have the right to strike?

The right to strike was removed from the PRC Constitution 1982 as part of Deng Xiaoping's "modernizing" reforms. However, there is no legal prohibition on workers taking strike action. And, as can be seen from CLB's strike map, strikes and worker protests are commonplace across the whole of China and in all sectors of industry. Occasionally, workers will be arrested after taking part in strike action but they are always charged with public order offences rather than with taking part in a strike per se. A more common occurrence is for strike leaders to be sacked by management for alleged violations of the company rule book either during the strike or a few months afterwards in a process known in China as "settling scores after the harvest is gathered" (秋后算帐).

Is there collective bargaining in China?

Collective bargaining in China is at an embryonic stage. There is no formal mechanism for collective bargaining and since the trade union is currently unable to represent the workers in bargaining, the workers have been forced to take matters into their own hands. Collective bargaining usually only occurs after workers have gone out on strike. Workers, particularly factory workers in Guangdong, are often willing to elect their bargaining representatives and put sustained pressure on management to come to the negotiating table. In many cases, management will agree to make some concessions to workers' demands, usually just enough to get them to call off their strike action. Once the dispute has been resolved however, there is rarely any follow up action and much of the solidarity generated by the strike tends to dissipate.

What is the role of the courts in resolving labour disputes?

China has a four-stage process designed to resolve disputes between employees and their employer: consultation, mediation, arbitration and litigation. The key institution in this process is the local labour dispute arbitration committee (LDAC) which adjudicates in the majority of routine labour disputes in China. In 2012, for example, LDACs settled 643,292 cases. Generally speaking, workers can only take their grievance to court after the LDAC has made a ruling. If a court does accept a labour dispute case, it will be handled in accordance with civil procedures. However, courts in China increasingly seek to resolve disputes through mediation rather than legal judgements, and this can adversely affect workers' rights.

How do local governments respond to labour conflict?

The primary concern of local government officials is to make labour disputes go away as quickly as possible. Officials will often put pressure on both labour and management to reach a mutually acceptable compromise and get striking workers back to work. However these quick fixes rarely address the underlying causes of the dispute, and as a result it is not unusual for another strike to break out six months or a year later. It is quite common for police to be dispatched to the scene of a strike but their primary role in these situations is one of containment, ensuring that the protesters do not leave the factory compound or in any other way disrupt public order.

What is the role of civil society in supporting workers' demands?

There are more than 80 civil society organizations in China that actively support workers in their demands for better pay and working conditions. Some of the most experienced and forward-thinking organizations are in the southern province of Guangdong, China's manufacturing heartland. These organizations have taken the lead in helping workers formulate their demands, elect bargaining representatives, come up with a bargaining strategy and maintain solidarity among the workforce. They also help workers utilize the increasingly powerful tools provided by social media to put pressure on trade union officials in the region to support workers' legitimate demands. One particularly effective example of this approach could be seen in the Guangzhou University Town sanitation workers strike of 2014. Some civil society organizations have also proposed new and innovative solutions to problems in labour relations such as the Code of Collective Bargaining drawn up by several workers' centres in Guangdong.