Abstract

Chinese industrial relations has been changing quite dramatically in recent years. One the one hand, union density has increased significantly, and there has been a clear and discernible improvement in their representative role at various levels. These changes are incremental and gradual, however, and far from the Western ideal of freedom of association and free collective bargaining. But in the Chinese context, the changes are significant. The quantitative growth in trade unions and the qualitative improvement in their representative capacity are largely due to, we argue, to the two mutually reinforcing responses of the Chinese state to rising labor unrest, i.e. re-regulation of the labor market and revival of corporatist arrangement of employment relations. Paradoxically however, these efforts by the state impose constraints on the development of more “genuine” trade unionism, and result in the unintended consequences of increased labor conflict, and growing worker demands for both voice and justice at the workplace (the reasons that motivated state intervention in the first place. We highlight both the positive and negative aspects of union organizing, collective bargaining, regulation, and recent state actions, and their impact on the future of Chinese labor in the near term.
Introduction

Observers paint a variegated picture of Chinese trade unions. Most foreign observers and experts are deeply skeptical that the All-China Federation of Trade Unions (ACFTU) can play a reasonable role in worker representation as long as they subordinate to the Party and there is a lack of the genuine freedom of association that allows workers to choose who represent them (e.g. Gallagher 2005; Lee 2007; Friedman 2014). Empirical support for these views can be found in numerous reports that the Chinese trade unions are usually pro-management than pro-worker, based on their actions in numerous labor-management conflicts such as the widely reported strike at a Honda parts factory in Foshan in 2010 (see e.g. Bradsher and Barboza 2010) and the 40,000-worker strike at Yue Yeun (the largest footwear contract manufacturer in the world) in Dongguan in 2014 (see e.g. Sevastopulo 2014).

An alternative (and emerging) view is more positive. A few scholars, however, see the potential of union transformation within a communist Party-state framework, and therefore are more positive about some recent changes of the ACFTU (e.g. Clarke and Pringle 2009; Liu 2010; Qiao 2010; Liu et al. 2011; Pringle 2011; Lee et al. 2015; Li and Liu 2016). Empirical support for these views can be found in illustrative examples such as the unionization of all Wal-Mart stores in China, the seemingly successful model of sectoral collective bargaining in Wenling, the direct election of workplace union committees in Shenzhen especially in Foxconn and several Japanese firms, and the All-China Federation of Trade Unions’ (ACFTU) strong pro-labor voice in national labor policy making. Some of these changes even made the China Labor Bulletin (2008), a well-known critic of China’s labor practices and conditions, conclude that we might reach “a turning point for China’s trade unions”.
Reaching a judgment as to which of these opposing viewpoints might be more accurate is not an easy task, given the rapidly changing scenario labor relations in China. However, we intend to provide more nuance to the picture. We contend that the rising labor unrest since the late 1990s has deeply challenged the Chinese state, resulting in the latter’s two strategic responses in re-balancing labor relations: re-regulating labor market and reviving the corporatist arrangement of employment relations at multiple levels. We argue that these two mutually reinforcing responses of the Chinese state have contributed to quantitative growth and qualitative improvement of unions, imposed constraints on the development of genuine unionism, but also resulted in unintended consequences of growing worker demand for voice and justice at workplace, sponsoring new strategies in collective action.

In the section that follow, we will first examine the key motivating variable, the growth of labor unrest. We will then examine the interests and responses of the state, and the effect of these responses on trade union growth, collective bargaining and labor unrest. We conclude by discussing possible development of Chinese trade unions and worker representation in the future.

Labor Unrest in China: Forms, Scale, and Nature

The scale, forms and the nature of labor unrest in China has been changing. In general, China’s market-oriented reform has transformed the Chinese industrial relations system from the so-called “iron rice bowl”, i.e. lifetime employment; standard, stable, and egalitarian wages; and “cradle-to-grave” welfare, to a system characterized by contractual regulation, wage and employment flexibility, and contributory social insurance schemes (Gallagher, Kuruvilla and Lee, 2012). During the 1990s and early 2000s, the relatively poor enforcement of labor laws, the
absence of collective bargaining rights, and the practices of low cost foreign Asian employers engage din low cost manufacturing produced a system of employment relations that was best characterized as exploitative and brutal.

The workers response to this form of exploitative employment relations in low cost exported factories, (the bulk of Chinese exports in the 1990s) has been steadily changing over time. During the 1990s and early 2000s workers largely responded through both public protests and through the dispute resolution system. Table 1 for example shows the dramatic increase in labor disputes in China since 2000 (when data become more systematic).

Insert Table 1 about here

A second and common response is that workers have been “voting with their feet” and worker turnover in South China’s manufacturing has been high in the 1990s and early 2000s, and in several cases 100% annually. As a labor shortage developed in the late 2000s, worker turnover became a critical problem for many factories in Southern China, prompting an effort by employers to improve practices, pay higher wages for retention and/or shift factories to lower cost locations such as inland China and Vietnam.

A third, and more significant response of workers has been strikes, wildcat strikes called by workers themselves. Strikes have shown a sharply increasing tendency, particularly after the new and more protective labor laws of 2008 (we will discuss these later). Given that the Chinese government does not publish strike statistics, getting access to data is not easy. One such source is the China Labour Bulletin, which tracks Chinese strikes through counting incidents in newspaper reports throughout China. Their data suggests that there were 553 strikes between
2000 and 2010, less than 5 per month. Yet, the number of strikes has risen sharply since 2010. As seen in Figure 1, 119 strikes and protests were reported in March 2014 alone! A second source of data on Chinese strikes, collected by Elfstrom and Kuruvilla (2014) using both newspaper reports and crowd sourced data show a similar trend, and is reported in Table 2 below. Their data suggests a total of 656 strikes in 2013, with steadily increasing trend from an average of 4 strikes per month in 2008 to 81 strikes a month in 2014. Although the widespread use of social media among Chinese workers may contribute to the higher numbers reported, it is no doubt that worker activism is rising.

There has also been a change in the nature and distribution of strikes. Prior research has suggested that strikes are limited in number (although estimates vary), and there is variation in worker militancy based on the nature of workers (whether migrants or SOE), regional differences, ownership differences, and the degree of state suppression of strikes. The literature also suggests that most strikes are ‘defensive’ in nature, trying to protect existing rights and benefits (see Lee, 2007; Lüthje, 2012; Pan 2009; Weston, 2004). Elfstrom and Kuruvilla (2014) argue that there is a qualitative change in the nature of strikes in China, showing that today’s strikes are more pro-active than reactive, (or offensive rather than defensive) and their data indicate that that workers are striking not just for increased wages and better working conditions, but also for increased “respect” from management. In addition, strikes seem to be happening all over the country, in contrast to occurring in only in some regions.

What is causing the change in the incidence and the nature of strikes? Elfrom and Kuruvilla develop an argument based on McAdam’s political process theory, which incorporates economic and political factors that could influence bargaining power, and workers experiencing
“cognitive cues” that they have such power. To elaborate, the key economic condition is that since early 2009, China has developed a labor shortage on its coasts and, increasingly, elsewhere (see, for example, Rapoza, 2011). Gallagher (2011) links the increase in labor militancy and bargaining power to the shortage of workers, and argues that these shortages are a function of three issues: the decline in the working population as a consequence of the one child policy, policy changes in agriculture (sharp cuts to the taxes paid by farmers and stimulus-driven increases in rural infrastructure) that are raising the ‘opportunity costs’ of working on the coast and reducing migration to the cities, thus depriving them of workers, and finally, institutional discrimination against migrants as a result of the hukou system. Clearly, rural workers are increasingly staying at home. A poll of 200,000 migrant workers in 2011 found that more chose to work in their home provinces than chose to go elsewhere (Wang, 2012). Capital is moving away from southeastern export processing zones like the Pearl River Delta. Chongqing, for instance, ‘for the first time employed more of its surplus rural workforce locally than it sent to other areas’ in 2011 (The Economist, 2012). Whether permanent or temporary, the shortage has served to increase labor militancy and bargaining power, reflected particularly in increasing demands for wages.

The key political factor has been the state’s policy regarding worker protection and collective bargaining as well as the new media openness (at least until 2013) which serve to further increase the bargaining power of workers, In 2008, the state embarked on a ‘legislative onslaught’ enacting a range of pro-labor pieces of legislation, including the ‘Labor Contract Law’, ‘Employment Promotion Law’, and the ‘Labor Dispute Mediation and Arbitration Law’. And in 2012 new national ‘Regulations on Consultation and Mediation for Labor Disputes in Enterprises’ went into effect. These reforms essentially introduced stronger protections for
workers (Friedman & Lee, 2010; McDermott, 2010). Elfstrom and Kuruvilla (2014: 460 note that these laws, taken together, ‘amount to an official acknowledgment of the massive scale of worker unrest, as well as a new interest in containing conflict through providing it with legitimate channels, not attempting to eliminate it entirely’. Thus, it could be argued that China's ‘political opportunity structure’ for workers (Tarrow, 1998) has also shifted.

In terms of ‘cognitive cues’, workers experienced these changes in many different ways. As Elfstrom and Kuruvilla (2014:460) note, ‘Companies’ efforts to “reverse-market” themselves as “preferred employers”, by actively recruiting in working class neighborhoods (rather than waiting for workers to line up at factory doors, desperate for work), by building better dormitories, by publishing factory magazines, and by forming “task forces” of employee representatives may be received by working people as powerful “cues” that the balance of power has shifted and that they (workers) hold greater leverage over capital than a decade ago’. Rising earnings may send similar signals. Wage hikes in recent years have been dramatic. Migrants’ average monthly salaries increased by 21.2 percent in 2011 over the year before; the government has decreed that ‘the average growth of China's minimum wages should be at least 13 percent’ through 2015 and should constitute ‘40 percent of average local salaries’ (The China Post, 2012). A series of strikes at auto parts suppliers and a rash of suicides (and, subsequently, investigative reports) in a Foxconn factory in Shenzhen have led to high wage increases exceeding 20% at Honda plants. Equally importantly, media coverage of new labor laws like those noted above and greater reporting on strikes may provide ‘cues’ that more activism is tolerated by authorities. The Labor Contract Law was the subject of widespread domestic media reports focusing on individual cases of workers who successfully used the law ‘as a weapon’. Stockmann and Gallagher (2011) note that by telling ‘gritty’ stories of mistreatment and eventual redemption via
arbitration and court, Chinese state newspapers both attract readers (serving the needs of an increasingly commercialized press) and, according to surveys conducted by Stockmann and Gallagher, increase trust in the efficacy of legal activism.

Importantly, the state has allowed more open discussion of industrial strife. The year 2008 marked the rollout of what has been dubbed China’s ‘Control 2.0’ approach to media and public opinion: Communist Party Secretary Hu Jintao called for ‘releasing authoritative information at the earliest moment, raising timeliness, increasing transparency, and firmly grasping the initiative in news propaganda work’ (Bandurski, 2008:1). However, strikes and other worker ‘mass incidents’ have since received increased coverage, albeit with a Party-approved slant. This has meant that workers hear more about other workers’ activism than ever before. As Elfstrom and Kuruvilla’s (2014) qualitative interviews suggest, ‘The Honda strike, in particular, gave workers a new momentum. It awakened them’, and ‘The Honda strike had a big impact on workers’ opinions, because of the media attention given to the strike. Similar strikes occurred in the past, but without the same attention’.

Thus, in terms of our “spaghetti western” metaphor, the fact that Chinese workers are increasingly militant and ready to voice their concerns, proactively, can be considered a “good”, not only intrinsically, but also because it has forced the state to respond in several distinct ways.

### The Response of the State

The response of the Chinese state has varied considerably over the two decades, and some degree of periodization is necessary to understand the evolution of state policy. The state’s early response in 1994 was to engineer the transformation from the “iron rice-bowl” regime to that of a more market based regime. In what we term as flexible re-regulation of labor market and industrial relations, we argue that the state has “perhaps caused the problem”. In 1994, a
series of labor law reforms were introduced, designed to “smash” the iron-rice bowl model. However, the enactment of this labor law had two very different objectives: to increase employment flexibility, and efficiency of state- and collective-owned enterprises, and to protect basic rights of workers in the emerging private sector. A decade after the enactment of the labor law, the first objective had been successfully achieved as evidenced by increased managerial autonomy and employment flexibility in all types of enterprises, both state owned and privately owned, a massive increase in layoffs from state owned enterprise, and the rise of short term contracts and informal employment, combined with severe violations of labor rights. These effects have been well documented in various pieces of writing, and summarized in the Book by Gallagher, Kuruvilla and Lee (2012) titled “from Iron Rice-Bowl to Informalization”.

However, the rise in conflict, and deep dissatisfaction amongst migrant workers forced the state to act again to reform labor law in 2008. As part of a general need to promote industrial stability and reduce tensions in workplaces, encapsulated in the slogan “the development of a harmonious society”. The state has pursued a number of different paths to the creation of a harmonious society, which we term “a state corporatist approach”. First, the state embarked on a legislative onslaught, introducing new laws such as the Labor Contract Law (2007) and its Amendment (2013), Labor Dispute Mediation and Arbitration Law (2007), and Social Security Law (2010). These laws, coupled with an even larger number of administrative regulations such as the Special Regulation on Minimum Wage (2004), the Regulations on Enterprise Labor Dispute Negotiation and Mediation (2011) and the Interim Provisions on Labor Dispatch (2014). These efforts by the state were to signal to workers that the state was responding to their concerns by introducing new and more protective legislation, but also to channel discontent away from the public sphere to the “rule of law” notably highlighted in an article titled “legislating...
harmony” by Gallagher and Dong 2001. There is widespread agreement that this legislative onslaught has raised labor standards and eased workers’ use of legal channels to resolve their disputes. Among these improvements, the restricted use of short-term employment contracts, stricter regulations on labor dispatch, and extended economic compensation for terminated workers are particularly noteworthy, as the enforcement of these rules may significantly reverse the trend of employment flexibility. Consistent with our Spaghetti Western Metaphor, this is a “Good”.

However, there are other elements of the state corporatist approach that also merit consideration. The Chinese approach to state corporatism differs from those of the West. While corporatism in the Western capitalist democracies entails a voluntary arrangement of state, labor and capital, it takes a different form in China (and many other authoritarian regimes), i.e. state corporatism, a form of institutional arrangement wherein employers and workers are organized into corporate entities that serve as organs of the state. The states approach takes two explicit paths, i.e., to increase both union organizing as well as collective bargaining coverage, with the expectation that both would reduce industrial conflict. It has done so via three separate initiatives: a change in the role of the Ministry of Human Resources and Social Security (MOHRSS), the inclusion of provisions for collective contract negotiations in the new labor laws of the 2007–2010 period (discussed above)[1] and, most importantly, the instructions of the ACFTU to increase union organizing and collective bargaining coverage across the country. The primary change in the role of the MOHRSS has been to make it more responsible for the growth of collective bargaining. The Labor Contract Law contains six articles about collective contracts, stipulating the content of collective bargaining and the right to ratify a collective bargaining agreement of the workers’ congress. And two articles focus specifically on the establishment of
relatively centralized – regional and industry level – bargaining. Finally, the state and the
Specific targets were established, i.e., collective contracts should be generally established in
enterprises above a designated size,[2] in East China by 2009, in Central China by the end of
2010, and in the whole country by the end of 2012. Meanwhile, they continued to encourage
(without specific targets) industry-wide or regional agreements to cover those nonunionized or
small to medium-sized enterprises (Hu, 2011).

Impact of State Policies

Positive Consequences

A General Improvement in Industrial Relations Scene

What has been the impact of the State’s corporatist policies? One clear positive can be
seen in the dramatic growth of union density, collective bargaining coverage and wage contracts,
as depicted in Figure 3 and Table 4 (taken from Kuruvilla and Zhang 2016).

Figure 3 and Table 3 about here

There are qualitative aspects that are worth mention. The encouragement of the ACFTU
to aggressively organize and actively participate in labor policy making is a positive
development. Moreover, various state-sponsored employer organizations particularly the China
Enterprise Confederation and the All-China Federation of Industry and Commerce have emerged
or developed playing an increasingly important role in industrial relations. A tripartite
consultation system between representatives of government, employers and workers was
established at the national level in 2001, with a goal of promoting stable employment relations
through strengthening communication and coordination among the three parties. Since then this
system has slowly evolved becoming not simply a formality. For instance, the nation-wide tripartite deal during the 2008-2009 global financial crisis, i.e. the state helps enterprises survive through various preferable polices and interventions; employers promise to keep workers’ jobs; and workers accept lower labor standards, played a significant role in stabilizing the economy and employment relations.

At the meso (regional or sectoral) level, the tripartite consultation system had been established in 95.5 per cent of the prefectural level cities and 76.8 per cent of the counties/districts by 2009. In addition to providing advices and recommendations to local labor policies, many regional tripartite consultation committees actively participate in the settlements of large labor conflicts. A most notable change at the meso level is the significant development of regional and sectoral collective bargaining. In the early 2000s, some innovative regional unions started to establish region or sector based union associations to organize workers in a large number of small and medium sized enterprises into the ACFTU. Under the support of local states, region or sector based employer associations were also established to facilitate the meso-level collective bargaining. This new pattern of union organizing and bargaining, due to its relatively easy process and larger coverage of workers, has been diffused nation-wide by the ACFTU. However, while there are some relatively successful cases of sectoral collective bargaining in which wages significantly increased, the vast majority of meso-level collective bargaining is formalistic due to the lack of favorable pre-conditions such as strong government support and capable union leaders.

At the micro/workplace level, the state has provided strong support for the organizing and functioning of the ACFTU, particularly in the private sector. As a result, the declining union density in the 1990s sharply reversed after 2000 and the coverages of collective contracts and
wage agreements both rose rapidly after the mid-2000s (see Figure 3). Even Wal-Mart, which is notorious for its anti-union approach, had to set up union branches in all of its stores and conclude collective contracts.

Some (Limited) Improvement in Unions’ Representative Role or Capability

To improve its representative role, the ACFTU has tried to reform its workplace branches with a focus on increasing the autonomy of unions from management. Two ongoing experiments are noteworthy. The first is the professional union chair program, in which regional ACFTU directly recruits professional union chairs and send them to represent or organize workers in private or foreign companies. As these professional union chairs are supervised and paid by regional ACFTU, they are very much independent from employers and, therefore, have the potential to change the situation of the employer dominance of enterprise unions. However, this program also faces significant constraints such as lack of financial resources and low quality of union chairs. Moreover, the risk of losing union autonomy is high as professional union chairs may be easily bought over by employers.

The second experiment is direct elections of enterprise union chairs. Although earlier trials in some provinces had largely failed, the Guangdong ACFTU, under the pressure of the local state that required it to effectively incorporate workers, revived this experiment after the strike wave in 2010. In particular, the Shenzhen ACFTU announced that it would conduct direct union elections in 163 enterprises in 2012. While the majority of these direct union elections were still a formality, a few conducted after workers’ spontaneous strikes had to some extent improved the representativeness of enterprise unions. Certainly, as an effort of strengthening state corporatism, even the most successful union elections are not genuinely democratic.
Chen (2003) documents the increasing ways in which unions are taking up their representative function with regard to individual, if not collective, disputes. The ACFTU has carried out reforms and ‘experiments’ at both central and local levels. In the arena of organizing, unions at all levels have developed various models (i.e., the traditional ACFTU pattern, the union association pattern, and the regional, industry-based pattern) to strategically organize workers (Liu, 2010)

In addition, as a large number of workers and employers are not covered or well represented by corporatist organizations, the state often has to directly engage with workers and employers aligning their interests with those of its own. This is particularly evident in many spontaneous strikes during which the state actively intervened and facilitated their “voluntary” settlement via a process of quadripartite interaction between employers, workers, unions, and the state.

The efforts of the state in strengthening state corporatism at multiple levels, such as supporting the ACFTU in labor policy making and developing collective bargaining at both the meso and micro levels, have to some extent served the interests of workers.

Negative Consequences

Legal Enforcement

The most notable is in the area of legal enforcement. The legislation and many regulations are vague or even contradictory with each other, allowing room for different interpretations. In addition, state administrative policies may overrule legal regulations, as evidenced by the nation-wide suspension of enforcing social security regulations during the 2008-2009 global financial crisis. Moreover, local states may adapt the national laws and adopt lower labor standards. For example, after the labor contract law took into effect, many provinces
such as Shanghai, Jiangsu, Zhejiang, and Guangdong issued Provincial High Court Explanations on

While there has been a general increase in enforcement, in general, nominal or low cost labor regulations are more likely to be enforced, while the enforcement of high standard or high cost labor regulations tends to be ignored, deferred or discounted.\textsuperscript{ii} As can be seen in Table 4, for example, while the coverage of mandatory employment contracts among migrant workers was relatively high (still less than half however), far less migrant workers enjoyed the mandatory social insurances which are much more costly for employers than simply giving workers employment contracts. Moreover, labor law enforcement varies significantly across regions, industries, enterprises, and types of employees. For instance, labor rights are better protected in the Yangtze River Delta, manufacturing sector, large enterprises, and for more educated workers than in the Pearl River Delta, service sector, small enterprises, and for less educated workers.\textsuperscript{iii} In addition, the principle of flexible enforcement is well taken by government labor inspection agencies, labor arbitration committees, and courts, which often settle labor dispute cases with awards substantially lower than legal standards. Since 2008 the increasing use of mediation, particularly “forced mediation”, to resolve labor disputes has further worsened the situation as labor rights are often mediated away.\textsuperscript{iv}

\textit{Union Organizing}

The process of union organizing has been described as largely formalistic. Since the primary engine for collective bargaining growth apparently rests on the ACFTU, it is useful to theoretically examine its evolution. The key question here is whether the ACFTU can effectively represent Chinese workers in collective negotiations. There are two primary lines of debate and argument with regard to the role of the ACFTU (Kuruvilla and Zhang, 2016). The first concerns
the ACFTU’s identity, whether it is functioning in largely path dependent ways and has not yet made the transition to a new role in a market based society. The second is that the ACFTU suffers from a crisis of legitimacy, in that most workers do not trust the union or see it as effective. We discuss each in turn below.

With regard to whether the role of the ACFTU has transformed, Chen has argued that the ACFTU remains stuck to its ‘double institutional’ identity as both an apparatus of the state (acting on behalf of the nation’s collective good) and as a labor organization to protect workers interests (Chen, 2003). In the old system, Chen argues that the ACFTU did not quite experience tensions between its two roles, largely because its representation function was ‘actually absorbed by the state’, given that its paternalistic labor regime under the ‘iron rice bowl’ system of employment guaranteed workers economic interests such as work, pay, health care, and social security. But under a market based system, it is increasingly experiencing these tensions, especially as industrial disputes and worker militancy increase.

Yet, the extent to which the ACFTU has evolved in a more representative direction remains unclear. However, Friedman (2014a) does not see a promising corporatist future for the ACFTU for three reasons. First, corporatism requires that workers’ voices are successfully incorporated into the system, while the ACFTU does not incorporate workers voices. Second, corporatism requires that workers give up political demands in exchange for economic benefits and therefore implies a relatively de-commodified model of social governance, whereas in China workers clearly do not enjoy, sufficiently, such benefits. Third, however co-opted a union under corporatism is, it is a somewhat independent intermediary organization between the grassroots and the state, while the ACFTU, is clearly part of the state apparatus with no such independence. This is what Kuruvilla and Zhang (2016) call the crisis of legitimacy of the ACFTU.
Collective Bargaining

Much of collective bargaining also remains formalistic. Kuruvilla and Zhang’s analysis of collective bargaining in China results in four categories of collective bargaining. The majority of collective bargaining agreements they characterize as “decentralized and inauthentic”. These include what they call term ‘template bargaining’ and what other researchers have described as ‘collective contracts without collective bargaining’ or ‘paper contracts’ (Chen, 2007; Clarke et al., 2004; Luo, 2011). Typically, the local government – often the labor administration and official union – develop a template for a collective contract that employers and the local branch of the union should sign (jiti hetong fanben). In some cases, the template agreement contains blank spaces for wage increases, which enterprises can customize to suit their needs. Usually, a template agreement leaves little room for the parties to bargain over interest-based issues (Chen, 2007). A second category they term as centralized and inauthentic collective bargaining. This refers to the ACFTU’s effort effort to carry out regional and industry-level bargaining, seen as necessary to bring employees of small and medium sized firms under collective bargaining coverage (Wu, 2012). And as noted, the ACFTU’s efforts are complemented by the state apparatus, where key state departments often take the lead in mobilizing employers. Many of these industry-wide agreements are either formalistic or have shown themselves to be ineffective and not institutionalized. A classic example here is Friedman’s (2014b) study of sectoral bargaining in Rui’an eyeglass cluster in Zhejiang Province, where workers interviewed indeed knew nothing about the industry level contract that covered them. A third type, which they call “decentralized and authentic collective bargaining), contains a relatively small number of agreements, triggered as a result of strikes that have been then settled, resulting in some institutionalization. They also highlight cases where the state intervenes regionally to help the
parties reach agreement, and a variety of informal agreements that seem to be stable. A final category is that of centralized and authentic bargaining, of which the examples are too few. Thus overall, collective bargaining is, as Kuruvilla and Zhang highlight, relatively incipient.

**Summary**

To summarize the effect of the states’ response. One the one hand, regulations and the promotion of union organizing and collective bargaining has significantly improved the legal system, and sent a positive signal that the state is serious about protecting labor rights. One the other hand, enforcement of these rights are weak, selective and uneven, and workers are increasingly acting offensively, demanding wages and working conditions above those stipulated by the law. Such interest-based disputes cannot be resolved by the individual labor rights based regulatory system that the state has espoused. Along with the above, the formalistic development of the majority of union organizing and collective bargaining efforts, result in (as an unintended consequence) a failure to reduce the number of either individual or collective labor conflicts.

**Future Development of Trade Unions and Collective Bargaining: Unpacking the States Interests**

As we have demonstrated, there are often contradictions in the states’ approach. While we do not have a coherent theory of the State’s interests in the labor relations sphere, we attempt to unpack it here in order to attempt to understand better the future evolution of union organizing and collective bargaining in China. Howell (2006: 275) suggests that to understand the Chinese state today, we must recognize that the state lies between various categories, displaying ‘elements of efficiency and inefficiency, of control and chaos, of relative autonomy and clientelism, of neoliberalism and neocorporatism’. This conception of the Chinese state allows it
to be best understood as ‘polymorphous, assuming multiple complex forms and behaviours across time and space’

One explanation for the state’s interests to increase collective bargaining draws primarily on the basic and long established institutional theory about industrial conflict and collective bargaining developed by the Webbs in their influential work ‘Industrial Democracy’ (1897). The Chinese government’s response in encouraging collective bargaining is in many ways consistent with this explanation, in that it has enacted minimum standards legislation and is increasing collective bargaining coverage, but it is doing so in ways that do not result in the formation of free labor unions, i.e., the state here is corporatist and neoliberal at the same time. Collective Bargaining would also go a long way to reducing the widening inequality (China’s Gini coefficient is now .47) that is a serious problem. The widening income inequality is seen as a potential threat to political stability.

An alternative perspective is that the state’s labor policy is based on ‘decentralized legal authoritarianism’ (Friedman & Lee, 2010), which suggests a great emphasis on legal system building (Gallagher, 2005) in order to steer the reform of the social governance system in general, and labor relations system in particular, towards an authoritarian ‘rule by law’ system (Friedman & Lee, 2010). This explains the many legislations increasing labor protection during the 2007–2010 period. This also explains why the state has encouraged legal mobilization and seeks to channel labor conflict into the judicial and semi-judicial system (Gallagher & Dong, 2011; Lee, 2007), in part to maintain political control. Given that labor peace (i.e., no strikes) can be achieved by strong protective legislation on minimum standards, as well as effective dispute resolution mechanisms, the state’s encouragement of collective bargaining (an essentially democratic concept which implies some amount of independent agency on the part of workers),
which might result in collective activity that might threaten the regime, remains puzzling. It is possible that collective bargaining is seen now as a necessary stabilizing force, because legal enforcement has not “produced the results”.

Yet another explanation for the state’s encouragement of collective bargaining can be found in the conception of the ‘developmental’ state. As Friedman and Kuruvilla (2015) note, at the firm level, high rates of labor turnover and severe labor shortages have come to be one of the key limits to future growth. The inability to retain a stable workforce has pushed employers in the industrial centers in coastal areas to look elsewhere. Cai (2007) has suggested that China may be at the ‘Lewisian turning point’, when labor scarcity begins to shift the economy away from labor intensive, input-driven growth to enhanced productivity, declining inequality, and greater domestic consumption. Promotion of collective bargaining is consistent with this approach as well, since genuine collective bargaining would result in higher wages, pushing the economy into a higher wage, higher price, higher productivity spiral that is ultimately necessary to get out of the “middle income trap” which China is likely to reach in 2030, as per World Bank studies.

The future of both unions and collective bargaining depend crucially on which analysis of the states’ interest we accept. But however, since October 2015, we are seeing a new side of the state’s approach to labor, an alarming crackdown on labor activists, and labor friendly NGOS. Several well known labor activists have been arrested, including Zeng, Feiyang, and many NGOS have been shut down. Some argue that this is a new phase of the Communist Party’s attack on its critics and as Crothall (2016) suggests, to “reassert control over all sectors or society and economy. Friedman in a January 2016 interview suggests “the crackdown appeared designed to warn workers that unrest would not be tolerated at a time when many factories were either closing as a result of China’s slowing economy or relocating to parts of south and south-
east Asia where costs were lower. “Part of what is going on here is they are trying to figure out a way to send this message to workers that strikes are going to be treated increasingly as criminal events, which has not really been the case that much over the past 15 years,”. This is a significant new and “ugly” phase in the development of Chinese labor that will affect the future development of unions and collective bargaining.

**Conclusion**

By the end of the first decade of the 21st century, the new labor regime in China exhibits high standards of individual labor rights (the OECD rates China’s labor laws as being very protective), weak, uneven, and selective labor law enforcement, a general encouragement of state corporatist industrial relations regime that provides spaces for unions and collective bargaining, but in a context of “appropriated representation” (the state-sanctioned exclusive representation of an entire class by an organization without formalistic delegation from membership);”. A variety of experiments towards more authentic collective bargaining continue to operate, although both this and the legislation has not successfully prevented the rise of labor conflict. And since October 2015, the communist party has embarked on a highly repressive strategy against labor activists that arguably creates a chilling effect on the more genuine collective bargaining that could potentially solve labor conflict (consistent with the state’s interest)!

In terms of our “Spaghetti Western” metaphor, there is good, bad and ugly elements. The “GOOD” includes the rising willingness of Chinese workers to express their voice via strikes, their increasingly offensive rather than defensive demands, the state’s new protectionist labor legislation that sets a higher floor for wages and working conditions, its broad encouragement for
increased unionization and collective bargaining, new experiments in worker democracy such as
the election of union chairs in Guangdong and other places, the few but important examples of
more authentic bargaining, and of course the quantitative improvements in union density and
collective bargaining coverage. The “BAD” (including unintended consequences) encapsulates
several issues such as poor and variable enforcement of labor legislation, the formalistic approach
of the ACFTU in union organizing and the formalistic and inauthentic collective bargaining
agreements (the majority), which together in continuing and increasing labor unrest rather than
containing or reducing it. The UGLY of course refers to the state’s recent approach in shutting
down labor friendly NGOs and arresting union activists.


Hu, Y. 2011. Shenme shi jiti hetong ‘Caihong Jihua’? (What is the collective contract ‘Rainbow Plan’?) [Cited 14 September 2013.] Available from URL: http://www.huashang-


### Table 1
Labor disputes in China (2000–2012, every alternative year)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of cases accepted</th>
<th>Number of workers involved</th>
<th>Number of collective labor disputes</th>
<th>Number of workers involved in collective labor disputes</th>
<th>Number of cases settled</th>
<th>Number of cases settled by mediation</th>
<th>Number of cases settled by arbitration</th>
<th>Cases mediated before accepted</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>135,206</td>
<td>422,617</td>
<td>8,247</td>
<td>259,445</td>
<td>130,688</td>
<td>41,877</td>
<td>54,142</td>
<td>77,342</td>
</tr>
<tr>
<td>2002</td>
<td>184,116</td>
<td>608,396</td>
<td>11,024</td>
<td>374,956</td>
<td>178,744</td>
<td>50,925</td>
<td>77,340</td>
<td>70,840</td>
</tr>
<tr>
<td>2004</td>
<td>260,471</td>
<td>764,981</td>
<td>19,241</td>
<td>477,992</td>
<td>258,678</td>
<td>83,400</td>
<td>110,708</td>
<td>130,321</td>
</tr>
<tr>
<td>2006</td>
<td>317,162</td>
<td>679,312</td>
<td>13,977</td>
<td>348,714</td>
<td>310,780</td>
<td>104,435</td>
<td>141,465</td>
<td>237,283</td>
</tr>
<tr>
<td>2008</td>
<td>693,465</td>
<td>1,214,328</td>
<td>21,880</td>
<td>502,713</td>
<td>622,719</td>
<td>221,284</td>
<td>274,543</td>
<td>163,997</td>
</tr>
<tr>
<td>2010</td>
<td>600,865</td>
<td>815,121</td>
<td>9,314</td>
<td>211,755</td>
<td>634,041</td>
<td>250,131</td>
<td>26,506</td>
<td>212,937</td>
</tr>
<tr>
<td>2012</td>
<td>641,202</td>
<td>882,487</td>
<td>7,252</td>
<td>231,894</td>
<td>643,292</td>
<td>302,552</td>
<td>268,530</td>
<td>212,937</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Annual Average Growth Rate:
- Number of cases accepted: 13.85%
- Number of workers involved: 6.33%
- Number of collective labor disputes: -1.07%
- Number of workers involved in collective labor disputes: -0.93%
- Number of cases settled: 14.20%
- Number of cases settled by mediation: 17.91%
- Number of cases settled by arbitration: 14.28%
- Cases mediated before accepted: 10.66%
Table 2. Strikes in China, 2008–August 2014

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of strikes</th>
<th>Average number of strikes per month</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>47</td>
<td>4</td>
</tr>
<tr>
<td>2009</td>
<td>32</td>
<td>3</td>
</tr>
<tr>
<td>2010</td>
<td>88</td>
<td>7</td>
</tr>
<tr>
<td>2011</td>
<td>233</td>
<td>19</td>
</tr>
<tr>
<td>2012</td>
<td>393</td>
<td>33</td>
</tr>
<tr>
<td>2013</td>
<td>656</td>
<td>55</td>
</tr>
<tr>
<td>2014 (till August)</td>
<td>644</td>
<td>81</td>
</tr>
</tbody>
</table>

Table 3. Growth of collective bargaining in China, 2005–2010

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>Av.</th>
</tr>
</thead>
</table>
|                              |       |       |       |       |       |       | Growth Rate |%
| Number of collective bargaining contracts on wages | 251,794 | 304,978 | 343,329 | 410,606 | 512,151 | 608,483 | 19.30 |
| Number of enterprises covered | 41,306 | 525,964 | 622,063 | 774,501 | 901,665 | 1,115,874 | 93.34 |
| Staff and workers covered by collective bargaining | 35,312,320 | 37,145,872 | 39,685,737 | 51,101,183 | 61,776,321 | 75,657,331 | 16.46 |

(Source: China Trade Union Yearbooks 2006–2011)
Table 4: Mandatory Employment Contract and Social Insurance Coverage of Migrant Workers (%)


v Ibid.