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# All China Federation of Trade Unions: Structure, Functions and the Challenge of Collective Bargaining

Rudolf Traub-Merz

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Rudolf Traub-Merz

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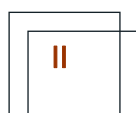
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## EXECUTIVE SUMMARY

In China, the All China Federation of Trade Unions (ACFTU) is the sole legal trade union organisation. It was established in 1925 and over the years and decades has gone through many changes. After 1949 it was restructured according to the needs of a socialist command economy and became the »transmission belt« through which the Party controlled workers. The year 1978 was again a turning point, when China started its liberalisation and, fed by surplus labour from a peasant economy, gradually re-established labour markets. Since then, the system of industrial relations at all levels has been undergoing profound changes, in parallel with which the traditional functions of ACFTU are being challenged.

The process of adjusting industrial relations to the return of privately-owned companies is taking place in a situation in which the Communist Party of China (CPC) and ACFTU are maintaining their traditional bonds and ACFTU continues to function as an extension of the party-state. There are many questions about the future of this relationship. In view of intensifying labour protests and strikes for higher wages, ACFTU is facing a dilemma: should it side with the workers or act as a mediating force whenever labour conflicts arise?

The relations between the CPC and ACFTU and the functional embedding of Chinese union organisations in industrial relations have a great bearing on the Chinese political economy. This chapter takes ACFTU as the focus of its analysis. After a brief look at its history before 1949 (Section 1) it looks at the transformation of industrial relations under the socialist command economy and analyses the organisational profile of unions and the ways they interact with the party-state (Section 2). Section 3 marks the adaptation of industrial relations to the labour markets which evolved after 1978 around migrant labour and through public sector reform, while Section 4 deals with ACFTU's strategies for organising the private sector. Mediation and lobbying are key functions of ACFTU (Section 5), but growing labour conflicts and, in particular, wage strikes are presenting unions in China with new challenges (Section 6). Finally, Section 7 assesses the extent to which ongoing interventions can serve as successful strategies for building collective bargaining around the official union organisations.



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## 1. ACFTU BEFORE 1949

The origin of trade unions in China dates back to the early years of the twentieth century when Sun Yat-sen led a struggle against the Qing dynasty for economic modernisation and political reforms.<sup>1</sup> Following a century of imperialist domination, the emerging labour movement readily responded to nationalism and many unions became organisationally linked to Sun Yat-sen's Kuomintang (KMT) as the leading force of the nationalist movement.<sup>2</sup> While it focused its economic struggle on better wages and working conditions it began to adopt rival affiliations to various political parties, although Kuomintang was the dominant force until the early 1920s. This changed radically with the establishment of the Communist Party of China (CPC) in 1921 and the strong involvement of its cadres in trade union organising. From then on, much of the organising success was to the benefit of the CPC. It was the CPC which established the Chinese Labour Secretariat to lead the workers' movement in Shanghai on 11 August 1921. From this initiative onwards CPC-led unions moved organisationally closer together and the project to build an umbrella structure took off. In May 1925, the Second National Labour Congress convened in Guangzhou with 277 delegates representing 540,000 workers and adopted the *Constitution of the All China Federation of Trade Unions* (Lee 1986: 8). Thus ACFTU came into being.

Between 1922 and 1927, organising flourished,<sup>3</sup> as did the CPC's control over the trade union movement. The labour movement had grown enormously, particularly in the three industrial and commercial centres of Guangzhou, Hong Kong and Shanghai, but it also had some organisational success in other cities, such as Wuhan (Lee 1986: Chapter 1).

The year 1927 was a turning point in China's political and labour history. Backed by a general strike of 800,000 workers, the CPC organised an armed insurrection on 21 March to install a United Front government. But Chiang Kai-shek, who had taken over the leadership of the KMT after Sun Yat-sen's death in 1925, broke up the United Front.<sup>4</sup> Instead of taking joint control over the liberated city, the leader of the nationalist KMT betrayed his allies and ordered the execution of thousands of CPC cadres and trade unionists. All CPC-led unions were banned and replaced with yellow unions loyal to him.

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<sup>1</sup> One of China's first modern labor unions was the Guangdong Mechanics' Association founded in 1906.

<sup>2</sup> The 1911 revolution ended the Qing dynasty. It was partly achieved by workers' strikes in Shanghai. However, the success was short-lived and in 1912 Sun Yat-sen was forced to hand over power. Successive warlord regimes tried to build a new imperial order, condemning China to warfare and fragmented military rule, during which the nascent trade union movement was faced with restrictive labor conditions.

<sup>3</sup> The fourth congress on 27 June 1927 already counted 420 delegates, representing 2,900,000 workers (Lee 1986: 12).

<sup>4</sup> The CPC had accepted the United Front with the KMT under pressure from Stalin and the Comintern.



The 12 April Shanghai massacre devastated the communist labour movement (Perry 1995: Chapter 5). Wherever Chiang Kai-shek moved from there he put an end to leftist trade unions. By one account, 13,000 unionists were executed in 1927 alone (Lee 1986: 15). Between 1927 and 1930 there were several labour uprisings in other cities but all failed and thus organised labour activities led by the CPC in the KMT areas came to an end (Lee 1986: Chapter 1). Many surviving labour cadres were forced into exile.

Having to withdraw to the countryside, the CPC was faced with a new situation. The industrial base in rural areas was rudimentary and trade union activities could not gain the same prominence for the CPC as previously. Organising in the political economy of an agrarian society, the CPC had to switch its power base to the peasantry (Lee 1986: 16–24).

The CPC's military conquest of Manchuria and North China in 1948 became another turning point in the history of the communist labour movement. With the CPC firmly in power and providing support, the Sixth Labour Congress was convened in 1948 in Harbin.<sup>5</sup> ACFTU, which had been defunct for nearly two decades, was restored (Lee 1986: 28). When the CPC took political power in the whole of China, ACFTU became its union link to the whole of the urban working class and was mandated a legal monopoly.

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<sup>5</sup> A total of 518 delegates were invited, claiming to represent 2,830,000 workers (Lee 1986: 28).

## 2. ACFTU – FUNCTIONS AND ORGANISATIONAL PROFILE

### 2.1 Transforming to Adapt Itself to Its Socialist Role

Between 1949 and 1957 the Chinese trade union movement was completely re-organised. The CPC scrapped all labour laws and policies implemented by the ousted Nationalist government. All union activities were concentrated under the All-China Federation of Trade Unions (ACFTU) and the KMT unions were integrated into a unified structure (Lee 1986: 33). While the merger with KMT unions was implemented without further problems frictions developed with regard to the new role for unions. These frictions became manifest in the debate on the organisational model to be followed (industrial unions or territorial unions) and the degree of autonomy which unions should enjoy in their practical work. On two occasions, the party reoriented the policy of ACFTU by purging its leadership.<sup>6</sup> These tensions were partly linked to the fact that, at the beginning, labour still faced an economy dominated by private enterprises and up to 1953 strikes were a widespread means of improving labour conditions. From 1955 on, all the »strategic heights« of the economy were nationalised and the relationship between the CPC and labour was restructured towards meeting the new tasks of industrialising<sup>7</sup> the country and building a socialist command economy.<sup>8</sup>

From then on, industrial relations underwent dramatic changes. New labour policies became the key to the move towards socialism. They centred on universal lifelong employment<sup>9</sup> and a comprehensive welfare package<sup>10</sup> for urban

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<sup>6</sup> Li Lisan in 1951 and Lai Ruoyu and others in 1957/58. The second event was linked to the »Hundred Flowers Blooming« and the »anti-rightist campaign«.

<sup>7</sup> China followed the industrialization strategy of the Sowjet Union which emphasized a shortcut for economic development by concentrating investment on heavy industries. Producing limited commodities for domestic consumption, this pattern of industrial development relied heavily on taxation of agrarian producers. The Great Leap Forward (1958-1960) however, turned out to be a great disaster when much agricultural labour was diverted to steel production and together with bad weather conditions and continued high taxation caused the great famine during which many millions of people died from starvation. In 1961, the Great Leap Forward was aborted, heavy industry development slowed down and agricultural taxation reduced again.

<sup>8</sup> The socialist command economy was built on a dichotomy between rural and urban areas. One of the instruments to keep the two apart and allow a centralized allocation of labour to industries was the household registration (hukou) introduced in 1951 to urban areas and 1955 to the countryside. It effectively banned migration without approval from the authorities and became the key to keep control on urban population growth.

<sup>9</sup> Abolishing the urban labour market and introducing life-long employment in urban state companies had its complement in the physical ban on internal migration. Population growth built up labour pressure in rural areas and became a problem of rural communes and less of urban employment.

<sup>10</sup> One could challenge the use of the notion *comprehensive welfare package* in this context, given the fact that economic insecurity must have been immense during crisis periods such as the Great Leap Forward or the Cultural Revolution. It nevertheless reflects two things: Urban workers in state companies were privileged due to the strategic character of their employment. By centrally allocating jobs the state had to add to the employment package all relevant social instruments needed to maintain a productive workforce such as education, health, pension etc. During the great famine, the

workers,<sup>11</sup> built around companies and provided through work units (*danwei*) and a more egalitarian remuneration system to reduce wage differentials to a minimum (Ngok 2008: 46). The transformation of labour relations in the direction of socialist employment principles affected ACFTU in both its organisational structure and its functions.

Four overriding principles were applied in the transformation of ACFTU into its new role.

- (i) Democratic centralism and leadership of the Party
- (ii) Geographic unionism to dominate industrial unionism
- (iii) Focus on production growth instead of collective bargaining
- (iv) Workers' participation through democratic management

I limit myself here to a brief assessment of two principles; the other two are covered in the next sub-section.

### **Focus on production and welfare distribution instead of collective bargaining**

With nationalisation and the replacement of private enterprises by state-owned enterprises (SOE) the traditional functions of trade unions in influencing employment and wage levels became obsolete. Employees of state enterprises were granted lifetime tenure and wage setting became an administrative matter, centrally fixed throughout the economy with very little wage policy room left to enterprises.

Economic recovery and increases in production became the overriding concern of the party leadership and, with it, the role of trade unionism shifted away from collective bargaining. In 1953, the labour congress amended the ACFTU constitution with a preamble which emphasised the new focus of unions in socialist enterprises.<sup>12</sup> While effectively ending collective bargaining, trade unions became central institutions to allocate a variety of fringe benefits. In working closely with enterprise administration, they were put in charge of administering housing, medical care, disability compensation, sick leave, maternity leave, retirement pensions, and other benefits.<sup>13</sup>

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urban areas certainly suffered through reduced food rations; however, mass starvation was largely confined to the countryside.

<sup>11</sup> It's not possible to give here a differentiated picture on the various groups of urban workers. The share of urban workers in the total labor force may be reflected in the rate of urbanization, which stood at 14 percent in 1955.

<sup>12</sup> »Thus the paramount goal of the Federation was now changed to that of improving and increasing production« (Lee 1986: 49).

<sup>13</sup> In a limited manner, these benefits were enterprise-specific and this created a common interest on the part of management, trade unions and employees in negotiating with central authorities for more welfare subsidies.

### **Workers' and unions' participation through democratic management**

Now without a role in wage fixing unions were reconceptualised as partners to management. A dual system of participation was established to link the actors at company level through factory management committees and worker and staff congresses (Feng 2011; Phillion 2009). The rights of management, workers, workers' congresses, trade unions and party secretaries and their interplay shifted over the years (Phillion 2009). Actors' relations depended heavily on the interpretation of collective ownership, the specific type of power delegation and the importance given to production gains and productivity increases. During times when workers were seen or saw themselves as »masters of the factory« the workers' congress and with it, the trade unions, claimed to control the appointment of the management; when factory ownership was treated as belonging to the people authority was transferred to the party-state, which could delegate its authority down the line to either the party secretaries or the management of a company.

Over the decades, various types of workplace organisation were practiced and often responsibilities between workers' congress, management and party committees overlapped. Until the 1990s, when public sector reform restored private capital investment and management autonomy on a large scale, one basic principle framed all cooperation schemes under socialism: decision-making at company level was limited; neither the management nor the workers' and staff congress had the power to make decisions binding on the state enterprise. Workers' and unions' participation was mostly consultative in nature. They had the right to be informed by the general manager on the economic situation of the enterprise, and could criticise management decisions and present demands. Perhaps the strongest weapon was the right to reject the person of the general manager and request a replacement but this right appears to have been exercised rather seldom and only in cases where an SOE was in trouble and in need of restructuring (Feng 2011).

## 2.2 ACFTU: Organisational Features

Looking at the structure of ACFTU over the past six decades, it is surprising to note that most of the key organisational elements have remained unchanged, despite profound changes in the economy since 1978.<sup>14</sup> It is certainly true that the organisational principles were originally designed to maintain the hegemony of the Party over the unions and of the unions over workers. But already during the period of the command economy, the unions encountered considerable difficulty balancing the interests of workers with the interests of the party-state. These challenges grew exponentially when private investors were allowed to re-enter the Chinese economy and when unions, still structured to satisfy the needs of a socialist economy, were called upon to organise in private enterprises. In order to understand these contradictions, we need to examine the organisational set-up of Chinese unions in some detail.

### 2.2.1 Principles

The organisational structure of the unions in China is based on five principles laid down in the Law on Trade Unions<sup>15</sup> and ACFTU's statutes:

- (i) the system is to be homogenous and presided over by ACFTU;
- (ii) the CPC shall have supremacy over the unions and the latter shall accept the leadership of the Party;
- (iii) the organisational levels of trade unions shall be related to one another in terms of Lenin's concept of »democratic centralism« which makes lower-ranking unions subordinate to higher-ranking ones;
- (iv) the trade unions shall shadow the Party and the state administration at all levels;

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<sup>14</sup> The structure of the ACFTU had been clarified with the congress of 1957 and there was no fundamental change till the end of 1966, when a radical campaign was launched against the ACFTU. Revolutionary groups criticized the labor body for 'bureaucratism', 'officialism' and 'economism' and in January 1967, forces within the Cultural Revolution succeeded in closing down the national labor body. A large number of trade unions were disbanded and with them the factory management committees and the staff and workers congresses. Some of the functions of the ACFTU and the unions were carried on by "revolutionary" groups and committees which were set up in factories. The dismantling of the national labour body contributed to the break-down of labour discipline in many fields and had negative impact on production. Plans were made to restore a national labour body. The rebuilding of trade unions was announced in 1973 and by the end of 1973, all provincial-level trade unions had been put back in place (Lee 1986: 129). The rebuilding of the ACFTU was part of the plan of the 'Gang of Four' to get control on trade unions and to widen their power base. The death of Mao and the purge of the 'Gang of Four' affected the restoration of the national labor body. The supporters of the 'Gang of Four' in trade unions were dismissed. The ACFTU was reconstituted in 1978 when Deng Xiao Ping started its reform programme. It is important to note that the trade unions were rebuilt along the same organizational principles which existed previously and the ACFTU returned to what it had been before 1966 without any major deviation. The same organisational features continued to dominate the practical work of trade unions even in the 1990ies and 2000ies when liberal economic reforms were already in full swing.

<sup>15</sup> Trade Union law 1950; amended 1992 and 2001.

- (v) grassroots (enterprise unions) shall have dual membership of industry (branch or sectoral) and territorial (area) unions, but territorial unions dominate industry unions.

ACFTU's monopoly was laid down in the trade union law of 1950 and was reconfirmed in 1992 and 2001.<sup>16</sup> However, this monopoly cannot be exercised at the union's discretion but is subject to the rule of the Communist Party.<sup>17</sup> ACFTU reconfirms CPC's leadership in its statutes.<sup>18</sup>

As already mentioned, ACFTU declares to follow Lenin's concept of »democratic centralism« as its organisational principle. This entails that unions be arranged in a hierarchy, with the lower organisations being answerable to the higher ones (Law on Trade Unions 2001: Art. 9). The law addresses the meaning of this subordination only vaguely but ACFTU's statutes provide a clear operational definition: »Lower trade union organisations shall request instructions from and report on their work to the higher trade union organisations« (ACFTU 2008a: Art. 9.6).

ACFTU's legal monopoly also applies to newly established unions. The Law on Trade Unions allows the founding of a new plant or grassroots union in previously unorganised enterprises if 25 members of the workforce meet and decide to do so. While this clause could be seen as a gateway for establishing independent unionism, this is not the case since newly founded unions must apply for membership of the higher-level union.<sup>19</sup>

#### *Industry or territorial unions*

The relationship between industrial and territorial unions deserves some attention. In the 1920s, the CPC pushed for industry unions to consolidate the class struggle by building solidarity and support over whole branches. Industry unionism was re-confirmed in 1949 and again during the 1953 Congress and reiterated at an Executive Committee meeting<sup>20</sup> in 1956.

In 1957, however, during ACFTU's Eighth Congress, the organisational structure was (partly) reversed. While the dualism involved in linking enterprise unions to industry unions, as well as to territorial unions was reconfirmed, the nature of the pattern of dominance was changed. Authority over enterprise unions was handed

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<sup>16</sup> »The All-China Federation of Trade Unions shall be established as the unified national organisation« (TUL 2001: Art 10)

<sup>17</sup> »Trade unions shall ... uphold the socialist road, the people's democratic dictatorship, leadership by the Communist Party of China...« (TUL 2001: Art. 4).

<sup>18</sup> »Chinese trade unions are mass organisations of the Chinese working class under the leadership of the Communist Party of China« (ACFTU 2008a: General Principles).

<sup>19</sup> »The establishment of basic-level trade union organisations, local trade union federations and national or local industrial trade union organisations shall be submitted to the trade union organisation at the next level above for approval« (TUL 2001: Art. 11; similarly TUL 1992: Art. 12 and TUL 1950: Arts. 2 and 13).

<sup>20</sup> »In an effort to strengthen industry unions, it was resolved at this meeting that local trade unions should not lead local branches of industry unions when these were already led by the relevant national committees of industry unions« (Lee 1986: 53).

over to (territorial) district unions (Lee 1986: 46–53) and, indeed, industry unionism has remained subordinate to the present day.

The turnaround in 1957, which was accompanied by a purge of ACFTU's leadership, had a profound impact on future relations between the unions and the Party. Within the framework of effective industry unionism, the CPC would have exerted control over ACFTU only at the top, but otherwise the chain of authority would have been strictly an internal union affair. This would have allowed ACFTU to determine operational autonomy at the lower levels. Operational autonomy was exactly what was contested in 1957. The move to a territorial form allowed the CPC to put union organisations under horizontal control at every level.<sup>21</sup> District unions came firmly under the influence of the CPC's district committees. Two potential rival approaches to monitoring were arranged in a new order. In dealing with local union affairs ACFTU came to play second fiddle to local party structures. Local party cadres' views were likely to gain the upper hand whenever they differed from those expressed by ACFTU. Industry unionism during pre-liberation times was seen as superior as the unions had to fight an »established order«. However, it proved to be less beneficial and, consequently, was replaced when the »main function of the trade unions was to support the established order« (Lee 1986: 34).

### ***2.2.2 Officials – Dual Office-holding***

Elections are a key component in relations between ACFTU and the CPC. The Law on Trade Unions is somewhat imprecise with regard to how elections should be organised, leaving the operational details to the unions. ACFTU's statutes confirm that the leadership at all levels should be elected bottom-up and subject to secret ballots and that leaders should act on the basis of an »imperative mandate«.

This strong emphasis on accountability towards the electorate contradicts the vertical control by higher level unions. The contradiction is resolved in favour of vertical control by giving higher level unions a right of veto: »The results of the elections of trade union committees, standing committees, chairmen, vice chairmen and auditing committees shall be reported to the next higher trade union federations for approval« (ACFTU 2008a: Art. 27).

In addition to regulations and ideological hegemony, control over operational affairs is ensured by means of personnel policy. There is no level of trade union administration at which the majority of the leaders do not concurrently hold office at the same level in the Party, the Political Consultative Conference, the People's Congress or the Government. The current ACFTU chairman is a member of the Politburo. Of 9,634 chairman or deputy chairman of higher ranking unions in 2006 nearly 80 per cent (7,687) also held a political office at the same time (Chinese Trade Unions Statistical Yearbook 2007: 95). In a special report to the Congress in 2008, ACFTU announced that the cadre policy had been intensified

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<sup>21</sup> The horizontal mechanism of control contradicts the principle in Lenin's concept of democratic centralism that all decisions of higher bodies shall be absolutely binding on lower bodies.

and that by July 2008, 34 out of 36 provincial federations had been able to bestow on their union president the status of deputy chairman at the same level of government and Party organisation (ACFTU 2008b: 1).

### 2.2.3 A Six-Tier Model

The Chinese trade union hierarchy is made up of six tiers. The national body, ACFTU, is followed by four layers of local unions, from the provinces to the townships and sub-districts. At the bottom are the primary or grassroots unions (see Table 1).

**Table 1: Organisational structure of Chinese trade unions (2006)**

Organisational level	Unions	Full-time union officials	Part-time union officials
National	1		
Provincial	31		
Prefecture	333	99,674	236,792
County (District)	2,860		
Township & Sub-Districts	22,000		
Grassroots unions	1,323,965	443,112	483,990

Source: Chinese Trade Unions Statistics Yearbook, (2007:67, 88, 90).

### 2.2.4 Financing Unions from Taxes and Company Profits

ACFTU is a membership-based organisation. Members' contributions amount to 0.5 per cent of their gross wages. The most important revenue source by far, however, is a wage levy: companies with unions<sup>22</sup> pay 2 per cent of their total payroll as a union levy, regardless of the number of union members. In addition, higher ranking unions may have business investments and receive income in the form of rental or profits. Government subsidies to ACFTU are another source of income.

ACFTU does not publish a statement of accounts detailing revenue and expenditure. In 2007, its national income from the 2 per cent company levy was 226 billion RMB, just over double its revenue from the same source in 2002 (ACFTU 2008b). Figure 1 gives an overview of how the revenue from the levy is distributed between the various union tiers.

<sup>22</sup> In some provinces, such as Jiangsu, the tax is applied to all companies. Companies with no unions pay a so-called »preparatory union fee«.



**Figure 1: Distribution of the 2% company levy (Zhejiang Province)**



On the income side as well, ACFTU is what would be called in the West a »yellow union«. The share of membership fees is certainly below 20 per cent, probably even below 10 per cent. What matters in this context are recognition agreements with enterprises, from which the bulk of the union’s financial resources – 70–80 per cent – is derived. ACFTU is tax financed and maintained materially by administrative fiat.<sup>23</sup>

### **2.2.5 Trade Union Officials as Civil Servants**

A look at the employment status of trade union officials reveals a further dimension of the party-state’s control over ACFTU. Trade union officials do not have individual labour contracts negotiated with their union as employer but are career civil servants. Even though they may not be state employees in the strict legal sense as they are not listed under the Law on the Civil Service,<sup>24</sup> they are treated similarly on the basis of administrative rules applied to the organs and staff of mass organisations of the Party.<sup>25</sup> ACFTU is part of the »administrative hierarchy«, with all the relevant implications, such as application of the disciplinary code for civil servants. The pay scales of unions follow those in ministries and the salary of union officials does not come from ACFTU funds but from the state treasury. Furthermore, trade union officials join other civil servant groups in administrative, political and technical training. Indeed, there is not much difference between how labour relations are dealt with inside unions and in ministerial bureaucracies. The unions have limited autonomy in administering their personnel affairs and restricted authority over their staff. Union employees, at the same time, are unlikely to develop an »esprit de corps« as trade union representatives and can easily be transferred to other offices of the party-state.

<sup>23</sup> From a financial point of view, it would not make much difference if all its members were to be removed from the organisation.

<sup>24</sup> Law on the Civil Service of the People’s Republic of China, promulgated 27 April 2005. See [http://www.gov.cn/flfg/2005-06/21/content\\_8249.htm](http://www.gov.cn/flfg/2005-06/21/content_8249.htm)

<sup>25</sup> The Organisation Department of the CPC: »Statement on the administration of organs of people’s and mass organisations such as trade unions, CPC Youth, Women’s Association and so on in accordance with the Law on the Civil Service of the People’s Republic of China«, promulgated 26.08.2006. See <http://www.yimendj.gov.cn/Article/ShowArticle.asp?ArticleID=4079>

Judging from various organisational features such as legal monopoly, funding from taxes, selection and control of leadership, payment of salaries and administration according to civil service regulations, it is quite clear that Chinese unions have nothing in common with trade unions in Western countries but are set up as a state agency under Party control.

### 3. END OF LIFELONG EMPLOYMENT: THE EMERGENCE OF THE LABOUR MARKET AFTER 1978

#### 3.1 From Public to Private Employment

The year 1978 marks the beginning of a new age in China. Profound reforms were introduced which led to a radical transformation of the economy and society. These radical changes were largely the result of a series of state decisions to encourage fiscal and economic decentralisation and the marketisation and privatisation of economic activity. Furthermore, socialist employment policies fell by the wayside and a labour market was established.

Figure 2 provides an overview of the development of employment with three types of employers: (i) urban-based state-owned enterprises (SOE), (ii) rural-based Township and Village Enterprises (TVE) owned by local government and (iii) private companies. The figure presents the evolution of labour markets and marks the extent to which socialist employment policies were substituted by contract-based employment.

Labour markets emerged first in rural areas. Taking over control from dissolved communes (1978–80), local government authorities invested huge sums in so-called Township and Village Enterprises (TVE) and drew heavily on surplus peasant labour from their areas. Within a few years 100 million peasants left their farms and became wage earners in rural enterprises.

The second labour market was linked to the development of export production zones. It evolved with the gradual removal of the ban on private investment and the lifting of physical restrictions on rural labour. China's spectacular industrialisation over recent decades has relied heavily on private sector export processing zones. They started in Shenzhen in 1980 from which they spread to other regions in the Pearl River Delta, the Yangtze Delta and other provinces along the east coast. The employment impact was insignificant in the 1980s and early 1990s but when private investment for export processing and other economic activities gained momentum, tens of millions of peasants became migrant workers in factories along the east coast. Today, private companies are the dominant employer in the urban economy.

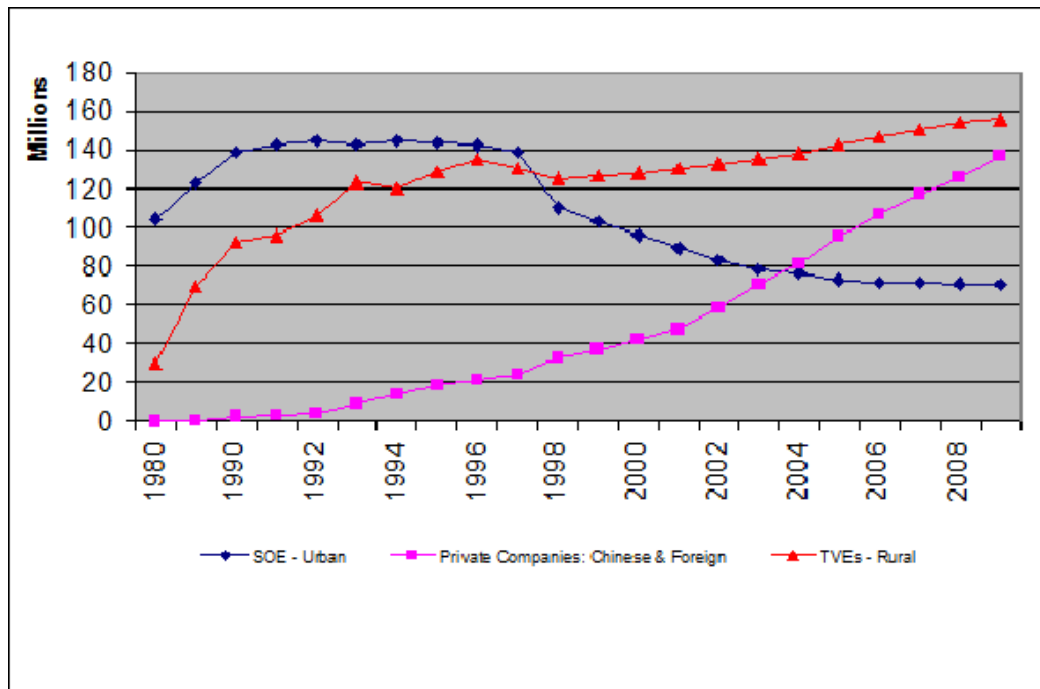
The third labour market evolved from the shrinking of the urban state sector, which occurred in two stages. In 1986, the State Council introduced labour contracts, promulgating the Temporary Regulations on the Use of Labour Contracts in State-Run Enterprises. This established an urban labour market as state companies were now permitted to employ new staff for fixed periods. For contract workers in SOEs and for all those who joined private companies, the socialist »iron rice bowl« – another term for lifelong employment – was now a thing of the past.

The final push came with public sector reform in 1995–2002. More than 50,000 state-owned companies were privatised, merged or made insolvent and 50 million workers laid off.<sup>26</sup>

### 3.2 Social Insurance Coverage: Migrant Workers Largely Left Out

The three employment categories do not differ only with regard to employer but also with regard to the application of social legislation. The introduction of labour contracts effectively stopped some public sector workers from accessing company-based social benefits. To compensate this group of workers, from the early 1990s the government gradually introduced a contribution-based social insurance scheme, administered by the state. The whole of the public sector, by and large, switched to the new model, with insurance coverage for unemployment, accident, health and retirement. These insurance schemes were also open to the private sector.

Figure 2: Employment in companies in China, 1980–2009



Note: SOE-Urban refers to state-owned companies and collectively owned companies.

Source: China Statistical Yearbook (2010: Table 4.2.)

The social security schemes were not to be administered nationally, however, but followed fiscal decentralisation. Districts and cities were to administer the

<sup>26</sup> Some of the workers who were laid off were able to obtain employment in the private sector, while many others were forced into early retirement or had to look for income from self-employment, thus giving rise to the urban informal sector.

schemes and in this way migrant workers were badly let down. In many cases local government did not insist that local employers – in particular, their own TVEs – pay any contributions at all. In cases where social contributions were paid, the right to claim benefits was subject to serious limitations. No transfer systems were erected to make social benefits portable between local government units. Whenever migrant workers left their employment and moved away, they lost all social entitlements. Some cities or even provinces later introduced schemes which allowed migrant workers to withdraw whatever they had paid in. Employers' contributions, however, remained with the local government (CLNT 2011) and effectively ended up as a local tax.

The administration of social benefits was linked to the household registration system (*hukou*) which restricted people's access to public goods and services to where they were born. In consequence, social security covered only employees with an urban registration: those who did not work at their place of registration or retire there – that means, in particular, employees of TVEs and rural–urban migrants – were de facto left out.<sup>27</sup>

One could argue that a *hukou*-based social security system is not totally discriminatory as rural workers retain a lifelong right to return to their village and reclaim land to work. There was thus no need to establish for migrant workers a social safety network linked to wage employment. However, this peculiar arrangement was a major reason for the success of TVEs and private companies alike. A labour market in which social security benefits were not part of the wage package meant lower wage levels. This low wage policy based on a discriminatory social insurance policy is still in place.<sup>28</sup>

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<sup>27</sup> People's Daily reported in 2008 that only 15 per cent of China's migrant workers have a government pension (see CLNT 2011).

<sup>28</sup> Wages of migrant workers are 20 per cent to 50 per cent below those of workers with urban *hukou* (see, for example, OECD 2010: 167). »Even after two and a half decades of market-oriented reform, the continuing existence of the *hukou* system is responsible for a wage differential between migrant workers and local workers in urban China« (Cai Fang et al. 2005: 43). A new law on social security came into force on 1 July 2011. It aims to integrate the various social schemes under a common administration and promises to establish a national pooling system. This would make claims and benefits portable. However, the law is silent on how a national pooling should be established.

## 4. ORGANISING THE PRIVATE SECTOR: CAMPAIGNS, STRATEGIES, RESULTS

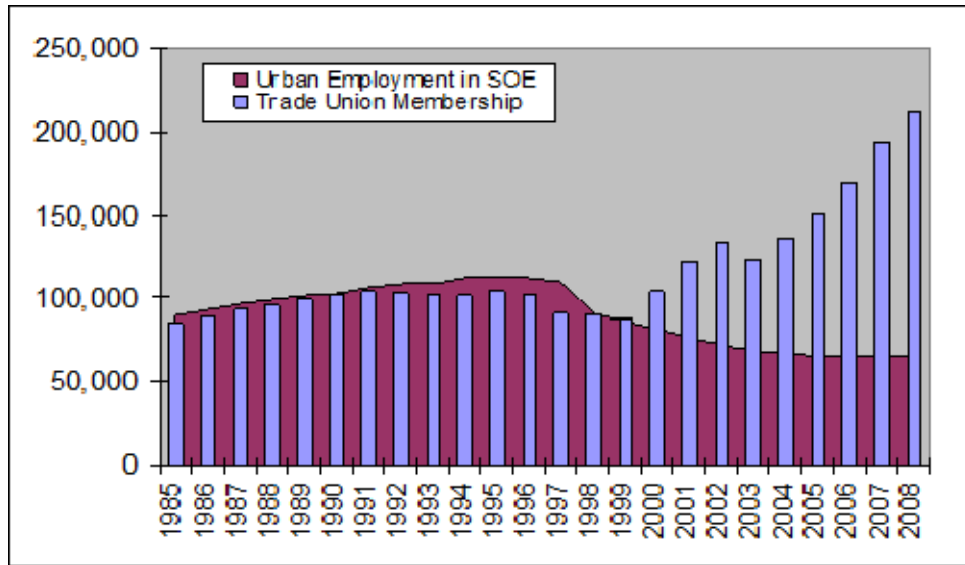
The end of socialist employment policies occurred in a fragmented manner. For the first 15 years ACFTU ignored what was happening in rural areas and woke up to the new reality only when the reforms finally struck the public sector. The end of lifetime employment and cradle-to-grave welfare policies terminated the union's functional embeddedness in the political economy and threw it into an identity crisis. The mass lay-offs included union officials and had a dramatic impact on the organisation's membership and financial capacity. Within four years (1997–2000) 17 million members were struck off the registration list. During these years, ACFTU was threatened by marginalisation, both functionally and organisationally. A strategy was needed to reposition ACFTU in a political economy which was now being re-oriented towards the private sector. Unions built on socialist principles were now being called upon to organise workers in a capitalist economy. The strategy used led to a huge expansion of the union apparatus but a hollow, if not empty union presence inside private enterprises.

### 4.1 Skyrocketing Membership

Figure 3 depicts an astonishing development. By the end of 2010, ACFTU had a membership of 229 million, up from 87 million in 1999: within only a decade, the unions had acquired 140 million new members, an incredible figure by any standards. As a result, ACFTU surpasses the global membership of ICFTU, which puts its strength at 169 million.

The membership drive was directed towards the private sector in general but two events deserve particular mention. Rural workers had been banned from unions in 1948 (Lee 1986: 29), when ACFTU began gearing up to operate as an urban organisation. The 14th ACFTU congress in 2003 corrected this, however, and opened up unions to migrant workers (Grassi 2008: 13). Within a few years, migrant worker membership swelled to 70 million (2007).

**Figure 3: Urban employment in state-owned companies and ACFTU membership, 1985–2008**



Source: China Statistical Year Book (2010: 118, 885)

Foreign investors – in particular, from Asia and North America – have long been known for their anti-union attitudes and many were certainly opposed to the idea of having unions in their firms. In March 2006, the party leadership put pressure on companies and ACFTU when an explicit call was issued to »strengthen Party building and trade union building in foreign-invested companies« (Liu 2008:7). »Two days after President Hu Jintao’s call ACFTU set the target of organising trade unions in more than 60% of FIEs by the end of 2006 and 80% by the end of 2007« (Liu 2008: footnote 10).

Fortune 500 companies received special attention. After Wal-Mart grudgingly gave in to pressure, other well-known union bashers such as Dell, Kodak and McDonalds followed suit. In 2008, the ACFTU announced that, of the 483 top 500 global companies which have invested in China, 82 per cent were unionised (ACFTU 2008b).

Table 2 summarises membership and union densities for various sectors. Some of the figures are certainly too high. A union density of 59 per cent for state-owned companies falls within the expected range. Full union coverage should be equally appropriate for state institutions and government agencies. ACFTU figures showing union densities above 100 per cent may be ascribed to lower ranking officials’ desire to report positive results.

Union densities for foreign invested companies (94 per cent) and those from Hong Kong, Macao and Taiwan (78.4 per cent) appear high, but not unreasonably so, given the organising efforts directed towards them. The figures for private companies from mainland China are totally unrealistic, however. Until 1999, unions had no presence at all in this category and while some progress has been

made, claims of 65 million members in 2006 and 80 million in 2007 – and thus coverage of 95 per cent and 107 per cent respectively – are out of the question.

Part of the explanation may be due to how migrant workers are taken into account in these statistics. Many migrant workers have no labour contract and leave their employer within a short period or when a project finishes. Constant job shifting makes workplace registration difficult, if not impossible and migrant workers are thus usually counted in their rural homes where ACFTU has built information and support centres for them. Most migrant workers do not pay membership fees. For them, unions offer information or other services, which otherwise should come from the Ministry of Labour. They should be registered as clients and not members: such service relations have no bearing on the strength of a union in the workplace.

If we discount the membership of migrant workers and take as reference a labour force of 450 million – including 150 million rural workers – we arrive at a more realistic union density of 30–35 per cent. Even so, the size of the membership remains impressive. However, this high membership is not meaningful when we look at the reality of trade union activities inside enterprises.

**Table 2: Urban employment and union membership, 2006**

	Employment (urban)	Number of unions	Trade union members	Union density
<b>Enterprises</b>				
• State urban (SOE+COE)	71,940,000	166,519	42,576,126	59.2%
• Private Chinese	68,380,000	604,532	64,974,440	95.0%
• Self-employed business	30,125,000	44,770	5,053,613	9.8%
• Enterprises from Hong Kong, Macao, Taiwan	6,110,000	27,142	4,793,093	78.4%
• Foreign invested	7,960,000	34,131	7,004,311	88.0%
• Others	n.a.	7,020	980,538	n.a.
I. All enterprises	184,515,000	884,114	125,382,121	68.0%
II. Institutions	28,333,000	276,600	30,947,249	109.2%
III. Government agencies	11,118,000	159,172	13,142,372	118.2%
Undocumented	59,134,000	4,079	470,369	
<b>Total (all urban)</b>	<b>283,100,000</b>	<b>1,323,965</b>	<b>169,942,111</b>	<b>60%</b>

Sources: China Statistical Yearbook (2009: 112–13);

Chinese Trade Unions Statistics Yearbook (2007: 23, 24, 36, 46, 47, 67–68; 75–76; 81–82);

China Statistical Yearbook (2007: 132).



## 4.2 Organising Top-Down and Management-led Plant Unions

There are two procedures available for establishing a plant union: (a) top-down: officials from a higher level union approach the plant management and conclude a recognition agreement to establish a union office; (b) bottom-up: a union is set up by employees from within the company. The minimum number of employees required is 25.

The two patterns of organisation differ fundamentally and have totally different consequences. A top-down approach is purely administrative and without the involvement of the workers, who may not even be informed that an agreement has been signed. Bottom-up, however, cannot work without the workforce. It usually takes the form of mobilisation and is built around demands for immediate improvement of working conditions. With the exception of Wal-Mart (Hui and Chan 2011) private sector plant unions appear to have been set up top-down. The bottom-up approach is almost non-existent in this sector.

Organising campaigns generally involve three stages. The CPC called on ACFTU to increase its presence in the private sector. The ACFTU leadership then laid down quotas – for example, annual membership growth rates of 10 per cent or 20 per cent – and sent them to local unions. Under pressure from the top and eager to report success stories, local officials hurriedly drew up logistic scenarios, moved from company by company and called for the signing of recognition agreements.

When bargaining with management for recognition, unions were usually the weaker side and forced to agree substantive concessions. The power of Chinese trade unions is administrative, deriving from their quasi-government status. ACFTU is not feared for its ability to call millions of workers into action but because it may activate support from the local government or the Party, in particular, as many trade union leaders double as Party secretaries or deputies in people's Congresses. Because a union leader's authority derives from the party-state which values social stability and not strong action against unwilling enterprises, and because company employees are not called into action to bargain for a better deal, employers usually find themselves in a comfortable position and able to give in selectively to union demands, while at the same time withholding substantial concessions. The whole top-down organisational process has become characterised by serious flaws which allow management to largely dominate and control trade unions.

No report has been published on modes of negotiation and it is not clear whether agreements have been concluded in writing, just verbally approved or there was no need for debate at all as both parties shared the same opinion. The result of the top-down approach, however, is significant: plant unions became – and still are – dominated by management:

- In many cases, trade union leaders were not elected but nominated from within the management. Where elections took place, candidates for the job of union president and his deputy were cleared by management or the higher ranking union.
- Employers demanded and received concessions that the newly established union would not engage in certain activities and, in particular, would not push up wage costs with collective bargaining.
- Employers often demanded and obtained approval of reduced or delayed payment of the 2 per cent wage tax.

Management dominance is most significant with regard to control of the union leadership. A leading trade union official from Guangdong Province estimates, with regard to his jurisdiction, that »among the approximately 20,000 grassroots trade unions, nearly 50 per cent have leaders who are also employed as deputy general managers or the equivalent in the company« (Kong 2011). Qiao in a survey of 1,811 companies concludes with regard to union presidents:

90.3 per cent are CPC members ... Before holding the position of trade union heads, most of them have acquired a certain professional status in relevant enterprises or institutions. Among them, 40.6 per cent hold positions of middle-level managers. 17.9 per cent of union presidents serve concurrently as the director or deputy director of CPC committees. Another 13.3 per cent are retired factory heads or managers ... In addition, only 4.2 per cent of current chairpersons were ordinary employees before being elected. (Qiao 2010: 8)

Controlling elections is the key to controlling plant unions. While the Law on Trade Unions is clear that union leaders must be elected, voting in most cases does not take place or merely serves the purpose of confirming a decision made somewhere else. Qiao found that 23.3 per cent of union presidents were directly appointed by higher level unions or by CPC branches; about half (51.7 per cent) had been elected by workers and staff assemblies, but there was no choice as the Party or the higher level union had only picked one candidate. »Only 2.6 per cent are elected through the General Member Assembly or Representative Assembly following open competitive screening tests« (Qiao 2010:9).

### 4.3 Collective Bargaining

A legal framework for wage negotiations is provided by the Labour Code of 1994 and since then more legal instruments have been decreed. Originally, wage negotiation was limited to the plant level but in the meantime, its legal scope has been expanded and it has become possible to conclude area or branch agreements up to district level. There are still many loopholes and contradictory regulations, however. There is no clarification of which agreement shall stand in the case of overlapping jurisdictions. Also, provisions are not legally binding and the employer may (or may not) implement what has been agreed (Huang 2010).

ACFTU statistics on concluded collective contracts show that the number of workers covered by wage negotiation increased only modestly from 2002 (20.5 per cent) to 2007 (23.4 per cent), while the number of employment units covered by collective contracts shot up by 460 per cent (Table 3). These figures are confusing because they imply progress primarily in small companies. The low overall coverage demonstrates nevertheless that most unions do not engage in collective bargaining and that in 2007 nearly 80 per cent of union members were without a collective wage agreement.

**Table 3: Wage negotiations: enterprises and trade union members, 2002 and 2007**

	2002	2007
Employment units with trade unions	930,965	1,323,965
Employment units with »wage negotiation systems«	135,333	622,063
Share of units with wage negotiations	14.5%	47.0%
Trade union members	133,977,709	169,942,111
Staff and workers »covered by wage negotiation systems«	27,404,001	39,685,737
Share of trade union members covered	20.5%	23.4%

Source: Chinese Trade Unions Statistics Yearbook (2003: 112, Table 3.33; 2008: 108: Table 3.29).

What is the substance of the contracts that were concluded? ACFTU has not published a report on the results of these collective wage contracts and it is therefore not possible to calculate a union premium. There are, however, empirical surveys by independent researchers which compare wage levels in organised and non-organised companies. Lee and Liu have screened these reports and added the results of their own survey, concluding:

Our survey indicated that enterprise unions in China do not appear to produce union wage premiums.

...whether a union exists or not itself makes little difference with regard to most aspects of working conditions, such as higher wages, better benefits, employees' turnover and others, as enterprise unions are often under the strong influence of the employer in the workplace. There are numerous studies which support the above findings. (Lee and Liu 2010)

## 5. MEDIATING AND LOBBYING

### 5.1 Rights, Interests and Mediation

What do unions do that are not involved in collective bargaining for higher wages? The Law on Trade Unions and the ACFTU statutes are clear when it comes to the duties of unions: »The basic duties and functions of trade unions are to safeguard the legitimate rights and interests of workers and staff members« (TUL 2001: Art. 6). But what are workers' »rights and interests«? In Western societies, the distinction between rights and interests is widely applied in industrial relations. Rights are seen as something granted by law or negotiated and laid down in legally binding agreements, while interests refer to things which go beyond, deal with still unsettled affairs and in industrial relations, usually call for improvements in working conditions and wages.

In the Chinese context, the call for unions to protect the *rights* and *interests of workers* remains ambiguous. The duty of safeguarding workers' interests is already diluted by the fact that unions are also tasked with taking care of the interests of enterprises.<sup>29</sup> On top of all that, unions are also mandated to »promote economic development and long-term social stability and to contribute to the all-round construction of a comparatively well-off and harmonious socialist society«. Politically, »the Chinese trade unions safeguard the socialist state power of the people's democratic dictatorship« (ACFTU 2008a: General Principles).<sup>30</sup>

The nature of ACFTU's involvement in workplace industrial relations can be discerned by looking at conflict resolution. China follows the three-step model of mediation, arbitration and litigation and provides plant mediation for in-house resolution. Mediation is tripartite but the unions do not side with the workers: they stand between workers and management and have the task of conciliation as a neutral party.<sup>31</sup>

A labour dispute mediation committee may be established inside the employing unit. The committee shall be composed of representatives of the staff and workers, representatives of the employing unit and representatives of the trade union. The chair of the committee shall be held by a representative of the trade union. (Labour Law 1994: Art. 80)

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<sup>29</sup> »In enterprises and institutions, the Chinese trade unions ... promote the development of enterprises and institutions« (ACFTU 2008a: General Principles).

<sup>30</sup> Such an all-encompassing mandate annuls the articulation of class interests and leaves plant unions in a dilemma: whatever the union does for the interests of one side is likely to contradict those of another side. A legally prescribed range of such duties paralyses workplace action. The best way of avoiding the legal uncertainty is to remain inactive and wait for instructions from above – or get involved only when a conflict of interests arises.

<sup>31</sup> There are scholars who call such a mediation structure »fake mediation«.

This legal construction is repeated when it comes to industrial action. Chinese labour law does not provide a right to strike – the right to strike was struck from the Constitution in 1982 – but mentions work stoppages and go-slows.

In case of work stoppage or slow-down strike in an enterprise or institution, the trade union shall, on behalf of the workers and staff members, consult with the enterprise or institution or the parties concerned ... The trade union shall assist the enterprise or institution in properly dealing with the matter so as to help restore the normal order of production and other work as soon as possible. (TUL 2001: Art. 27)

Being the only legal provision on industrial action the interpretation of Article 27 is of particular interest. The clause can be seen as an implicit recognition of a right to collective action on the part of workers. However, it is more plausible to see it as an explicit strike ban for trade unions. Chinese trade unions are legally not allowed to be actors in a conflict. They are considered to stand outside class relations and as representing neither employers nor employees. They are mediators in the event of conflict and their principal legal task with regard to private enterprises in that context remains what it was under the command economy: restore production.

## 5.2 ACFTU as a Lobbyist

Besides its role in conflict mediation ACFTU engages in other activities, such as lobbying for better labour protection. As an organisation with no active membership it does not rally workers for public demonstrations but exploits the fact that its leaders double as party officials and sit on party committees and state organs. Just as a labour ministry in a Western country would do, ACFTU collects data, writes proposals and promotes its views by drawing on ministerial and party connections.<sup>32</sup>

When labour disputes started to arise – in particular, in companies employing migrant workers (see next section) – and union efforts directed towards speedy and peaceful conflict resolution become less and less successful, ACFTU supported those in the Party who were pushing for better legal protection. This is certainly the case with regard to two ground-breaking legal acts promulgated in 2008: the labour contract law and the law on labour dispute mediation and arbitration. Both give employees much expanded legal protection against the abuses of employers.

The new labour legislation is important in at least three regards:

- i. It clarifies workers' rights: the right to a written contract, the right of participation in social insurance schemes, restrictions on the use of fixed-term contracts and agency labour, as well as severance pay (Däubler and Wang 2008; Ngok 2011). It gives workers a better understanding of what their legal rights are.

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<sup>32</sup> See Ngok (2011) on the lobbying techniques used by ACFTU.

- ii. It provides substantial sanctions for use against employers who perpetrate abuses<sup>33</sup> and makes it more costly for employers to engage in illegal practices.
- iii. It simplifies the use of official channels of conflict resolution, does away with fees and documentation and increases the likelihood that workers will use official routes and win their case.

One could argue that ACFTU's success in lobbying for new labour laws has weakened its role in conflict mediation. On the one hand, the Party did not take up the suggestion to make union-chaired enterprise mediation mandatory for all grievances but instead authorised the use of new organs, such as grassroots and community mediation. On the other hand, it made it easier for workers to avoid mediation and take their cases to courts for settlement. The new approach to conflict resolution is likely to lead to a situation in which mediation through unions will become obsolete..

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<sup>33</sup> According to the Labour Contract Law (2008) workers are to be paid a double wage if they have not been given a written contract within one month; if no written contract is provided within 12 months, the contract becomes an open contract (Art. 82; Art. 14). If the employer fails to pay wages or other entitlements, compensation for workers must be at least 50 per cent (Art. 85).

## 6. LABOUR CONFLICTS: TOWARDS WAGE BARGAINING

### 6.1 Struggling for the Application of the Law

Lee Kwan Ching is the author of one of the most interesting studies on labour conflicts in China, covering the period from around 1990 to 2005 (Lee 2007). Comparing laid-off and retired workers from China's state-owned heavy industry in the Liaoning Province in the north-east with workers migrating from rural areas, stricken with poverty, to private factories in the export zones of Guangdong Province, she captures two distinct working class groups and links their patterns of labour protest to differences in social reproduction: veteran state workers used to privileged lifelong employment and welfare acted with »protests of desperation« when the demise of state socialism through public sector reform robbed them of most of these privileges. They turned to public demonstrations »to demand government action to solve their livelihood problems« (Lee 2007:123). These protests were not demands for the improvement of working conditions but calls for reinstatement in employment or adequate compensation with consumption goods. Her assessment of such conflict strategies as status-oriented would seem to be eminently reasonable.

The case of migrant workers is very different. Employment in so-called sweatshops, for example, is characterised by terrible working conditions with long working hours and above all, rampant failure to comply with labour legislation: wages may be paid below the legal minimum or subject to illegal deductions, and there are even forms of bonded labour, as unpaid wages are accumulated and identity papers kept by employers to prevent workers from leaving the factory in search of better employment somewhere else or to return to their rural homes. Other studies have confirmed that, until recently, the protests of migrant workers never included demands for higher wages. Instead, workers demanded the wages that had been agreed beforehand, payment for overtime work and a wage level which does not fall below the minimum wage set by law. Consequently, the protests of migrant workers were legalistic in approach, merely calling for the proper application of the law. In the traditional sense, they were »disputes of rights«. Resolution of such conflicts was not sought through private or collective forms of protest but usually by first trying to use the official channels for handling grievances through mediation, arbitration and litigation. When workers found these legal channels working against them, it added to their embitteredness and they engaged in public protests and demonstrations directed towards the city government as a last resort (Lee 2007: 176–91).

In comparing strike patterns in China and Vietnam, Anita Chan (in this volume) points to differences in the treatment of labour protests in countries with a similar political past. While the state authorities in Vietnam keep an eye on the implementation of labour laws and it is difficult for companies to resort to illegal practices, local governments in China are engaged in competition with one

another to attract private investment and readily turn a blind eye when investors – both local and foreign – establish workplaces which ignore legal requirements. When protests erupt, they can easily turn violent as local governments send in the police to clamp down on protesters.

Despite differences between their analyses, both Lee and Chan agree on several points. Labour conflicts in China have not been interest-based. Workers struggle for the application of the law and not for higher wages. Labour disputes are isolated workplace-related incidents with, as yet, no interconnection. The idea of collective bargaining has not yet penetrated the consciousness of the vast majority of Chinese workers (Anita Chan 2011), the prevailing pattern is non-political and the majority of labour protests show no hint of demands for independent unionism or challenges to regime legitimacy (Lee 2007: 112).

Statistics on labour disputes do not provide a clear picture of the character of labour conflicts. They do not distinguish between disputes of rights and disputes of interest; the distinction between individual and collective disputes is blurred; and strikes – which happen frequently – are not documented at all. Table 4 lists the number of labour disputes registered by statistical offices. Over a period of 12 years (1996–2008) the number of disputes increased, on average, by 25 per cent a year.

**Table 4: Registered labour conflicts, 1996–2009**

Year	Number of cases	Increase (%) average annual	Number of workers involved
1996	48,121	n.a.	189,120
2000	135,206	29.8%	422,617
2005	313,773	18.4%	744,195
2006	317,162	1.8%	679,312
2007	350,182	10.4%	653,472
2008	693,465	98.0%	1,214,328
2009	684,379	-1.3%	1,016,922

Source: China Labour Statistical Yearbook (2009: Table 9-1);  
China Statistical Yearbook (2010: Table 22-5).

It is certainly wrong to relate increases in labour disputes to a worsening of working conditions. It is more likely that they reflect increased knowledge of their rights on the part of workers and their capacity to use legal channels to secure them. The huge jump in the number of disputes from 2007 to 2008 supports this view. With a better law in place in 2008 and more aware of their rights, workers reacted enthusiastically by seeking legal redress for labour law violations.<sup>34</sup>

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<sup>34</sup> The decline in registered labour disputes for 2009 can be explained by the effects of the global financial crisis which made some 20 million Chinese workers redundant. Safeguarding employment was prioritised over securing labour rights. In 2010, things returned to normal and we may expect much higher figures for labour disputes again.



## 6.2 Wage Strikes as a New Form of Labour Conflict

In 2010, China witnessed a large number of wage strikes. There had been strikes previously, such as the industrial action taken by taxi drivers in 2008 which started in Chongqing and then spread to other cities. But the strike wave in spring and summer of 2010 was something new. It originated in a supplier company of Honda and then spread to other automotive companies and beyond. At least 200 enterprises appear to have been affected. Since then, there has been an intensive debate on the character of the strikes and on whether a watershed had been reached in the development of industrial relations in China. The new strikes differ in several regards from earlier labour conflicts (Lüthje 2010; CLNT 2010; Hui and Chan 2011):

- The strikes are traditional disputes of interests. The workers did not demand payment of the legal minimum wage or wage arrears, as this was largely observed, but higher wages and in some cases the introduction of a wage grade system which reflects seniority and provides individual routes for careers within an enterprise. The demands were such that they could not be considered in official channels of conflict resolution and thus could not be legally addressed.
- The strikes spread beyond companies in the labour intensive export sector where stark competition dominates, with low wages, to better-off companies in the automotive and metal sector which produce for domestic markets, use more capital intensive technology, need more skilled workers and usually pay wages above the legal minimum.
- Many of the companies affected were foreign-owned – in particular, Japanese – which may be part of the reason why for two months there was widespread public reporting on labour protests before the media were suddenly silenced: possibly to avoid triggering further strikes through media stories on wage increases.
- The strikes were not called by trade unions. In several cases, striking workers not only ignored existing plant unions but demanded free and open elections of union representatives in the factory, thus calling for the replacement of the existing union.
- The strikes happened in branches where industrial agglomeration is building up and inter-company exchange and real-time supply are deepening. Strikes in supplier companies quickly lead to production breakdowns down the line. The multiplier effects of their actions strengthened the strikers' bargaining power.
- The strikes appear to have been successful wherever they happened. Companies were forced to agree to wage increases of between 20 per cent and 50 per cent. The pressure from industrial action spread beyond the directly affected enterprises and many employers offered similar wage adjustments to prevent strikes from happening within their own company.

While no empirical survey of the overall impact is yet available, it is certainly true that the magnitude of strikes is unrivalled in China's labour history since 1978. One strike wave does not catapult Chinese industrial relations on to a new stage and one must wait and see whether wage strikes become a regular feature. However, deeper changes in society are under way which are pointing in the same direction and make it more likely that China is indeed entering a new phase of industrial relations. These concern in particular the social composition of the working class, as well as demographic trends.

The core group of strikers appears to come from the second generation of migrant workers, born after 1980. They differ from the older generation in that on average they have a higher level of formal education and a higher percentage of them is no longer inclined to return to a rural life, but instead wants to settle permanently in cities. Cutting their ties to the peasant economy and planning for an urban family life represents a radical change in the way they calculate their costs of social reproduction. As urban dwellers, they can no longer forgo social security, in particular retirement benefits and unemployment insurance. They must take into consideration the expense of bringing up children and need additional wages to cover decent family accommodation and food outside company canteens and dormitories, where rooms are shared with many colleagues. In separating their daily reproduction from the workplace they feel entitled to enjoy entertainment and other amenities, as their neighbours do who hold an urban *hukou*. All these factors and the money value linked to them form part of their aspiration to adequate wages, which are certainly beyond what the legal minimum provides. With their better education, their competence in using modern communications tools and their growing resistance to jumping from one factory to another and from one city to the next, this second generation of migrant workers is better positioned and more able to struggle for higher wages within the company.

Strong support for these new wage interests is provided by demographic trends. The introduction of the one-child policy in 1979 had two main effects: it slowed down overall growth of population, which will peak around 2030 and thereafter start to decline; and it affected the age composition of the population: the age group 15–59 years of age – basically coterminous with the labour force – is declining significantly and faster (see Table 5).

**Table 5: Increase in population, 2000–2050  
(medium variant; millions)**

Year	Population growth	Age Group 15-59 growth
2000-05	+ 45,3	+ 66,7
2005-10	+ 41,9	+ 36,9
2010-15	+ 41,9	+ 5,2
2015-20	+ 35,2	- 0,007
2020-25	+ 22,0	- 17,8
2025-30	+ 9,3	- 32,1
2030-35	- 0,1	- 28,1
2035-40	- 7,3	- 12,9
2040-45	- 14,8	- 25,4
2045-50	- 23,2	- 47,0

Source: Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, World Population Prospects: The 2008 Revision, <http://esa.un.org/unpp>

The change in the age composition of the population is a strong indicator of deep changes in China's labour markets. Population growth and age composition are only two of the determinants of labour supply and factors such as expansion of the education system, migration, changes in the retirement age, levels of income, legal requirements with regard to working hours and, above all, productivity development must also be considered. However, it is clear from demographic trends that the number of new entrants into the labour market has started to decline and thus that further increases in labour demand will certainly improve workers' bargaining position. Maintaining the balance in labour markets and maintaining adequate supply within a rapidly aging society will be one of China's main social challenges and will have a strong bearing on wages.

There are other arguments which point to mounting pressure for higher wages and industrial action to achieve it. There is much public criticism of the deterioration of income distribution. Strikes by the poor receive sympathy from many groups in society and clampdowns on strikers by the authorities are becoming more unlikely. With less fear of retaliation, workers may find it easier to opt for industrial action.

Over the past two years, the macroeconomic environment has been changing, too. Since the global financial crisis hit export production and employment, the economic policy discourse has shifted away from pushing for current account surpluses. Macroeconomic policy is moving slowly towards reducing trade surpluses and a more inward-looking growth model based on domestic consumption. Today, wages are no longer regarded merely as production costs but also as a key factor in the demand for consumer goods. To play this role

properly, however, they must grow. The debate around the 12th five-year development plan (2011–15) is clear on this. Reduction of inequality, increasing wages and building stronger social security schemes should become focal points for the new economic and social policy.

## 7. WHICH WAY FORWARD FOR ACFTU?

The strike wave for higher wages has thrown unions into a legitimacy crisis. Media reports were openly critical of the role of the national labour body and challenged its usefulness with regard to maintaining social harmony. ACFTU appears to have accepted that wage bargaining has finally arrived in China. Its new thinking and the initiatives already launched centre around how to push collective bargaining in more companies and how to make ACFTU unions the exclusive bargaining agent. Beyond the rhetoric and declarations of goodwill, four strategies can be identified which reach, to some extent, to the structural heart of the problem:

### *(i) Separating Management and Trade Unions*

ACFTU appears to accept that union leadership and company management should be separated and that union officials should not take a salary from a company. ACFTU has set up a union fund from which, in future, the leaders of plant unions are to be paid (Kong 2011). It is assumed that union leaders who do not depend on the company for their livelihood will be more eager to engage in conflict on the workers' side.

### *(ii) Linking Unions to Workers through Elections*

Calls for popular votes to elect plant union leaders were made at ACFTU's 2003 congress but in most cases never materialised. The demand of strikers to elect their own leaders has brought the issue back onto the agenda, however. ACFTU is now promising popular elections in the hope that this will reconnect unions and workers (see Kong in this volume). A statement on how voting should be conducted is pending.

### *(iii) Legally Enforcing Collective Bargaining*

There are initiatives under way to legally enforce collective bargaining. Guangdong province may become a pilot region. ACFTU is lobbying for a labour law which (a) makes it mandatory for employers to bargain, and (b) gives ACFTU sole right to bargain on the workers' side. In enterprises with no plant union, a committee elected from among the workers might engage in bargaining. However, ACFTU wants to retain a decisive influence to prevent an autonomous structure from emerging.<sup>35</sup>

### *(iv) Limited Scope for Strikes*

ACFTU's Guangdong union branch is lobbying for a limited right to strike. A right to strike shall exist when there is a »wilful infringement of workers' rights by the management that can be proven« and when there has been a »failure to agree

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<sup>35</sup> The first draft of a new law on »democratic management in enterprises of Guangdong province« was issued in August 2008 and since then has become the target of heavy lobbying from employers, in particular the Hong Kong Chambers of Commerce and Industry. It is not clear when and in what form bargaining clauses will become part of the act.

after several rounds of negotiation«. The strike should be confined to factory premises and machinery and equipment must be protected (Qiao 2011).<sup>36</sup>

All four strategies for smoothing the way to collective bargaining for unions reflect contradictions in which ACFTU is caught and is trying to address.

- Separating management and unions by paying leaders' salaries from trade union funds is confronted by two problems: (i) there are more than 500,000 full-time cadres of grassroots trade unions (2007: 491,731). Taking all of them onto the union's payroll would vastly increase the number of full-time officials whose salaries must be paid from the current 100,000 to about 600,000. Such a strategy could work only if the government agreed to treat all as civil servants and take over the wage bill; (ii) union leaders in larger companies earn annual salaries of several hundred thousand RMB and are likely to resist being moved to a union salary which is much lower. For officials in higher level unions the separation of management and union may appear to be a rational strategy; for those inside companies, they will fight it as it hurts their interests.
- Voting is key to winning trust and legitimacy, but only if candidacy is open to everybody and the practice of nominating from above ceases. For this purpose, plant unions need some autonomy, in particular from the district union. If upper unions continue to act as controlling organs, elections at the plant level are likely to remain meaningless and workers may continue to resort to spontaneous action to further their interests.
- Enforcing collective bargaining in all enterprises but without bestowing on workers and unions the means by which to apply pressure may become an empty right. Ensuring negotiations with employers should not be confused with pressure for a reasonable offer. It would be possible to write into the law a clear definition of reasonable offer, but then bargaining would not be needed at all and instead a calculator would suffice to work out the correct amount for wage adjustment. If such criteria remain vague, however – as they probably will – the employer can meet with workers and unions and still offer whatever he or she pleases. Building into the system a failsafe mechanism in the form of third-party arbitration may indeed be an improvement, but as long as arbitration remains the only means of emerging from deadlocked negotiations, they may not be taken seriously by either party and will be taken up only with the intention of moving on to arbitration.

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<sup>36</sup> The second draft of »democratic management in enterprises of Guangdong province« contained a clause concerning another form of industrial action. If employers do not show up for negotiations within 15 days after they have been invited, workers can go on strike, if supported by a vote of at least 20 per cent of the workforce. This provision would allow industrial action to enforce negotiations, but would not allow a strike for wage increases. If negotiations end in deadlock, employers and unions would have to call on a third party to arbitrate. However, intense lobbying by employers appears to have been successful in that this very limited form of industrial action was not retained in the third draft.

If, however, the outcome from arbitration is not satisfying to one party, what then?

- A right to strike may be the way out. However, such a right may not be acceptable to workers when it comes – as it usually does – with procedural restrictions. Allowing strikes only after mediation and arbitration has failed or linking its use to a popular vote are likely to be ignored by workers who will resort to strike action anyway, whether it is procedurally within the law or not. Bureaucratic requisites such as voting, documentation, keeping to time schedules and so on can be followed only by unions which command an organisational apparatus. Requirements of this kind make any right to strike a union right – but ACFTU may not want to use it. If a right to strike is handed to unions which are disconnected from workers it will just lead to wildcat industrial action.<sup>37</sup> Workers will act outside the law, perhaps commit criminal acts and may be threatened by penal sanctions, something industrial relations should avoid as much as possible.

ACFTU is caught in a dilemma: it wants to engage in collective bargaining without demanding the right for industrial action. As long as the central government continues to announce wage guidelines, ACFTU may feel safe in taking these recommendations as orders for implementation. But in doing so, ACFTU would just continue the former practice of writing into collective contracts whatever the government has announced or decreed beforehand. It will not apply any additional organisational weight of its own to the negotiation process. Workers may not see any advantage in having unions involved in bargaining for what has been officially announced. Whenever a conflict arises on wage adjustments, ACFTU is likely to be thrown back to a situation from which it wants to escape: workers will take industrial action without recourse to unions, and whenever that happens, ACFTU may be tempted to return to the scene as a mediator – and to reconfirm the structural status quo.

The alternative for unions is clear: become accountable to workers via elections, engage members in deciding on bargaining requests and mobilise them to put pressure on employers. Unions can engage in wage conflicts only if they have been granted operational autonomy on bargaining issues. ACFTU's campaign for enterprise elections is the right approach but will work only if no control over elections is exercised from above and if company unions are free to decide on their strategy, including industrial action. Separating management from unions is an absolute must but will not be enough if plant unions do not have operational autonomy to pursue the wishes of workers. If operational autonomy is not granted, unions are likely to be sidelined by workers, and spontaneous strikes – not bargaining by ACFTU unions – may become the defining factor in wage fixing. Government always has the means to interfere and reduce industrial conflicts by recommending higher wage increases. But in this variant, there is again no additional weight from the unions.

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<sup>37</sup> This is the case in Vietnam, where a union-bound right to strike has existed since 1995. The more than 6,000 strikes since then have all been illegal (see Chi (2011) on »informal labor activism«).

## 8. CONCLUSION

ACFTU has gone through a number of very different phases in its history. It was established in 1925 in the context of a capitalist society and became defunct shortly afterwards for two decades (1927–48). It was rebuilt after 1948 as the sole national labour body to serve the needs of a socialist command economy. Unions had to give up their autonomous role in workers' social reproduction and their traditional function as bargaining agent for wage earners was substituted by their new duty of managing welfare distribution at the workplace as an extension of the state bureaucracy. ACFTU became defunct again (1966–78) during the turmoil of the Cultural Revolution, a period which is not covered in this chapter. When China embarked on its liberalisation projects after 1978 ACFTU for two decades ignored the ongoing socio-economic transformation. The wake-up call for ACFTU came with the public sector reform programme (1995–2002), when the end of cradle-to-grave welfare policies and mass lay-offs hit the organisational base of unions and ACFTU was forced to leave the confines of state-owned companies in search of an organisational hold in the booming private sector.

From 1999/2000 onward ACFTU engaged in a national strategy to build its presence in the private sector. This may be called the most successful organising campaign in the history of trade unions worldwide – ACFTU claims to have added 140 million workers and more than one million unions to its membership base within one decade – but it has become largely an empty achievement: it helped ACFTU to balloon its apparatus but at enterprise level paper unions were created, dominated by management and not engaging in collective bargaining.

ACFTU has hitherto failed to live up to the new challenges from collective bargaining as this function is contradicted by its organisation. Unions today are still built upon the principles of socialist unionism to serve as a transmission belt from the Party to workplaces and to mediate conflicts between employers and employees. They function as a state agency, are administered as an arm of the civil service and do not get involved in industrial action on the side of workers.

This does not exclude ACFTU from playing a leading role in pushing for improvements in labour legislation. The labour contract law of 2008 and the law on labour dispute mediation and arbitration of the same year are two important steps forward in protecting individual labour rights. ACFTU threw its full organisational weight behind making these reforms happen. But the new labour legislation is still silent on collective rights and implicitly assumes the absence of class relations between employers and employees.

ACFTU's role as a mediating force was finally put to the test by the strike wave of 2010. It is a dialectical irony that this new challenge has evolved partly as a consequence of ACFTU's successful campaign to improve protection of individual workers' rights. Industrial action and public protest in the 1990s and the first half of the 2000s was largely a response to widespread illegal labour conditions. Today, many of these illegal practices are rectified via official conflict resolution channels. These »traditional« labour conflicts which call for the application of the



law have now been complemented by wage strikes which differ in that they are disputes of interests for which no regulatory mechanism exists. Workers engage in industrial action, push for higher wages and leave unions sidelined.

Wage strikes pose an organisational dilemma for ACFTU. If it does not find a distinctive role in collective bargaining it may become a lost force in structuring industrial relations. Separating plant unions from management and linking them to workers through direct elections is certainly the right way for ACFTU to move forward. But unions must do away with their role as a mediating force and position themselves on the side of workers. It is doubtful that these changes can be affected without granting unions at the workplace operational autonomy. Current plans to legally enforce collective bargaining and hand the monopoly to ACFTU may regenerate functional contradictions and the likelihood that unions will become idle and workers resort to spontaneous industrial action is great.

The socialist model of trade unionism cannot cope with labour markets built on competition and private ownership. The challenges to the party-state are less in that it can always respond to workers' protests by raising minimum wages and applying political pressure for higher wages. But this leaves no role for the unions. For ACFTU, there seems to be no other way around it: either it functions as a collective bargaining agent and is allowed to grant its unions operational autonomy – or it remains a state agency under civil service administration, substituting for a labour department and ignored by workers in their struggle for higher wages.

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