

2008 China labor law reforms

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China's President and Communist Party Secretary Hu Jintao and Government Premier Wen Jiabao supported workplace 'harmonisation' reforms. China's 10th National People's Congress (NPC) passed the Labor Law on Employment Contracts on June 29th 2007 and in force from 1st January 2008.ⁱ The Labor Law on Labor Disputes Mediation and Arbitration was operative from May 1 2008.

I describe the content of these laws. The legal framework indicates the industrial relations problems to be addressed. But I do not go into the failures of implementing labour laws prior to 2008.ⁱⁱ Changing the labour laws may not change the behaviour of industrial relations participants and what happens in workplace practice. Whether employer abuse of workers will end and a system developed capable of delivering fair play on workplace grievances is yet to be seen.

For Australian readers not familiar with the union, the All China Federation of Unions ACFTU, the changing role is significant. International collaboration from outside of China working with the ACFTU is increasing, such as work to assist compliance with these labor laws and for fair collective bargaining.

Next, I examine responses from employers to the compliance challenge. The government is serious. NGOs and the anti-sweatshop lobby and church, union and political groups for workplace justice can push the corporates in China on corporate social responsibility (CSR).

At the end, I give sections of the dispute settlements law with the establishment of processes for the mediation and arbitration commission. As they came into operation on May 1st 2008, it is too early to say how they will work. China industrial relations community debates the problems with this reform.

There is PM Rudd and the China question. Australians are able to analyse whether the Rudd government changes for a new regime of *Fair Work Australia* are able in similar ways to provide protection for Australia's precarious workforce and a new collective bargaining system with fair play.

Social stability

The NPC accepted the necessity for reform of China's industrial relations and labour law system. Not the least was pressure from protesting workers. The policy is to

protect their precarious workforce from capitalism's excessive exploitation. New labor laws require employers to change for fair play for workers. Reforms to the system promise remedies for workplace abuse.

The 2007 17th National Communist Party Congress supported more effort on human as well as economic development; environmental protection with slower economic growth; regional disparities to be tackled; the crackdown on corruption; curbing the extreme inequality of wealth; social security dealing with poverty; and then the Tibet protests, the earthquake, the Beijing Olympics, the world financial crisis and as well these new workplace laws and the pressing question of compliance.

These national labor laws were urgently needed, overriding local inconsistencies and providing legally authoritative force. This labor law framework is a great improvement for regulating employment contracts and settling labor disputes. The government has a renewed emphasis on compliance and fairness in the new era. China's rulers had extended freedoms for capital in China's 'socialist market economy'. The question is whether they are to be extended to protect workersⁱⁱⁱ.

In operation from 1st January 2008, the contentious debates between employer and employee interests over the details of the bill are over^{iv}. The workplace contest is over the implementation or not of 'your rights at work' with 'Chinese characteristics'. Whether they will solve the exploitation and abuse exposed by for example Anita Chan (2000), campaigner for exploited workers in China and author of *China's Workers under Assault. The Exploitation of Labor in a Globalizing Economy* 2001 is yet to be seen^v.

In February 2007, I attended a Beijing Industrial Relations conference and interviewed those involved in the new labor laws and participated in debates about the dispute settling system on the details for fair and effective mediation and arbitration. My paper warned against *WorkChoices*. However, Australia's former prevention and settlement of disputes by conciliation and arbitration had good features. The morning I interviewed the All China Federation of Trade Unions ACFTU about these new laws and on unionising Wal-Mart, the *China Daily* January 30th 2007 had headlines 'Labour disputes threaten stability'. Escalating unofficial strikes over employer abuses is a reason these new employment contracts and mediation and arbitration laws have to be followed; otherwise China's reputable stability is threatened^{vi}.

In Shanghai on October 12th 2007, I met again a key adviser on the labor laws, Professor Liu Cheng, Shanghai Normal University, Law and Politics. I begin with Liu Cheng as an important policy view:

In the context of globalisation, Chinese labor law is not only something of China its own, but also of America, Europe, and other parts of the world. The trend of "race to the bottom" and deregulation should be deterred by way of global unity. Chinese labor legislation has suffered MNCs' attack; Chinese labor rights has been endangered by not only Chinese dark-minded employers but also dark-minded employers abroad – such MNCs as Wal-Mart is exploiting

Chinese workers by way of driving down acquisition price to make its suppliers non-profitable. This compels the suppliers to exploit workers by way of violating labor law in order to ensure their profit. What's more, it also hurts fair competition--the dark-minded employers will take advantages of low cost to beat moral employers. It's apparent that without labor law, there would be no fair competition; without labor law, there would be no social stability.

The industrial relations challenges on the rights and obligations at work are to see these modest reforms are followed. For human resource management there are opportunities for best practice by doing better than these minimum reforms. This applies critically with suppliers. One way is to reach innovate agreements with the union. Renewed lobbying by the world anti-sweatshop lobby on these minimums is important.

The content of the employment contract law

Paying correct wages on time

In China the capitalist violation of labour rights and the extent of forced labour had gone too far. Not only are migrant workers from the countryside in sweatshops factories not paid the minimum wage nor overtime when working seven days a week to finish contracts, but for months not paid at all. Abuses violating not being permitted to require workers to furnish any kind of bond or security were widespread, holding many migrants in 'slave' like conditions, brutally treated.

'All work and no pay' is one account by Cooney (2007b) of millions of workers particularly migrants not being paid. Many employers flouted the 1994 labor law to pay wages on time, some due to economic pressure, the squeeze from big corporates, but many were fraudulent and manipulative, with others paying ineffective penalties as they factored in the low cost of punishment from government inspections and many getting away with breaches. The bureaucratic Ministry regulations and accompanying State inactivity's are widely regarded as failed, as was the arbitration and legal system. Although individuals had remedies, dealing with a resolution of collective grievances failed. Chan (2006) found widespread violation of earlier laws and CSR Codes. Whether the new requirements are more successful will be seen.

Unofficial 'wildcat' strikes over employers not paying wages have been widespread. Social disturbances and public protests involving millions of workers have been on the increase. Stories in the Chinese press reveal workers beaten to death by company thugs for protesting about not being paid! ^{vii}

One unpaid migrant worker was beaten to death at a building site in Guangdong Province and hundreds of his workmates who were striking to get delayed salaries were injured by thugs the building owner hired. The attackers, armed with shovels, steel pipes, axes, and knives, injured many of the strikers and killed Lei Mingzhong, a laborer from Kaixian County.

Nearly 300 workers went on strike at the site after working for four months without payment, because the owner, a subsidiary of Shenzhen based Fuyuan Energy Group, had delayed paying the contractor millions of yuan. Having failed to coerce the workers to end the strike, Fuyuan then hired hundreds of thugs to fight them and force them back to work. Ye was reported to have led the thugs when they rushed the workers and beat them. The workers, most of who were reported to have been empty-handed, suffered injuries in the fierce attack, even after police arrived at the scene. Lei was killed while two of his workmates were forced to jump from a high wall into the Dongjiang River. The thugs even threw rocks into the river after them, the newspaper said. Fuyuan Hydropower Co, a subsidiary of Fuyuan Group, plans to build a hydroelectric power station on Dongjiang River. With a total investment of 316 million yuan (US\$41 million) from Fuyuan Group, the power plant is expected to produce 90 million kilowatt hours a year. Miao Shouliang, the boss of Fuyuan Group, was listed as the 19th richest real estate tycoon last year by Rupert Hoogewerf, a former Forbes China employee who established his own luxury business listing company – Hurun Report – in Shanghai. *Shanghai Daily* July 2, 2007.

The millions of migrant workers enduring chronic underpayment of wages that leads to social turmoil is one of China's embarrassments.

The provisions

What are the provisions? Article 31 says wages for time worked have to be paid and on time. The new law ensures overtime and penalty rates are paid Article 32. Some 40% of overtime was not paid. The compliance with overtime is important to curb excessive hours, the pace of work and an easing up on exploitative work conditions.

The labor bureau can direct an employer to pay wages owed within a specified period, failing which an order for damages at between 50% and 100% of the amount outstanding can be made Article 85. The government policy is that employers have to take the new law seriously and they have to be punished efficiently if they do not pay wages. I advise reversing earlier abuses.

Liu Cheng said the policy was that migrant workers not being paid could now go without cost to a judge in a people's court for a speedy 'order to pay' Article 31. Formerly, the cost of application for the employee to get back wages, the long time taken, the legalities and pro-employer system meant the employers could violate the law. The policy is that these deficiencies are to end. Strategies that reduce the wages bill are to change.

The press reveal the labor administration department recouping huge amounts in unpaid wages.^{viii} It is not easy for them to change to ensure compliance. It requires more resources, more inspectors, and implementation of workers' interests.

Ross (2006:16) reports in the Pearl River Delta area 2 million migrant workers after going home for the annual Spring Festival failed to return because of the poor work conditions, a massive unorganised withdrawal of labour, a collective act of resistance.

Some employers had to advertise 'paying wages on time' and led to some wage increases. Wildcat strikes spread. The labor dispute settlement systems strained to respond to the huge number of grievances. They were prevalent from the high skilled workforce in IT, engineers, and white-collar university graduates. Ross (2006) recounts their stories - their dislike of the inadequate industrial relations system, their distrust of their companies, little loyalty with high turnover and mobility.

For Australian business, wages and penalties ought to be paid on time. Business has a responsibility to ensure their suppliers and contractors pay wages. The practice of hiding non-compliance deep in the sub-contracting chain where suppliers could not 'meet the bar' has to be changed, or the good brand is sullied. There will be pressure on competitors (often more exploitive) from Hong Kong, Taiwan, Korea, and Japan to abide by the minimums. International solidarity from NGOs and unions can assist in this campaign to overturn not paying wages.

Crack-down on bonded and forced labour

The press had exposes of Chinese worked as slaves. 'Shanxi Scandal Gives Urgency to Draft Labor Contract Law' is one example of the public debates.^{ix}

Chinese lawmakers deplored the forced labor scandal uncovered in north Shanxi Province and recommended that the top legislature urgently ratify the labor contract law and thus better ensure the legal rights of employees. The investigation found that 2,036 of the 3,347 brick kilns had been devoid of any legal licenses and collectively employed 53,036 illegal workers. (The story was exposed first by Chinese bloggers). This scandal had emphasized the needs for stronger protection of employees' legal rights. Items of the draft labor contract law could be applied to illegal labor cases such as the one in Shanxi. The forced labor scandal... sparked public outrage and grave concern among the upper echelons. The workers were treated as slaves, forced to work long hours without payment in brickyards, mines and other small works. Shanxi provincial governor formally apologized over the forced labor scandal, promising to use his full power to root out any more cases of such illegal practices.

Article 9 forbids employers when hiring to require employees to provide any surety. Nor can an employer collect property from the employee as collateral. The employer may not retain the employees' resident identification cards or other papers. Article 25 does not allow penalty clauses in contracts. Employers are prohibited from having a contract term making the worker pay a fine if in breach. However employers can recover training expenses expended from the worker leaving. Employers cannot limit employee mobility through the use of financial constraints, except, as we shall see below, in restraint of trade or non-compete clauses.

Government authorities promise crackdowns against these exploitative practices and to end forced or bonded labour, in its various disguises. International NGOs and unions can reinvigorate campaigns. The ITUC (2008:15) 'Forced Labour' section covers prison labour, labour in 're-education' camps and the trafficking of women and

children where the government promises action. It has not signed the ILO Core Convention on Forced Labour.

Minimum contracts deemed

A NPC survey found less than 20% of small-to-medium companies had signed employment contracts with their employees. When employees had grievances, the lack of written contracts made it difficult for their rights to be enforced in the courts either individually or collectively. As there was no proof of an employment contract, the bureaucratic labour administration and the judges' legal formalism ruled and the employer avoided liability to pay wages. Employer practice of deliberately avoiding responsibility was widespread through not having contracts.

Now employment contracts must be in writing. Failure to do so means the employer faces liability for double wages, Articles 10, 82. The new law deems a written contract to exist. The minimum content has to be in the contracts Article 17. Arbitration commissioners and judges have to rule that the labor law deems a contract to exist. Where the contract is invalid, the law sets out the way for determining compensation payable to employees and their minimum conditions. Comparisons locally or with regional government provisions and with collective agreements are used, Articles 10, 18, 28. We shall see whether the past narrow legal formalism, that did not assist employees, is over and at least the minimums (still very low) are paid.

The labor bureau can order damages if the employer refuses to comply. Many companies already have set up minimum contracts. Nonetheless, there are avoidance devices familiar to labour lawyers to define workers as not 'employees' but contractors.

The employer is not to deceive, coerce or deny workers' rights or to use violence, threats or unlawful restriction of personal freedom to compel a worker to work. The principles of 'lawfulness, fairness, equality, free will, negotiated consensus and good faith' are to now govern the conclusion of the employment contract. The new dispute resolution system is free, with tighter time-lines and employee friendly processes (see below 4.) The performance and amendment of employment contracts has a section.

Employer changes to work rules and union negotiation

The 2001 Labour Code had consultative rights for 'employee councils and assemblies' and the union on personnel issues in private and overseas companies. With co-partnership between management and the union hierarchy in the enterprise (more so in government), forms of consultation occurred over grievances. But there was no consultation where management dominated in non-union businesses and were hostile to unions.

In 2008, the employment contracts law states, Article 4:

Employer units shall establish and improve labor rules and regulations in accordance with the law to ensure that workers enjoy labor rights and discharge their labor obligations. Employer units seeking to formulate, revise, or decide on rules and regulations or significant matters that have a direct bearing on the immediate interests of their workers, such as those concerning remuneration, work hours, rest, leave, work safety and hygiene, insurance, benefits, employee training, labor discipline, and work quota management, shall determine the matters through negotiations conducted on an equal footing with trade unions or employee representatives, after employee representatives' conferences or all the employees have held discussions and put forward proposals and comments.

This rule is important to put in practice. Management has to have internal company work rules that are consistent with the employment contract laws. The work rules are discussed and negotiated with employees and the union. Chapter 5 Section 1 collective contracts require discussion and approval by employees. The union executes the contract. The Labor administrative authority has oversight, Article 51. If there is a breach, the union steps in, Article 55.

I advise that it is preferable to interpret 'negotiations on an equal footing' as 'consent' is required from employees and the union, rather than inadequate discussions. There is contest over the workplace practice in complying or not. The people's court may determine company rules as invalid due to not negotiating with the union. Consequently, genuine worker and union agreement is preferable. Workers should enjoy labour rights.

Short-term contracts end

Previously, many private companies enforced contracts with employees for less than one year and with the same workers four times in one year or as a casual. Casualisation is prevalent and abused, along with all the job insecurities. Workplace and social grievances and tensions erupt.

Employers in 2008 have to change to greater job security and to more secure permanent contracts. Over a period of time, short-term contracting and casualisation to avoid obligations such as accident pay, health benefits etc. will be reduced.

There are three types of contracts Article 12: fixed term Article 13, for the task or project Article 15, and open-ended contracts without a termination date Article 14.

Article 14 requires that after two short-term contracts, a permanent open-term contract must be signed. The third open-term contract provides for health insurance etc. The employer is now liable for severance pay of one month's pay for each year of service. The employer cannot change these fixed term contracts unilaterally, but by negotiation. It is compulsory for those employees with service of no less than ten

years, or who are ten years away from retirement to be placed on the more permanent contract. The social policy to protect older employees is put in place. The permanent contract is to be used when reemploying after a state owned enterprise is restructured. Job security reform is significant as the renewal occurs following the conclusion of a fixed-term employment contract on two consecutive occasions.

Employers are advised to minimise past restrictions on employees in individual and collective contracts. No doubt educated and informed Chinese workers will insist.

Regulate part-time and reduce casualisation

In China, as elsewhere, many companies use casualised workforces. Job insecurity, abuse and unfairness are rife. The demand to have more job security is pressing. New provisions (if implemented) may reduce long-term casualisation.

I am not sure of the terminology in the provisions that use the category of 'Part-Time Labor', a 'non-full-time engagement of labour'. This employment is remunerated by the hour. It is terminable at any time without notice or severance pay. The policy is that the terms of employment are restricted to its status, that of a casual. There is an average of four hours daily and 'the maximum remuneration settlement and payment cycle for part-time labor may not exceed 15 days.' Article 72

This looks like a legitimate 'casual' position, but termed 'Part-Time.' It is yet to be seen how this is to be implemented in practice, but the policy is clear to improve the conditions of the precarious workforce. We shall see if casuals are still used for the predominantly unskilled, but this may be risky legally.

We shall see if the mediation and arbitration processes assist in reducing casualisation.

Reforming labour-hire

Chapter 5 Section 2 Placement Contracts is key reform in staffing. Employers lobbied against this strong regulation of 'dispatch' employees. The abuses and the widespread use of 'out-sourcing' to the many labour-hire or dispatch companies are to end. The growth of labour-hire firms may be curbed. Employers now have to comply with dispatch requirements articles on staffing services 57 to 62, 66, and 67.

There are not financial reasons for management to outsource sections of their workforce and to replace them with cheaper 'dispatch employees.'

Article 57 requires dispatch employees from staffing firms to be hired permanently for not less than two years. There is a formal written contract with equal pay, the same rate and benefits as employees in the user firm in similar work Article 62. A minimum wage is paid even when not placed. The employee may join the user firm's union

Article 63. Restrictions are a prohibition on user firms 'on-selling' dispatch employees to other firms Article 62; labour-hire is to be implemented 'generally for short-term, supplementary and substitute positions' Article 65; and employers may not arrange to have staffing firms to place employees with themselves or their subordinate units, Article 66.

Liu Cheng comments: 'The employers say that this is very tough, but it is only a slogan. In practice, the assessment of discrimination will be difficult. But the tactics of labour-hire firms will not be as discriminatory.' He was critical of the details of the outcome saying it was not tough enough on employers.

Article 22 treats labour-hire or dispatch companies and user employers as joint entities. Company avoidance with legal devices to make it difficult to identify the employer and with mergers, transfers and outsourcing was prevalent, and reform was necessary. There are provisions protecting employee entitlements in a transmission of business, Articles 33. 34. (Cooney 2007).

Dismissals at will changes

Chinese employers and overseas corporations opposed reforms to give employees more fair play at termination. The policy is to move termination law away from dismissal at will. Managers have to ensure job security is put in place for employees engaged on an 'open-ended' regular basis. Chapter IV Dissolution and Termination of Labor contracts Article 39, 40, 42, and 44. Severance pay of one month's pay for each year of service is introduced. There are the costs of terminating employees, such as fines for illegal dismissal.

Dismissal is to be allowed only on specific grounds: such as by consent; being incompetent; for serious misconduct; incapacitated by non-work related injury; for mass redundancies (where there are substantive and procedural requirements), and termination by 30 days notice. An employer cannot dismiss for work related injury. Female employees are not to be dismissed for pregnancy. An employee with 15 years service and less than five years from retirement cannot be terminated.

The role of the union in the termination process is improved. Article 43:

Where an employer unit plans to dissolve a labor contract unilaterally, it shall give the trade union advance notice of the reasons. If the employer unit violates the provisions of laws and administrative statutes or the labor contract, the trade union has the right to demand that the employer unit take corrective action. The employer unit shall study the trade union's opinions and notify the trade union in writing of the outcome of its handling of the matter.

In Article 41, the social interests of workers are protected in terminations over 20. It gives priority to those with long service, those who are the only ones in their families

to be employed and whose families have a senior citizen or a minor who needs to be provided for. They have 30 days notice. The circumstances are explained to the union.

These regulations are an incentive for employers to use fair play on termination. Employers should not use avoidance tactics, such as forms other than regular on-going contracts. The new mediation and arbitration system may operate like an unfair dismissal jurisdiction – we shall see.

The cost for companies is severance pay of one month's pay for each year of service for most dismissals. Even with shorter terms, severance pay applies. If there is a breach, then the employer has to pay the penalty of double salary to the employee. In practice Liu Cheng believes the risk is great and the economic consequences significant, and that there will be compliance. The policy is that the previous employer who terminates meets some of the costs of one month's pay for each year of service. With increasing unemployment and the inadequacy of state provided unemployment insurance, such termination payments are fair and are intended to deter dismissal at will.

There will be some employers who use part-time and casual contracts, but most employers are moving away from putting many employees onto casual.

Project and short-term devices may be used, but this is risky. The policy is to deter 'rolling' specific task contracts. I argue the severance pay of one month's pay for each year of service applies to projects. There may be avoidance devices to construct employees into other forms of 'independent' contract labour, but again this is risky.

Fair probation

Workers can no longer be on long probationary periods. An employer may stipulate only one probation period with any given worker and not less than 80% of the local minimum. The new standards are: less than one year contract, less than a month probation; 1 to 3 years, 2 months; not less than three years, 6 months. Articles 19, 21.

Non-competition clauses

The employers' lobby changed earlier drafts detailing employer and employee obligations with a confidentiality clause, a non-compete clause for trade secrets or intellectual property. The employer may have a restrictive confidentiality clause with a professional or skilled employee or an employee who has the obligation to maintain the confidentiality of his employer's trade secrets and who leaves Articles 23, 24. Employers lobbied for this wide coverage of employees.

The employer shall pay financial compensation to the employee on a monthly basis during the term of the competition restriction after the employee leaves. If the employee breaches the competition restriction provisions, he shall pay liquidated

damages to the employer. There is less compensation for the employee affected, one month's salary rather than one-year. Geographic restrictions are dropped. The geographic extent of the restriction is a matter between the parties.

I do not know if judges in 2008 will strike down manifestly unfair or unreasonable non-competes, Cooney et al (2007).

As the Chinese workforce move into high skilled technology companies described by Ross (2006)^x, these restrictions protect the interests of existing employers, not the new technology companies. They will inhibit the movement of professional, skilled labour and any employee covered. Liu Cheng had criticisms not deal with here. The State Ministry of Labour and Social Security promulgates more non-compete rules.

OHS compliance

Press reports on workplace deaths in construction and mining and OHS breaches are frequent. China has an appalling health and safety record, with thousands of injuries and major OHS health problems for employees, despite the 2003 *Work Safety Law* allowing OHS work stoppages.

In 2008, OHS employee rights for a healthy and safe workplace are repeated. On hiring, employers have to answer employee OHS questions in Article 8.

HR management obligations are to allow employee and union OHS rights: Article 32.

Workers shall not be deemed to be in violation of their labor contracts if they refuse to perform dangerous operations directed in violation of rules and regulations or peremptorily ordered by management personnel at the employer unit. Workers have the right to criticize, report to the authorities, or file complaints against their employer units over working conditions that endanger their lives or health.

The government targets management practices flouting OHS. Orders are to improve compliance. The ACFTU in 2008 has a stronger OHS policy. HR has scope for best practice OHS, ensuring employee and union rights. At a minimum, the employee voice on OHS will be stronger.

Australia's OHS systems have much to offer China's work places. Australia can accept training of China OHS inspectors, OHS workplace delegates and management. The report of the New Zealand Council of Trade Unions education and training on health and safety in mining in China is shows collaboration. Australian unions can assist a democratic model with elected OHS employee delegates with powers for compliance and rights for prevention.

Other rights at work

A regulation stops the excessive employer rorting of their withholding and recovering of 'training monies' for off-the-job professional, technical training or vocational training when an employee leaves. The provision limits costs employers can recover and liquidated damages to be paid by the employee.

Provisions on employer legal liability are in section 7. Rights for an employee complaining about a violation are given. The union provides support. The Labor administration authorities, from the State Council and at the autonomous regional levels and local people's governments, step up compliance about these employment contract laws. Promulgations are at all levels of government.

In 2007, there were new laws regulating employment promotion (ITUC 2008:12). There are new sexual harassment laws in The Law on the Protection of the Rights and Interests of Women. For example, Guangdong Province explicitly requires employers to establish investigation and complaint procedures to protect women against sexual harassment. The regulations require employers to create secure safe work environments. The Professor of Law, Beijing University promotes these legal requirements and debates the processes for sexual harassment cases. This is an important social debate. The ITUC (2008) report has a section detailing the problems with gender discrimination, the lack of equal pay, not enforcing protections for pregnant employees, women first to be laid off, and discrimination against white collar and professional women workers.

I have not given an analysis of the employment contracts law, nor is this legal advice. The enhanced union role has been introduced. I now develop this further.

The All China Federation of Trade Unions ACFTU

The ACFTU is the one union allowed by law, organised nationally and in industry unions and hierarchically in each region, local area and city. ^{xi} Article 11 of the *Trade Union Law* states: 'the establishment of any branch whether local, national or industrial, shall be submitted to the trade union organisation at the next higher level for approval.' It is politically dependent on the CCP.

New legal union powers

Major opposition to the greater role for the union came from the China employer lobby groups and western corporations. This was against the draft bill requiring the employer to gain the 'consent' of the employees' representative works congress and the union to the changed company work rules. As we saw above, the law refers to 'negotiations' rather than 'consent'. But, companies still have to respect this form of workplace democracy.

In 2008, I advise companies to support the unions' stronger legal role. Article 78 says:

Trade unions shall safeguard the lawful rights and interests of workers in accordance with the law and oversee the execution of labor contracts and collective contracts by employer units. If an employer unit violates labor laws or regulations or a labor contract or collective contract, a trade union has the right to raise its opinions or demand corrective action. If a worker applies for arbitration or institutes legal proceedings, the trade union shall provide support and assistance in accordance with the law.

Unions are directed to protect workers' rights. Whether the ACFTU can better the bureaucratic labor regulatory agencies or whether worker activism over grievances will push the ACFTU in directions more independent of management and the state are debated.

The ACFTU is not the same as Western unions. The ACFTU is a large service organisation. It assists workers in health insurance and social security benefits in state-owned enterprises, senior citizen homes, housing, canteens, medical centres, kindergartens and public baths. 80% of union members in a poll in private companies on what it did well put cultural events, cinema tickets at the top and only 8% that the union fights for workers' wages and conditions. I stayed next to its Beijing multi-storied headquarters at 'The People's Palace' one of a number of its hotels.

It is the largest union in the world, with '193m members, aims for 10m more' *South China Morning Post* 15/3/2008, with more than 70% density, over one and half million enterprises. Union finance is guaranteed, as the enterprise is required by the *Trade Union Law* to submit 2% of monthly pay-roll. Membership went down with state owned enterprises shut or privatised and with anti-unionism in the large private sector, but back on the increase with organising drives.

Political force

The ACFTU leadership is a political force who lobbied for these labor laws. They organised submissions from workers with grievances, contested the debates, with information on the internet and in the public media and negotiated with the government on the details. Chan (2008):

Getting the new law passed involved a long struggle between the ACFTU on the one side, and pro-capital Chinese bureaucracies, powerful domestic and international capital on the other. The union leadership stood firm, and the new law has re-introduced some job security for the workers.

The ACFTU lines up with Communist Party policy as in the *Trade Union Law* 2001 and ACFTU Charter 2003. ACFTU officials are employed as civil servants and appointed not elected. The ACFTU's responsibility is for economic development. In enterprises, the union supports production and efficiency. Indeed, in many enterprises the union head is often at the top of management. Top union participation is stronger in state

owned enterprises, but is more in the private sector still aligned with corporate management. It is a concern that the union leaders are not just for the workers' interests, so workers lack autonomy.

This past ACFTU practice has been long observed. Ross (2006:70;128) is one example.

In the event of disputes, union stewards invariably took the side of managers. And for many unions, established simply to comply with the national labor laws, the firm's manager or deputy manager acted as the director of the union. Indeed, the tendency for employees to retain their compliant relationship with managerial authority was one aspect of the Maoist workunit (*danwei*) mentality that foreign companies were more than happy to inherit. Yet for many multinationals, even a compliant 'yellow union' of this sort was too much to contemplate.

Only a fifth of 400,000 companies had unions. 'Unions Fight for more recognition,' *China Daily* 14/9/2004. 'Some Transnationals Go Seriously Against Trade Union Law,' *People's Daily* 27/10/2004.

Chan (2000a) reported the experiences of many Chinese employees with workplace grievances of the ACFTU's inadequate resolution of their dispute.^{xiii} But Chan (2008):

The image painted of the ACFTU as a useless trade union is generally true. It often acts as if it is no more than a government bureaucracy, and in many places across China the local union officials too often side with capital and management. But this is not the full picture. After the turn to a competitive market economy began, some of its officials have tried to do union work using whatever space they can find. This, too, is the space that Chinese workers are using right now. And this is the space that we have to utilize.

Workers said to me the ACFTU was 'useless as a union'. When I put this to ACFTU officials they insist they do fight for workers. I received their priorities in 'The Blue Paper on the Role of Chinese Trade Unions in Safeguarding the Legitimate Rights and Interests of Workers (2005)'. I interviewed the ACFTU on their Wal-Mart success.

China Wal-Mart unionised first in the world

By 2004, the ACFTU was threatening to blacklist foreign firms that refused to allow unions in their Chinese plants. The list included names like Wal-Mart, Kodak, Dell, Samsung, McDonalds, and KFC. These companies, and many others were in clear violation of national labor law, which stipulated that any enterprise with more than 25 workers were required to establish a union. The notoriously anti-union Wal-Mart, with 190,000 employees directly on its mainland payroll (and untold others in sub-contracted companies producing for the retail giant) had been an ACFTU target since 2000. The retail giant held out in the face of widespread bad publicity for fear of setting a precedent that would encourage its 1.3 million workers in nine other countries. (Ross (2006).

In their suppliers it was worse, where the foreign corporates had 80% of their contractors flouting labor laws, not paying minimums and Wal-Mart was one.

The ACFTU's 'Grass Roots Organising Department' became active in recruiting and with strategies to empower local union delegates to be active in bargaining. There are debates working through changes to these contradictions between servicing and organising. The necessity to organise workers first is pressing.

Normally the ACFTU does not organise from the bottom up, as happens where unions face hostile management, but from the top - with management - down. Due to the hostile private sector responses, new organising practices developed in 2005-2006.

In a world first, the ACFTU unionised Wal-Mart with a bottom-up campaign. The virulently anti-union Wal-Mart had to obey the *Trade Union Law*. I reported 'How the Chinese unionised Wal-Mart' in *International Union Rights* for the International Committee for Trade Union Rights ICTUR. Then in July 2008 Wal-Mart accepted collective union contracts^{xiii}.

The ACFTU unionised Wal-Mart first, then onto other foreign enterprises. Workers have been able to form trade unions in less than 50 percent of the Fortune Global 500, now it will go up to 80 percent, *China Daily* 18/7/2008 Guo Wencai, director of the ACFTU department of grassroots organization and capacity building.

Top down management enrolling of employees in unions still occurs. More foreign companies approach the ACFTU for a unionised workforce whether at the national, regional, industry and city level. It is advisable for foreign corporations to reverse their anti-unionism. Overseas unions and NGOs can pressure companies for compliance. The ACFTU now invites international cooperation.

Unionising migrant workers

The ACFTU in 2008 lifts its organising to enrol migrant workers. They were erroneously not regarded as 'part of the working class'. In 2003 they were able to join the union. The ACFTU now links rural workers from the province they leave to the union in the coastal cities. It aims for 10 million new migrant members. A major injustice is that rural workers coming to factories on the outskirts of cities are not registered for city benefits. The ACFTU wants this long-standing disadvantage against rural workers removed, so all have the same health entitlements as city citizens. Organising migrant workers is more important than unionising Wal-Mart.

The enhanced union role to enforce work laws is significant. The ACFTU is pressed to improve litigation rights and are establishing 900 legal centres to assist grievances and disputes and resources to participate in the mediation and arbitration commission. Employees are complaining if the new work rules are inappropriate. The employer is

to respond to the complaint to make ameliorating amendments after consultation with their workforce and the union. If management ignores the local union, a higher-level trade union authority is involved. Employers can be punished if there is no consultation on new company work rules. Employees know if they are not being consulted. These rules may be later found to be invalid and not varied. The employer may not enforce the work rules if challenged in any arbitral proceeding. There are reports that these laws are being ignored, but it is too early to say they are a failure.

Collective bargaining increasing

Union rights for collective agreements that previously were not extensive in the private sector are growing, as the skilled and professional workforce organises for their rights and seek higher wages in the cities with consumer led demands.

The collective contracts signed reached 862,000 in 2006, an increase of 14.3% over 2005. These contracts involved 112,455 million workers, some 58.6% of workers in all enterprises. Many collective contracts however reflect the minimum requirements. In 2008, the ACFTU works for more collective contracts above the minimums. The law urges union collective consultation rights for collective contracts higher than the minimum wages and conditions. Pattern or industry bargaining is encouraged.

Industry-specific or area-specific collective contracts may be concluded between representatives of trade unions on the one hand and of enterprises on the other hand in such industries as construction, mining, and catering services in areas below the county level.
Article 53

Greater consultation is required with the elected Staff and Workers Representative Congresses (SWRC), where they exist, Chan (2008).

Overseas unions are able to assist with empowering union representatives and how to bargain collectively. Verite 2007, an NGO auditing body has expressed past frustration in CSR monitoring and in favour of union monitoring.^{xiv}

The Hong Kong based *China Labor Bulletin* (critic of the ACFTU) now urges co-operation.^{xv}

... with the implementation of the Labour Contract Law we....believe multinationals will be best served working directly with local branches of the ACFTU. Factory-level unions are legally empowered and encouraged by the government to negotiate collective contracts and we believe the time is right for the union to engage in genuine collective bargaining rather than the largely pro forma "collective consultations".

While acknowledging the importance of codes of conduct and social accountability standards, we believe the collective contract has the three advantages over them:

- Since the collective contract is legally enforceable, Chinese supplier firms are obliged to adhere to its provisions, and this gives multinational buyers a more effective guarantee that

they can fulfill their social accountability goals.

- Being formulated on the basis both of Chinese law and of the specific circumstances of individual Chinese enterprises, the collective contract better reflects the wishes and aspirations of both workers and management in the supplier factories, and is therefore a more targeted and effective tool.
- Since the workers' own elected representatives participate in the design and drafting of the collective contract and directly supervise its implementation, the contract can be more readily and fully implemented. From the corporate social accountability perspective, the collective contract system serves the following three functions:
 - It converts the code of conduct from being a moral or ethical standard into a legal standard, and thus transforms the employer's moral responsibility into a legal obligation.
 - It turns the code of conduct - a "foreign imported" standard - into a set of rules that is based on Chinese law and takes into account the specific circumstances of Chinese supplier firms.
 - It changes the status of workers from that of observers or onlookers into being direct participants in, and supervisors of, the labour standards process.

China Labour Bulletin director, Han Dongfang, has not done an about-face on the question of engaging with the ACFTU.

Indeed, with the implementation of the Labour Contract Law we believe the prospects for the development of collective contracts in China are greatly enhanced. ...we are encouraging multinationals to put pressure on the ACFTU branch unions at their supplier factories to negotiate a collective labour contract on behalf of the employees. This will then put the onus on the ACFTU to show whether or not it is really committed to promoting collective contracts to defend workers' rights. Transforming the ACFTU into an effective bargaining agent for workers will not be easy.

The ACFTU wants in 2009 in a separate Chapter on Collective Bargaining, with democratically elected workplace union committees with collective bargaining rights. The practice of successful collective bargaining comes first. Liu Cheng:

Progress is step by step. Change is over many years. Same with the unions. They have to change in practice. Union work has to change in practice and then the laws will develop. On collective bargaining, there are more collective agreements, but too often only copies of minimums and not improvements. This is the next step. Workers have to learn in practice better collective agreement making. There is the issue of better rules for the method of election of candidates in the enterprise, so reform of the process is fairer.

GLS argues for rights for collective bargaining at a local level.

The right to elect union officials and representatives nominated by workers themselves. ... this has happened with the acquiescence of the ACFTU in a few supplier plants of foreign companies. Elections do not guarantee good unions but they are a fundamental prerequisite to legitimacy. Managers must be barred from holding union office.

Protection from reprisals by management or union officials for carrying out legitimate union activities such as collective bargaining or grievance handling. Union activists should not be threatened for

carrying out their duties.

The right to ratify contracts. Workers should have the right to examine, debate, and vote on any collective contracts.

Resources to maintain a functioning union at the local and industry level. No union can survive without resources needed for grievance handling, court challenges, collective bargaining, and staff and member education programs. Stewards and local union officials need training and reasonable time-off to conduct union business. The ACFTU receives 2% of the payroll. This should be distributed fairly at the local level.

No firings for strikes or protests. There is no right to strike in China, but tens of thousands of strikes occur each year. Foreign firms and their suppliers should pledge to bargain in good faith, respect the right of workers to refuse to work when bargaining breaks down, and to not call the cops to end stoppages.

Unions and other supporters of international labor rights can play an important role in persuading foreign corporations to protect workers in their own and their subcontractors' facilities in China. Without demonstrating that they are insisting on such protections, all their claims of corporate responsibility will be dubious at best.^{xvi}

Union workplace delegates

Chan (2008) reports on more grass roots union activities:

...(from the blogs) In one Wal-Mart store, the elected union chairman has been fighting and bargaining with Wal-Mart management over a number of issues for the past one and a half years. Each time he ran into difficulty, he got support from the ACFTU in Beijing to override the decisions of the pro-business city level union. Most of the 140 blog entries from Wal-Mart workers all over China hail this Wal-Mart branch chair as their hero and their trade union leader! Perhaps this kind of blog is nothing new in America, but for China this kind of spontaneous trade union activism is unprecedented.

Through China's mass media, including the union newspaper *Workers Daily*, Chinese workers are very much aware of the struggles in setting up these Wal-Mart trade union branches. The precedent can become infectious. There are some known cases of workers making applications to set up workplace union branches, and to recall union executive committees that are under the thumb of management.^{xvii}

Chan (2007) recounts progressive HR in Reebok encouraging workers' empowerment through elected union representatives. Essentially this was to replace company nominated union chairs of workplace committees with democratically elected representatives trained and confident to play a role in workers' rights. Chan (2008) sees limited successes but ultimate failures as eventually the enterprise union committees were under management control.^{xviii} Many in the ACFTU argue to train delegates in workplace rights and support for trade union democracy (Wang 2003). There is union push for amendments to the *Trade Union* law to ensure enterprise

union committees are elected by the employees without management involvement. In Guangzhou, at the urging of local ACFTU officials, an ordinance became effective on January 1, 2008, banning managers from holding union office. And in Hebei a new rule promoted by the regional government to promote collective bargaining will require democratic elections for worker representatives to bargain in workplaces without a union and more input by workers in the selection of union representatives in workplaces with a union.

Union engagement

Chan (2008) says the ACFTU leadership has little experience with hostile capitalist management.

Foreign trade unions have a wealth of experience that could help the ACFTU organize real union branches in such factories. ...the ACFTU is now much more willing to reach out to foreign trade unions, and the unions of various European countries have been increasingly active in China. The Beijing Municipal Trade Union has received collective bargaining training sessions in Canada from Canadian unions.

Contacts with foreign unions can change the Chinese union federation's ideas about trade unionism and collective bargaining, as has been the case with the Vietnam General Confederation of Labor...So what should we do regarding China? We can either work from the top with the ACFTU, or from the bottom with the grass-roots worker groups that are emerging in China. It is your choice or the choice of your organization.

What are the limitations? The ACFTU is the union monopoly. New trade union branches in enterprises are part of the ACFTU. No independent unions are allowed. The ITUC (2008:7) reports Chinese labor activists being imprisoned for 'obstructing public officers' during strike protests and for trying to have independent unions. The ITUC argues China breaches ILO Conventions no 87 *Freedom of Association and Protection of the Right to Organise* Convention and no 98 *Right to Organise and Collective Bargaining* Convention. The report *Play Fair 2008* found companies producing goods for the Olympic games had serious violations of labour laws.^{xix}

These breaches of ILO labour rights are debated. The ACFTU's participation in the ILO is under review. Resolution of such issues for China cooperating with international unionism proceeds as it did in the corporate world. Even with China not allowing 'free unions', their 2008 labour reforms opens up room for change. We are unlikely to see a conference on workers' rights cancelled on the eve of AFL-CIO President Sweeney's visit, as happened in December 2004. The AFL-CIO in 2007 charged China under the WTO for protectionism due to the low wages and violation of labour rights and argues for 'free unions.' The AFL-CIO deals informally with the ACFTU, but some are still in the 'cold-war anti-communist' era. Foreign unions engage with the ACFTU, e.g. the US 'Change to Win' unions (split from the AFL-CIO), the SEIU and Teamsters.^{xx} The ITUC is yet to accept affiliation of the ACFTU,

but long before time, formal engagement opens up in 2008.^{xxi} International co-operation builds strategies for workers' interests under globalisation. The ACFTU hosts conferences with the World Federation of Trade Unions WFTU. They gave me papers from the 'International Union Forum on Economic Globalization and Trade Unions' in Beijing 2006, with John Sutton CFMEU Secretary speaking.

Avoidance or compliance?

Labor administration strengthened

The state apparatus at all levels has stronger compliance powers. Whether they employ sanctions against businesses in breach will be seen. The labor administration departments are to ensure improved investigation, supervision and inspections of companies. Cooney (2007b) details inadequacies in bureaucratic (non)implementation of earlier workplace rules. With inadequate numbers of labor inspectors, compliance will develop slowly. And in some local sectors politically attracting investment is the priority and with corrupt practices to not enforce the laws.

The government is promoting the rights and educating employees. At the factory level workers are talking about their new rights. The policy is to change employer behaviour and a reversing of exploitative practices of the capitalists with 'dark minds', as Liu Cheng calls them.

Employers in breach face increased costs. Liu Cheng on compliance:

In the past, the cost of violating labour laws was very low, but now the cost is higher, so most employers will not prefer to violate the labour laws. ... This is a strong national law, but also at the regional and local government level, there has to be enforcement. At the moment, there is publicity on the new laws and I think nearly all employers will see the cost will be much higher and the local authorities have to comply.

Minimum compliance

There were differing employer reactions. Many go along the lines of do not do much. There has been little compliance before, so there is no risk if an employer ignores the new requirements. This premise is risky.

Most companies respond by putting in place resources for revised internal policies, rules and practices that conform to the requirements. Effort has to be made for the employees and their union to be effectively consulted on rules and collective agreements. Employees are to be treated fairly with respect and dignity.

The opportunity has opened up for human resource management to focus on keeping up with strategies for a high corporate social responsibility assessment. Chan (2007) paper canvasses past attempts that were not really successful. Now employers can

implement practices to not only have their employees enjoy these employment entitlements, but also to do better.

Global corporate leaders strive for socially responsible investment with codes of conduct that responds to the global warming and sustainability. Now corporate leaders have good standards for complying with labor laws, rather than widespread flouting practices.^{xxiii} One initiative is international framework agreements (IFAs). In contrast to traditional corporate codes, IFAs are instruments negotiated with global trade unions. The purpose of IFAs is to conduct global social dialogue between the multinational and the representatives of employees – that is, both where the firm is headquartered and where it operates. IFAs comply with International Labour Organization labour standards.^{xxiii} Innovative strategies for union collective agreements can be made in China with their labour laws.

I now canvass company reactions. Lawyers for global companies during the debate on the bill feared a heavy burden. 'It will be more difficult to run a company here,' Baker & McKenzie employment law for the US's biggest corporations in China. Lawyer Mary Margret Utterback days before the law's passage.

The law is likely to increase the cost of doing business in China. Larger companies will feel the need to have human resources capability in-country. Severance payments, non-compete payments, and the decrease in probationary period length will all increase the employer's labor costs. The undefined role of the labor union may complicate the relationship with management. The ambiguities for justifying a lay-off may also result in increased costs to the employer. Beijing may decide that this is an appropriate time to send the message internationally that the PRC takes labor conditions seriously.^{xxiv}

The pressure is on MNC's to see their Chinese suppliers comply. Liu Cheng:

I think that the multi-national corporations will be compelled to enhance their purchase price, otherwise most of their Chinese suppliers could not afford to comply and became sweat-shop producers, but this will now change.

Chan (2007, 2009) and others criticised CSR auditing' of suppliers, with devious methods to avoid regulations, the falsification of records and bribery. Corporates are revising their audit practices for compliance.^{xxv}

European HR managers and other employer associations say they can comply. Their cost increases stay within a controllable range. 'China's rising labor costs bode well for some big manufacturers' the *Wall Street Journal*, January 25, 2008 report that smaller firms exploiting workers will either have to comply or leave.

Avoidance

This legal advice for corporations was to look at avoidance strategies.

On June 8, 2007, a lawyer representing numerous global firms “promoted using an offshore arbitration clause...” his firm had a high rate of success in getting foreign business-to-business arbitration awards enforced in Chinese courts. For years global corporations have been moving their operations to whatever country offered the weakest labor and environmental regulations....lawyers respond by drafting contract clauses that ship the dispute to business-friendly shores.

Compliance was contested just prior to the laws operative date 1 January 2008. Huawei is an example of avoidance tried, but reversed.^{xxvi}

Huawei agrees to suspend controversial employment scheme after union talks
www.chinaview.cn 2007-11-10. BEIJING. China's Huawei Technologies Co. Ltd has agreed to suspend its controversial "voluntary resignation" scheme after talks with trade unions.

The ACFTU called on China's biggest maker of telecommunications network equipment to protect workers' interests after its plan sparked fears that the company was trying to sidestep a new labor law. The ACFTU called on Huawei to solicit workers' opinions and respect their rights...The company agreed to suspend the plan...

Huawei initiated a plan, calling for its staff who have worked for eight consecutive years to hand in "voluntary resignations". The staff would have to compete for their posts, and sign new labor contracts with the firm once they were re-employed, while those who lost out would receive compensation.

Officials with the Shenzhen Federation of Trade Unions met with Huawei and the two sides reached a consensus on three issues:

- The company needed to create a welfare system to guarantee the workers' benefits and rights and in return, the trade unions supported the company's reform and innovation to unite the workers for the company's future development.
- The company needed to abide by the law, and to solicit workers' opinions and negotiate with trade unions while making regulations related to workers' rights and benefits.
- The company needed to consult with the workers on an equal basis while making contracts for workers' pay, workings hours, vacations, work safety and insurance.

Critics said Huawei was making a last effort to avoid signing open end-of-labor contracts with its employees through "voluntary resignation" before the new labor contract law came into effect on Jan. 1, 2008. Under the law, employees who have worked for an employer for ten consecutive years are entitled to sign a labor contract that has no fixed term, on agreement by both parties. The new law meant these "veteran" workers would become "permanent" employees, except in circumstances of willful resignation or retirement.'

Global Labor Strategies November 2007 gave a similar account in 'The Battle for Labor Rights in China: New Developments'. Many firms engaged in similar practices to position themselves for life under the new law, but now have to comply.^{xxvii}

It's not just Chinese owned firms. Wal-Mart has come under scrutiny in the Chinese media for some staff reductions. Wal-Mart said that the reshuffle of its employees is not aimed at the

new labor law. ...but more than 100 employees had been laid off, including 40 in Shanghai and 60 in Shenzhen.

Public opinion was not fooled, despite efforts to mask the layoff programs like Huawei as legitimate corporate restructuring schemes. The on-line news service China.org reported:

A survey, organized by the Investigation Center of *China Youth Daily*, shows that 42.7 percent of the 2,212 interviewed applaud Huawei's staff reforms, while 57.3 percent do not....opponents consider this a display of capital power, because "the employees working more than 10 years at Huawei are the backbone of the company, and they are the most important for the survival of the enterprise. Huawei's attitude toward its 'veteran' workers will definitely make the company less attractive to talented professionals." '.... 87.4 percent of the respondents believe the new law does not provide excessive protection for employees, while 69.4 percent think the protection is not enough. Nearly 70 percent feel that employees don't have the power necessary to protect their rights.

Warnings

After the Huawei controversy, the government warned both Chinese and non-Chinese companies on compliance to pre-empt evasive actions. The *China Daily* reported Chang Kai, from the Legal Affairs Office of the State Council warning the companies to study the law properly before initiating a move against it.

The national and local legislatures, the State Council and government agencies will soon issue judiciary interpretation and guidelines to stop employers from trying to dodge the law. A firm will be seen as trying to dodge the law if it prompts mass resignation, *21st Century Business Herald* quoted him as having said. And violators will have to pay a heavy price.

Cost increases

Auret van Heerden the CEO of the Washington, D.C. based *Fair Labor Association*, (14/2/08) has some pertinent observations.^{xxviii}

One issue is the cost increases, with rumours as high as 40%. The new mandates have also hiked labor costs. Taiwan is rife with anecdotes of smaller Taiwanese manufacturers who have seen margins squeezed to the limit because production costs on the mainland are now higher.

...the 40% is an exaggerated number that lumps together several things. Wage rates are also going up because labor markets are tight; Sure, you're going to have to register a lot of workers now, pay the minimum wage, and give benefits. But this will lead to a much more stable and productive workplace. Before, in some places we've seen 100 percent labor turnover per year. We've never captured the costs that entails in training. Firms have been bleeding ridiculous amounts of money because they've had such an unstable workforce.

...the government wants to promote high value-added production, and they don't think

China's economic future lies in low-cost assembly.

The government saw very obvious signs of discontent and unrest. For example, mines and construction sites have been getting a lot of attention for several years now. They realized the sources of the discontent: the cleavage between urban and rural, employed and unemployed, the domestic versus the export sector ...and the problems where workers were clearly being abused. All of this represented a source of social instability, and I think they just decided they couldn't afford it. So they decided to get at one root cause: the lack of contracts.

Other reports argue 'companies should move to improve workers' welfare not because the Chinese government is pushing it, but because the country's labour market demands it'.^{xxix} On compliance, an interesting observation from *Fair Labor*:

...it doesn't rely only on outside labor enforcement. Once you've got a written contract, there are all sorts of avenues open to a worker: the labor department, labor tribunals, or through other grievance mechanisms. So what you're seeing here is a change of approach where the government is saying, "We'll create a proper contract between workers and employers and give workers the means of enforcing their own contracts." The effect has been immediate.

There have already been strikes about it; there have been employers who have panicked about the commitment the law would require, so they've tried to lay off or outsource workers. The workers struck, saying, "No, we're not going to accept that." There have been a couple of high-profile cases of strikes against dismissal involving Hong Kong-listed companies. Take the richest woman in China [Zhang Yin, CEO of Nine Dragons Paper], who owns a huge paper company. She tried to outsource guards and security cleaning services, and didn't want to give contracts. The workers struck. It's been an emblematic case: if one of the richest and most powerful businesswomen in China couldn't sidestep the law, it's a good indication of the signal the government wants to send.

Here the right to strike is supported against employers who avoid the labor laws. This may be one situation where workers have the right to strike in practice. These new labor laws did not alter the position that there is neither a lawful right to strike nor for strikes to be unlawful. My report cited in the *China Biz* news 'The social agenda: collective bargaining but no right to strike'^{xxx} is in 2008 not the full picture. Industrial action against breaches of OHS and over worker entitlements is tolerated and at times those strike organisers are praised in the media for standing up for their rights.

By defining rights that employers try to evade or repress, the new system leads to workers demanding implementation of the rights that they have been told they have. This rule of labor law may answer the concerns of Will Hutton (2006) *The Writing on the Wall. China and the West in the 21st Century* (Little Brown) arguing for a form of 'western enlightenment rule of law' as one of China's challenges.

I now reproduce the new dispute settlement law.

The mediation and arbitration system

First, there is Chinese tripartism. Article 5 in the employment contracts law:

The labor administrative departments of people's governments at or above the county level shall, together with trade union and enterprise representatives, establish a sound tripartite mechanism for coordinating labor relationships and jointly study and resolve major issues concerning labor relationships.

This is again in the disputes settlement law Article 8 to establish 'a tri-party labor mechanism for coordinating the labor relations, and jointly study and address major issues related to labor disputes.'

The Labor Settlement Disputes bill, 'Mediation and Arbitration of Labor Disputes' was submitted to the National People's Congress on August 26, 2007 and debated. On December 29 2007, President Hu Jintao made the Order (No. 80) that was adopted at the 31st meeting of the Standing Committee of the Tenth National People's Congress and was effective May 1, 2008. I reproduce the sections.

The aim and what labor disputes are covered.

The government had concerns on increasing labor disputes.

Labor dispute arbitration organizations at various levels dealt with 1.72 million labor dispute cases involving 5.32 million employees from 1987 to the end of 2005, with a growth rate of 27.3 percent annually. *China Daily* 25/10/2007^{xxxi}

The aim is to 'impartially and timely settle the labor disputes, protect the legal rights and interests of the parties, and promote the harmonious and stable labor relations.' Article 1. Article 2 shows the scope arising between an employer and an employee.

(1) the confirmation of a labor relationship; (2)'...the conclusion, performance, modification, rescission or termination of a labor contract', (3) A dispute arising from the removal or layoff or the resignation or retirement of an employee; (4)...from the work hours, breaks, vacations, social insurance, benefits, training, or labor safety; (5) or...from the labor remunerations, medical expenses for a work-related injury, economic indemnity, compensation, etc.; or (6). any other labor dispute in administrative regulations.

Legal devices to define employees outside of the employment relationship as 'contractors' no doubt will be used to avoid this dispute resolution scope.

I go through Chapter II Mediation; Chapter III Arbitration; Section I Common Provisions; Section II Application and Acceptance; Section III Tribunal Hearing and Awarding; Chapter IV Supplementary Provisions.

Fair play principles are promoted in Article 3. A labor dispute is settled 'on the basis of facts and on the principles of legality, fairness, timeliness and emphasis on

mediation so as to protect the legal rights and interests of the parties’.

An employee has a right for union representation, Article 4. There is a right to mediation if local enterprise consultation fails, then to arbitration and then on appeal to the people’s court, Article 5. Article 6 says an employer, who controls the evidence shall provide it.

In Article 9 where an employer delays paying or fails to pay in full wages, or delays paying the medical expenses for a work-related injury, economic indemnity, or compensation, ‘an employee may complain about it to the labor administrative authority’, that must act. The granting of final decision-making powers to arbitration committees is in three cases: disputes over labor payments, workplace injuries, compensation and pensions; disputes over holidays and social security; and disputes over collective contracts.

Speedier

The policy aims to shorten the time taken to settle labor disputes and cut costs. Under the former system companies gamed the system by delaying proceedings. According to the *Beijing Review*: cited in *Global Labor Strategies*.^{xxxii}

Against a backdrop of intensifying tension between labor and management, people have begun to question the 20-year-old arbitration solution. The major complaint is that it takes a long period to reach a verdict...The confirmation of employment relations and the appraisal of work injuries usually have to be conducted several times between arbitration and trial, which explains why in some extreme cases the whole process has taken 19 years. The biggest victims of these slow procedures are usually the employees, who often badly need compensation from their employer for medical treatment or simply to buy food and other necessities.

Many legal experts and senior lawyers have expressed worry that arbitration more often than not will give a verdict favoring the interests of management and sometimes this is a result of bribery. In other cases, the arbitration committee, which is heavily influenced by the government, will refuse requests for arbitration from employees under the government call for creating a favorable environment to attract investment. Such a response has also eliminated any judicial means for workers to safeguard their interests.

Chinese labor scholars and the industrial relations community fiercely debated the details. Cooney (2007: 419) recounts professors of labour law criticising arbitration for not being able to move beyond the ‘command and control’ system. It was not working in the capitalist sectors to rectify abuses of workers. Much arbitration as in underpayment of wages cases was biased towards employers and with holes for avoidance tactics. The professional worker able to be confident to use the system and pay the expenses and lawyer costs to enforce orders was more successful.

Group labor disputes

Labor law Professor Chang Kai at Renmin University Beijing criticised the first draft for solving only individual labor disputes, rather than China's existing realities, where 60% of disputes are collective. He argued: 'If the law remains focused on solving individual labor disputes, in 10 years we will have many problems that cannot be solved under the current legal system.'

The new law provides: 'Where a labor dispute involves more than ten employees and the employees have a same claim, they may recommend their representatives to participate in the mediation, arbitration, or litigation.' Article 7.

It is difficult to see this as a satisfactory process for group labor disputes.

Mediation

- (1). Labor dispute mediation committee of an enterprise;
- (2). Grassroots people's mediation organization legally established; and
- (3). Organization with the labor dispute mediation function established in a township or neighborhood community.'

Enterprise labor dispute mediation committees have the employee representatives members of the trade union and or persons recommended by all employees. Enterprise representatives shall be designated by the person in charge of the enterprise. The chairman shall be a member of the trade union or a person recommended by both parties. Article 10.

'A mediator...shall be an adult citizen who is fair, decent, connected with the people, and enthusiastic for the mediation work and has a certain level of knowledge of law, policy and culture.' Article 11.

It is easier for the employee, with a verbal application allowed, Article 12. Processes for the mediator in Article 13 and the making of a mediated agreement Article 14 and time lines. E.g. if there is not a mediation agreement within 15 days, a party may apply for arbitration or Article 15 if 'one party fails to execute the mediation agreement within the period of time prescribed in the agreement...'

Article 16 employee can apply to the people's court for a payment order based on the mediation agreement where it is reached on 'delayed payment of remunerations, medical expenses for a work-related injury, economic indemnity, or compensation, and the employer fails to execute it within the period of time prescribed.'

Chapter III Arbitration

In Article 17, the people's government of a province or autonomous region has to establish in cities and districts and counties and municipalities directly under the Central Government labor dispute arbitration commissions. The labor administrative authority of the State Council makes arbitration rules, Article 18. The arbitration

system is reformed depending on locality and politics. The former arbitration personnel resisted change.

Article 19 establishes the labor dispute arbitration commission, with representatives of the labor administrative authority, of trade unions and of enterprises and describes the functions. The panel of arbitrators, Article 20:

An arbitrator shall be fair and decent and satisfy any of the following requirements:

- (1). Once serving as a judge;
- (2). Engaging in legal research or teaching work with a professional title...;
- (3). Having knowledge of law and engaging in human resource management or trade union or other professional work for five years; or
- (4). Having practiced law as a lawyer for three years.

Article 21 the hearing place favours the employee. Article 23 third parties with an interest relationship with the results may participate and Article 24 with agents.

A laborer that has lost full or partial civil capability shall participate in arbitration activities by his legal representative ...or an agent... Where the laborer has died, his close relative or agent shall participate, Article 25.

Cases are conducted openly. Exceptions are 'unless the parties agree not to conduct openly or state secrets, trade secrets or personal privacy is involved.' Article 26.

Process requirements

The time limit for application for arbitration is one year, except for employees where a dispute arises within the subsistence of labor relations due to labor remunerations in arrears. Article 27

The application is in writing, with details of claims, facts, respondents, witnesses etc, but where an employee has difficulty in writing then verbally is allowed, Article 28.

There is five days for the arbitration commission to indicate whether the application is to be heard; if this is not done, shall, within five days of receipt of the arbitration application accept the application, the applicant may initiate litigation to the people's court. Article 29

Article 30 has the time-lines for service of documents 5 days, statement of defense within 10 days, then given to applicant in 5 days etc.

Article 31 provides for three arbitrators and a chief arbitrator. One arbitrator may arbitrate simple labor dispute cases. The commission has five days to inform of the composition of the arbitral tribunal in writing Article 32.

Article 33 and 34 may correct some abuses.

Where an arbitrator is under any of the following circumstances, he shall withdraw...:

1. he is a party to the case or a close relative of the parties or agents;
2. he has an interest in the case;
3. he has other relations with the parties and their agents which may affect fair award;
4. he has meetings ...without authorization or sends gifts to the parties or agents.

Where an arbitrator...accepts a bribe, practices graft or perverts the law, he shall assume legal liability ...and the labor dispute arbitration commission shall dismiss him. Article 34

'The arbitral tribunal shall inform both parties of the date and place of hearing in writing five days before the hearing', Article 35. Article 36 deals when parties are not present. Article 37 deals with verification required for specialized issues. Article 38 gives the right to cross-examine evidence.

Article 39. 'Where the employing unit fails to provide such evidence within the prescribed time limit, it shall assume the unfavorable consequences.'

Article 40 is the written record of the hearing. Article 41 the parties may settle on their own. Article 42 'The arbitral tribunal shall mediate before making an award.' Where an agreement is reached after mediation, the result shall be sealed and served.

Arbitration occurs within 45 days of the acceptance of the application, Article 43. Extensions are covered for 15 days. If no arbitral award is made after the time limit, the parties may initiate litigation to the people's court.

Article 44 ...cases for the claim of labor remunerations, work injury medical expenses, economic compensation or damages, the tribunal may... make an award on advance execution and transfer to the people's court for execution. ...when 1. there is a clear relation of rights and obligations between the parties; and 2. if there is no advance execution, the living of the applicant will be seriously affected.

Article 45 Awards can have minorities recorded or if not agreed the opinion of the chief arbitrator. Article 46 requires award details.

Article 47 ...the arbitral award shall be final and ...shall have legal effect from the date of making unless otherwise stated:

1. disputes in relation to the claim of labor remunerations, work-related injury medical expenses, economic compensation or damages which do not exceed the local monthly wage standard for an amount of 12 months;
2. disputes arising from working hours, rest days and leave days and social insurance.

Article 48 allows the laborer with objection to the arbitral award to initiate litigation to the people's court within 15 days.

With Article 49 employers apply for revocation of an award to the people's court within 30 days where regulations are in error; there is no jurisdiction; proceedings are violated; evidence is forged or concealed; the arbitrator accepts bribe, practices graft,

and perverts the law and other processes. The parties with objection to the arbitral award can go to the people's court within 15 days of the receipt of the award, Article 50. Article 51 '...If either party fails to perform within the time limit, the other party may apply for execution to the people's court...'

These are the legal frameworks, at the beginning in May 2008.

5 Australia

I support these reforms as long overdue to start to address exploitation and to improve rights at work. They are beneficial to China's workplace system for the interests of employers and employees.

Australia, after the great strikes and lockouts of the 1890's, in our Constitution turned to conciliation and arbitration to prevent and settle disputes. The ghost of Judge H. B. Higgins may be shaping China's labor reforms!

Australia's democracy in 2007 decisively rejected Howard's *WorkChoices*. It provided less protection for Australia's vulnerable workers, no mediation and arbitration of disputes and fewer bargaining rights than these Chinese reforms.

In Australia, the politics of PM Kevin Rudd and the China question is of importance and to be paid close attention. Compliance for these labor law reforms is one issue for an *Australia-China Free Trade Agreement*. (See AFTINET www.aftinet.com.au for policies for fair trade.)

Australia and China's labor law reforms have different social, workplace and political ideologies. Nevertheless, our debates and contests over workplace strategies are reasons to participate and compare rights at work.

China's reforms afford some workplace social justice. It will be interesting to see if Australia's new *Fair Work Australia* will afford as good a protection for Australia's precarious workforce, enhance the unions' role and ensure fair rights for collective bargaining. Liu Cheng: '...in the long run, companies good will towards the workers, will mean they can maintain their profit making process, otherwise they should pay the cost of turmoil or instability.'

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Further references from whitecd@velocitynet.com.au July 20 2008

ⁱ This paper for AFTINET www.aftinet.org.au develops my April 2007 *Evatt Foundation on-line* reports: 'China's New Labour Law The challenge of regulating employment contracts. China moves beyond *WorkChoices*,' <http://evatt.labor.net.au/publications/papers/193.html>. My interview with the ACFTU

'Organising China's Wal-Mart' *Evatt Foundation*

<http://evatt.labor.net.au/publications/papers/194.html>. For the legal analysis of 'China's New Labour Contract Law' Sean Cooney, Sarah Biddulph, Li Kungang, and Ying Zhu (Cooney et al 2007) the UNSW Law Journal vol 13 no 2 /11/2007. Fang Lee Cooke 'The Changing Dynamics of Employment Relations in China: An Evaluation of the Rising Level of Labour Disputes' *Journal of Industrial Relations*, volume 50 No 1 February 2008. For Global Labor Strategies reports http://laborstrategies.blogs.com/global_labor_strategies/china/index.html

ⁱⁱ Cooney S (2007a) 'China's Labour Law. Compliance and Flaws in Implementing Institutions.' November 2007 *Journal of Industrial Relations* volume 49, number 5, Page 673. Cooney S (2007b) 'Making Chinese Labour Law Work: The Prospects for Regulatory Innovation in the People's Republic of China' 30 *FORD HAM INTERNATIONAL LAW JOURNAL* 1050, 1081-1086. He analyses the failures of China's workplace regulatory scheme; the complex 'bureaucratic command and control' system; inadequate compliance; dispute resolution system not working; lack of clear legal norms. He focuses on underpayment of wages; the failure of the 2003 legal rules; and proposes reform proposals with comments on the draft Employment Contract Bill; specific innovative regional workplace regulation; and the debates on this new national law. White, C 'Labor Law Challenges for Australian Companies in China' *Legalwise Law Conferences*, Melbourne, 21/5/2008, Sydney 1/8/08. Rolf Geffken (2006) *Labour and trade unions in China* (European Trade Union Institute for Research, Education and Health and Safety). Kan Wang (2007) *A Changing Arena of Industrial Relations in China What is happening after 1978* Renmin (People's) University of China, Beijing.

ⁱⁱⁱ I cite the Report by the International Trade Union Confederation (ITUC 2008). 'Internationally Recognised Core Labour Standards in China Report for the WTO General Council Review of China Trade (Geneva, 21 and 23 May 2008). This is the world union's criticism of China not abiding by core ILO rights for freedom of association and free unions and collective bargaining with the right to strike. The executive summary says: 'A new labour contract law, providing specific penalties for failing to observe labour laws and regulations concerning contracts and related issues, may make a contribution to the application of standards.' www.ituc.org See WTO 'Reforms, including trade liberalization, have underpinned high growth but challenges remain' WTO Trade Policy Review: China Press Release 23/5/2008. http://www.wto.org/english/tratop_e/tpr_e/tp299_e.htm

^{iv} International IR controversy over the details saw opposition from AmCham and many corporation criticising the reforms and responses from international NGOs, unions and governments in support of the reforms. See Cooney (2007a, b) op cit. Global Labor Strategies GLS on the contest between corporations and NGOs and unions 'Behind the Great Wall of China. U.S. Corporations Opposing New Rights for Chinese Workers. Opposition may harm workers in the U.S. and other countries.'

[www.laborstrategies.com](http://laborstrategies.com) For their 20/2/2007 reply, Global Labor Strategies: http://laborstrategies.blogs.com/global_labor_strategies/2007/07/chinas-new-cont.html

Liu Cheng travelled in 2006-7 to the US and Europe for support for the new labor laws, reports available. ITUC (2008:5) for report on opposition by Chinese and foreign employers.

See Earl Brown 'Chinese Labor Law Reform: Guaranteeing Worker Rights in the Age of Globalism' *JapanFocus* 24/11/2006. 'Multinationals Accused of Hypocrisy over China Labour Law Reform' *International Textile, Garment Leather Workers' Federation* 26/10/2006.

^v Anita Chan at the Contemporary China Centre, ANU recounted case studies in the 1990s of the worst forms of exploitation and the struggles and resistance from workers. The then labor laws and the compliance system were inadequate.

^{vi} My *Evatt Foundation* reports op cit. Chan (2006) 'Organizing Wal-Mart: The Chinese Trade Union at a Crossroads' www.japanfocus.org 'China and the Global Sweatshop Lobby' 18/12/2006 International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations IUF <http://www.iuf.org/www/en/>

^{vii} <http://www.china.org.cn/english/China/215751.htm> *China Daily* 31/12/2006 'Migrants frustrated over unpaid wages' about anger over 'the death of a young rural worker who was beaten up last week while claiming unpaid wages...' Cooney (2007), op cit, 405; Ross (2006); ITUC (2008) p 11.

^{viii} 'Migrant Workers and the Chronic Problem of Owed Wages' *China Labor News Translation* 2006

<http://www.cntranslations.org/article/28/migrant-workers-and-the-chronic-problem-of-owed-wages>
'Rules Mapped Out to Protect Workers' Rights' <http://china.org.cn/english/2004/Dec/113778.htm>.

^{ix} Xinhua News Agency 25/6/2007' <http://www.china.org.cn/english/GS-e/218983.htm> Chan (2000) recounts oppression and resistance. See ITUC (2008) section iv on forced labour and on child-labour. 'Firms to face fines for employing kids' *China Daily* 2008 http://www.chinadaily.com.cn/china/2008-05/22/content_6703760.htm 'China Says Abusive Child Labor Ring Is Exposed' By David Barboza http://www.nytimes.com/2008/05/01/world/asia/01china.html?_r=2&hp=&oref=slogin&pagewanted=all *New York Times* 1/5/ 2008.

^x Ross A (2006) *Fast Boat to China Corporate Flight and the Consequences of Free Trade Lessons from Shanghai* (Pantheon Books, New York). He recounts the failure of the industrial relations system for the IT, engineer, university graduate and white-collar worker in China's high technology companies. The *Journal of Industrial Relations* vol 49 was on China, Trade and Workers' Rights: Chris Nyland, Elizabeth Ann Maharaj and Anne O'Rourke 'Australia/US/China Preferential Trade Negotiations: Building Alliances and Realizing Workers' Rights to a 'Voice at the Table' 647. Chan A (2008) 'Global Labor & Chinese Labor' at the Labor Notes Conference 'Rebuilding Labor's Power,' Detroit, 11/4/2008. See 'New Labour Contract Law: Myth and reality six months after implementation'

<http://www.ihlo.org/LRC/WC/270608.html>

^{xi} www.acftu.org See <http://www.china.org.cn/english/2002/Nov/48588.htm> See Bill Taylor and Qi Li 'Is the ACFTU a Union and Does it Matter?' *JIR* volume 49, no 5, November 2007, 701 who argue it is not a union but a state organ, a view held by western unions in the ICFTU, the International Confederation of Free Trade Unions, now the ITUC. Constructive engagement is still necessary.

^{xii} Chan (2000a) 'Chinese Trade Unions and Workplace Relations in State-Owned and Joint Venture Enterprises' in Warner M ed., *Changing Workplace Relations in the Chinese Economy* (New York St Martin's) 2000 34-56.

^{xiii} White C (2007) volume 14 issue 1 p17 *ICTUR* www.ictur.org White C (2007). 'Organising China's Wal-Mart' <http://evatt.labor.net.au/publications/papers/194.html> Chan A (2007), 'Organizing Wal-Mart in China: Two Steps Forward, One Step Back for China's Unions', *New Labor Forum* 16 (2): 87-96. ACFTU, <http://www.acftu.org/template/10004/file.jsp?cid=222&aid=41801>. An English translation at *Chinese Labor News Translations* <http://www.cntranslations.org/article/4/wal-mart>. Also, Geffken R, 21/9/2006 'Chinese unions and the limits of Wal-Mart's anti-unionism' Institute for Comparison of Labour and Industrial Relations, www.Geffken-Law.de. ITUC (2008:7) report. Charles Fishman (2006) *The Wal-Mart Effect How an Out-of-Town Superstore Became a Superpower* (Allen Lane).

^{xiv} Verité (2007), <http://verite.org/2007%20Verite%20China%20Symposium> I am on a China listing from Cathy Walker OHS specialist with the Canadian Auto-Workers and China expert.

^{xv} GLS 'Beyond China's New Labor Contract Law'

http://laborstrategies.blogs.com/global_labor_strategies/2008/01/beyond-chinas-n.html#more

Also: *China Labour Bulletin* <http://www.china-labour.org.hk/iso>

^{xvi} http://laborstrategies.blogs.com/global_labor_strategies/china/index.html GLS produced reports on labor law reform, the role of global corporations in China's development and why the outcome of this battle matters to workers everywhere. *Why China Matters: Labor Rights in the Age of Globalization* Also http://laborstrategies.blogs.com/global_labor_strategies/2008/04/when-chinese-an.html When Global Labor and China's Union Talk. Also, March 2008, Labor's Opening to China.

^{xvii} Chan (2008) 'Address to US Labor Notes'. The many responses in the China Wal-Mart blog are instructive of organising in a new way.

^{xviii} Chan A (2008) 'Challenges and Possibilities for Democratic Grassroots Union Elections in China: A Case Study of Two Factory-Level Elections and Their Aftermath,' *Labor Studies Journal*, published June 19, 2008; <http://lsj.sagepub.com/pap.dtl> Lee P (2007), 'Democratic Trade union election at Shunda Factory: Five years on', *China Labor News Translations* <http://www.cntranslations.org/?q=Peter+Lee>

^{xix} *Play Fair* 2008 'No Medal for the Olympics on Labour Rights', 2007. ILO *Committee on Freedom of Association Reports* 2003 www.ilo.org ITUC (2008). www.ituc.org *Annual Survey on Violations of Trade Union Rights*. ICFTU, Internationally recognised core labour standards in China, 2006. *Asia Monitor*

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^{xx} I discussed China with the AFL-CIO, the SEIU and the Teamsters in Washington March 2008. Also, Howell J (2006), 'New Democratic Trends in China? Reforming the All-China Federation of Trade Unions', *Institute of Development Studies*, Working Paper 263. The Australian debate, see JIR vol 49: Nyland, Maharaj and O'Rourke 'Australia/US/China Preferential Trade Negotiations: Building Alliances and Realizing Workers' Rights to a 'Voice at the Table' 647. S. Burrow ACTU 'Australia's Social and Commercial Engagement with China: What Direction for the Relationship?' p.615.

^{xxi} Vandaele J Jan 22 (2008), 'The International Trade Union Confederation (ITUC) has decided to start a dialogue with the ACFTU' <http://ipsnews.net/news.asp?idnews=40871> Also, UNI report on contacts: <http://www.unionnetwork.org/uniflashes.nsf/c4bdf194bc536c81c12567bb0057c767/e49b5f1284c14aad c125747b002dc05b?OpenDocument>

^{xxii} Nair C (2007), 'Corporate Responsibility – An Industry that has Lost its Way', *Ethical Corporation* website, <http://www.ethicalcorp.com/content.asp?ContentID=5582>

^{xxiii} This is but one ILO example

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<<http://www.ilo.org/public/english/bureau/inst/download/cross.pdf>> [304 pages]

^{xxiv} Global Labor Strategies:

^{xxv} Walt Disney and McDonald's, whose supply chain has drawn criticism, released a report on a pilot project to improve labor conditions in China. By Dawn C. Chemielewski, *Los Angeles Times* 13/5/2008.

^{xxvi} Global Labour Strategies: 'Are US and EU Corporations Complicit in Evading China's New Labor Law?' http://laborstrategies.blogs.com/global_labor_strategies/2007/11/are-us-and-eu-c.html

^{xxvii} GLS http://laborstrategies.blogs.com/global_labor_strategies/2007/11/the-battle-for-.html#more GE Seriously Violated China's Labor Law <http://www.chinacsr.com/2008/04/18/2269-acftu-ge-seriously-violated-chinas-labor-law/> See Global Risk Alert from AON Global; and lawyers King and Wood www.kingandwood.com; Baker and McKenzie www.bakernet.com

^{xxviii} <http://www.newsweek.com/id/111027> See also New Labour Contract Law: Myth and reality six months after implementation <http://www.ihlo.org/LRC/WC/270608.html>

^{xxix} Harder work ahead. <http://store.eiu.com/product/1740000174/i413382826/wf-ssa-issues-articles.html> May 26, 2008

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^{xxxi} <http://www.china.org.cn/english/government/229625.htm> Cooney's (2007) review of past defects provides a standard for significant change and compliance.

^{xxxii} http://laborstrategies.blogs.com/global_labor_strategies/2007/10/chinas-new-draf.html