

# *The Role of the State, Labour Policy and Migrant Workers' Struggles in Globalized China*

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## ABSTRACT

The financial crisis of 2008 brought many changes to the world economy with China seeming to stand out as one of the countries best able to weather the storm. There is a general belief that this is because China has a strong state which has reshaped the role of China in the new international division of labour and has the ability to resume its economic development internally. Our study of labour policy and workers' struggles tells a different story. We argue that the state-driven process of economic globalization has created a new millions-strong working class in China. A paradoxical phenomenon is that this state-driven process in economic globalization has been accompanied by a state retreat process in the areas of social reproduction and social protection. This state withdrawal process largely shapes a specific pattern of proletarianization of Chinese labour and a specific capital-labour relationship which contribute to recent, and intensifying, migrant workers' struggles in China.

## KEY WORDS

economic globalization, labour policy, labour protests, migrant workers, post-socialist development

## *1. Introduction*

The financial crisis of 2008 brought the world economy into a new stage. While the western capitalist countries seriously suffered, China seems to stand out as one of the few countries which could resist the economic tsunami. There is a general belief that this ability arises from China's strong state which has reshaped the role of China in the new international division of labour and which also has the ability to resume its economic development internally. Our study of labour policy and workers' struggles challenges this belief.

China has deeply transformed itself into 'a factory of the world.' We argue that this transformation is state initiated and has been achieved with the collusion of the interests of transnational capital in its search for off-shore production relocation. In the early 1990s, a new phase of economic reform began when the dual-track plan and market system was phased out (Naughton 1999). In 1992, Deng Xiaoping staged the 'Southern

Tour' to the Shenzhen Special Economic Zone (SEZ) and Guangdong province, stimulating a new wave of foreign investment. The Chinese state made huge efforts to bring the country into the World Trade Organization (WTO) in November 2001—henceforth driving further for economic globalization in the 21st century. China surpassed the United States as the largest recipient of world foreign direct investment (FDI) in 2002 (China's Ministry of Commerce, 16 January 2003). In 2005, overseas funded enterprises in China accounted for 57.3 percent of China's overall exports and they took a huge share of 87.9 percent of high-tech exports (China's Ministry of Commerce, 12 June 2006). Even with China's absorption of FDI down 26.2 percent over that of 2007, newly approved foreign funded companies in the country totaled 22,736 between January and October 2008 (China's Ministry of Commerce, Nov 17, 2008).

This state-driven process of globalization has created a new millions-strong working class in China. A paradox is that this state-driven process of economic globalization has been accompanied by a state withdrawal process in the areas of social reproduction and social protection. The socialist legacy of contracting agricultural lands to individual rural households is one of the enabling factors for China in creating a pro-business environment: employers do not need to pay their peasant-workers a living wage or the full cost of social reproduction of labour, which are supposed to be subsidized by the workers' rural communities. Local host governments likewise have shunned the responsibility for improving the livelihoods of internal migrant workers and their families under their jurisdiction. This state withdrawal process shapes a specific pattern of proletarianization of Chinese labour and a specific capital-labour relationship which contributes to a growing number of migrant workers' struggles in China.

Persistent struggles by Chinese workers themselves have created huge pressure on the post-Mao state to redefine its position towards labour conflicts. From 2003 onwards, the new Hu Jintao and Wen Jiabao leadership has emphasized harmony and stability in society, even over the pursuit of economic growth and efficiency. The labour rule of law – regulating labour contracts, wages, work hours, social insurance, compensations, and official trade union membership – has vastly been expanded. The goal is to demobilize worker discontent through the institutionalized legal and bureaucratic systems.

Labour protests, however, will likely increase in frequency as the market reforms deepen and generate new forms of social as well as class inequalities in China. State power and capital have become more closely associated than ever, giving rise to class polarization and income inequality. By the early 2000s, measured by the Gini coefficient<sup>1</sup>, China (0.447) was more unequal than other Asian countries such as Indonesia (0.343), India (0.325) and Bangladesh (0.318) (World Bank, quoted in Khan and Riskin 2005). In 2006, the figure jumped to 0.496, surpassing the level of inequality in the United States (Andreas 2008). If we take into account sources of wealth other than income, the economic and social disparities between rural and urban areas as well as between regions in China is even larger. Demanding economic justice and social rights, Chinese workers have pushed for changes from the bottom-up. Their ability to improve the working and living conditions will be significant for both local class struggles and global labour politics.

In the next section we document the ways in which the state has been instrumental in transforming China into a world factory. In section three, we show how the dynamics of this process have created a new migrant working class. Included here is an analysis of how the state's withdrawal from the provision of social protection has been central to this. Despite efforts by the new leadership since 2002 to address issues of social protection, for the great majority of migrant workers these efforts remain at the level of rhetoric and not substance. In section four, we discuss how labour protests have been escalating and analyze one particular strike in Shenzhen in 2007 to illustrate how class consciousness is developing among the new migrant working class. The rising labour struggles have led the central authorities to change labour laws and to channel labour disputes through bureaucratic legal structures. This is discussed in section five where we argue that these legal measures fall far short of providing the necessary protection for workers. We conclude, in section six, that workers struggles are likely to intensify as a result of the current global economic crisis.

## *2. State-Driven Transformation: China as a 'World Factory' in Globalization*

Capitalist encroachment on the family labour sector and the relentless displacement of small enterprises by larger ones is fundamentally market-driven, but it is also state policy. China's political leaders do not want backward produce markets, they want modern supermarkets, and state officials are expected to identify and support 'winners' in the economic competition (Andreas 2008: 140).

Western commentators, from the political left to the right, typically admire China's economic achievement symbolized by the iconic skylines of Beijing and Shanghai as well as by the stunning economic figures frequently reported by the media. Among others, in 2002, China became the top world producer of eighty products, including garments, colour TVs, washing machines, DVD players, cameras, refrigerators, air-conditioners, motorcycles, microwave ovens, PC monitors, tractors, and bicycles (*The Economist*, 28 July 2005). In 2005 China became the world's third largest trading country, surpassed only by the US and Germany. In 2006, China climbed to fourth place in the world in terms of the size of the economy. Alongside the dramatic economic growth, the manufacturing structure also moved into high-end goods. Electronics products made up 56 percent of total exports in 2006 (*China News Net*, 11 December 2006). Advanced technology exports are second only to the US, and China overtook Japan to become the world's second largest investor in research and development in 2007.

The rise of China as a major economic power, however, is not a natural consequence of the free market in the age of globalization as neoliberal economists assume. Thirty years of socialism left a powerful state-authority to drive the process of 'reform and open' policies forwards.

After more than ten years of negotiations, China 'won' its World Trade Organization (WTO) membership on 11 December 2001. It has had a very significant impact on China's export and investment activities. Taking the garment and textile industry as an example, government has actively shaped and reshaped the transformation

of the industry. On 1 January 2005, the Multi-Fibre Agreement (MFA) which had limited China's exports of garments was completely phased out among WTO members. By 2004 China had already emerged as the biggest garment exporter with 26.6 percent of the world's total exports; taking Hong Kong into account, the proportion was as high as 38 percent. In the same year, the textile and clothing industries in China employed 19 million workers or 18.9 percent of the total employment in the manufacturing sector. Economists have identified China and India as the two main beneficiaries from the phasing out of MFA.

China is also the world's largest producer of electronic products. Its exports increased by 27 percent to US \$230 billion in 2005, following growth rates of 44 percent and 53 percent in 2004 and 2003, respectively (Reed Electronics Research 2006). By product segment, in 2007, a total of 150 million square meters of printed circuit boards (PCBs) were produced in the country, making up nearly 30 percent of the world's total. The production value of PCB of Chinese origin hit US\$15.5 billion in 2007 (Research and Markets 2008). The transformation in electronics has been characterized by rapid upgrading from low-cost consumer goods to higher-technology items. Today, information technology is predominant, such as the manufacturing of personal computers, cell phones, MP3, and game consoles.

Zooming inside China's global factory, labour costs are as low as one sixth that of Mexico and one fortieth that of the United States (Lee 2004). Chinese municipal governments in the Pearl River Delta regions in southern China increased the statutory monthly minimum wages by as little as 68 yuan (approximately US\$ 10) over a 12-year period between the 1990s and early 2000s (China's Ministry of Labour and Social Security 2004). The state has strategically produced an inexpensive Chinese workforce absorbed from the countryside since the 1980s and at the same time, absolved itself of the responsibility of providing this new workforce with minimal protections and rights. This process is discussed in more detail in the next section.

### *3. The Making of New Generations of a Chinese Migrant Working Class*

The rapid development of export processing and technology experimental zones across China, similar to the development of corresponding establishments in most other developing economies, was based on a massive harnessing of young peasant-workers, in particular of women, who are often the cheapest and most compliant labour (Lee 1998, Pun 2005, Gaetano and Jacka 2004). Officials have partially relaxed the decades-old household registration system and actively coordinated the transfer of rural 'surplus labour' to the booming cities. By the mid-1990s, rural surveys estimated that the number of internal migrant labourers ranged from 50 to 70 million nationwide (Roberts, Connelly, Xie and Zheng 2004: 49). Some sources attest that the size of the migrant working population is now over 130 million (China's State Council 2006: 4).<sup>2</sup>

The formation of this new working class of internal rural migrant labourers or the *dagong* class is taking shape. Young peasant-workers are *dagongmei/zai* (female and male migrant workers) who embrace new gendered identities. *Dagong* means 'working for the boss' or 'selling labour', connoting commodification and a capitalist exchange of labour

for wages. Labour is sold to capitalists and, this time, under the auspices of state. In contrast to the term *gongren* or urban worker, which carried the highest status in the socialist rhetoric of Mao Zedong's day, the new term *dagong* signifies a lesser identity as a hired hand in the market (Pun 1999, 2005).

Peasant-workers are not new in China. They were well represented in big cities such as Tianjin and Shanghai in pre-1949 China (Hershatter 1996, Honig 1996, Perry 1993) and they were employed as temporary labourers in state-owned and collective enterprises in the socialist period (Walder 1984). However, the new generations of peasant-workers are radically different from previous ones. We observe new life expectations and dispositions and more collective labour action among those who have grown up in the reform period and entered the labour market in the late 1990s to early 2000s (Pun and Lu, forthcoming). The characteristics of the new generations include greater individualism, attraction to urban consumer culture (Davis 2000, Pun 2003) driven more by the personal pursuit of development and freedom (Jacka 2005), higher job turnover rates and less loyalty to their work, but simultaneously more likely to be involved in spontaneous collective action at the workplace (Lee 2007, Chan and Pun 2009).

#### THE PROCESS OF UNFINISHED PROLETARIANIZATION OF CHINESE MIGRANT LABOUR

The process of proletarianization in post-Mao China – turning rural bodies into industrial waged labour – is specific to the way in which the state has promoted massive rural-to-urban labour migration over the past three decades. The first level of analysis is structural: owing to the deep rural-urban divide, highly shaped by national development strategies, rural authorities have submitted to the central government's direction by exploring inter-provincial labour cooperation and coordination program initiatives, facilitating rapid urban economic growth. From the 1990s onwards Hunan and Guangxi provinces, for example, have systematically exported their peasant labour to Guangdong in the south. In exchange, these interior provinces benefit from the remittances sent back by rural migrant workers. This migration policy also assures a continuous replenishment of internal migrant labourers to the production powerbases in the coastal cities. Strong state initiatives support the labour needs of emerging industries and facilitate labour supply flow to the manufacturing sites (Solinger 1999). The government's labour management offices serve as the agency coordinating this market: first by screening and recruiting young female applicants and then transferring the applicants directly to the factories in the booming regions. These labour offices sometimes go into details such as arranging long distance coaches to transport rural women to work, in return for management fees from the hiring company.

The second level of analysis is from an individual and familial viewpoint. Young rural men and women alike must contend with low prices for agricultural products in the post-WTO accession era, limited educational opportunities, and limited village employment opportunities – indeed, these last two challenges are particularly intolerable for younger generations growing up in the reform period. Rural youth have no choice but to go to work at 16 or 17 years old. Some rural women also aspire to escape arranged marriages, familial conflicts, and patriarchal oppression. Still others want to widen their

horizons and to experience modern life and cosmopolitan consumption styles in the cities. Thus, personal decisions in out-migration – shaped by the state-led pro-city development strategy – support the goal of the state in channeling labour from rural areas to coastal industrial areas.

The official categorization of peasant workers – wage labourers of rural household registration – means that their social status and class identities are ambiguous. The post-socialist Chinese state has permitted them to go out to work but not to grant them the right to urban permanent residence. Maintenance of the distinction between permanent and temporary residents through the household registration system enables the state, at all levels, to escape from their obligations to provide housing, job security, and welfare to rural migrant workers. As a result, they live mostly either in factory-provided collective dormitories or in substandard migrant villages within the city.

#### THE RETREAT OF THE STATE FROM THE COSTS OF SOCIAL REPRODUCTION OF MIGRANT WORKERS

We have argued that the household registration system, combined with the interests of domestic and foreign capital, have created exploitative mechanisms of labour appropriation in post-socialist China. This is the ‘state-out’ process of societal globalization: China’s economy needs the labour of the rural population but does not need the city-based survival of that population once market demand for rural-to-urban migrants’ labour power shifts in either location or industry. This newly forming working class is permitted to form no permanent roots and legal identity in the city. The ambiguous identity of rural migrant labour simultaneously deepens and obscures the exploitation of this huge population. Hence, this subtle and multi-faceted marginalization of rural labourers has created a contested, if not a deformed, citizenship that has greatly disadvantaged Chinese migrant workers who attempt to transform themselves into urban workers.

Being extraordinarily dislocated in the cities, migrant labour is distinguished by its transient nature. A worker, especially a female worker, will usually spend a number of years working as a wage labourer in an industrial city before getting married. Upon marriage age, most of the women have to return to their rural homes because of their difficulty in finding partners in the city. Rural communities have long exercised – and have long been expected to exercise – the extended planning of life activities such as marriage, procreation, and family. The reproduction of labour of the next generation is hence left to the rural villages which bear the cost of industrial development in urban areas, even though the ability of the rural communities to meet reproduction costs is often highly constrained. Furthermore, physical or mental rehabilitation in cases of serious industrial injuries and occupational diseases are also presumed to be taken care of in the rural areas.

Under the new leadership of Hu Jintao and Wen Jiabao, since 2002 there have been pressing demands for the Chinese state to introduce more extensive social policies. However, most of the social policies subsequently introduced - such as employment policies, health policies and education policies - were either designed for the urban or the rural populations and hence excluded the migrant population. One notable policy

regarding migrant workers is the compulsory social insurance scheme comprising of five items: pension, injury compensation, medical care, maternal leave and unemployment pension. This insurance system, however, and the benefits arising from it, is only available to workers with written labour contracts. However, the percentage of migrant workers who have written labour contracts remains low. According to survey findings provided by the State Council in 2006, 46.3 percent of all migrant workers were still not protected with a labour contract, and 51.4 percent of them were not paid on time (quoted in Jenny Chan, forthcoming). In the construction sector, the percentage of workers who had signed a labour contract was much lower than in the manufacturing and service sectors; in our current studies in Beijing, over 90 percent of the construction workers were not provided with a labour contract. Many of them have suffered from industrial accidents and injuries but were left with no compensation (Pun and Lu 2009). In the area of social protection and social policies, the majority of migrant workers remain unprotected; the new policies exist much more in form than in substance for migrant workers. Furthermore, the 'humanistic' social policies launched by the central government have been largely ignored by the local governments whose priority is still pro-capital development. The floating nature of the migrant population also created excuses for the local state to escape its responsibility, and the local state, in return, blamed the migrant labourers for lacking the incentive to participate in the social insurance scheme. These current social reforms only pay lip service to the needs of migrant workers due to the nature of the existing state which serves the interests of capital, not society.

This results in a process of the unfinished proletarianization of Chinese labour, driven by the state but at the same time crippled by it. It is not surprising that this has produced a rising tide of labour protest as we discuss in the next section.

#### *4. Labour Disputes and Protests in China Since the 1990s*

Resisting multi-fronted injustice and exploitation, Chinese workers have increasingly fought for their rights. Official statistics from various departments attest to the pervasiveness and intensification of labour unrest since the early 1990s throughout the country. There are two major types of labour conflicts: labour strikes and labour disputes via legal systems. In this section, we will discuss trends in both form of conflict drawing on official statistics and our own case study work on strikes.

According to China's Ministry of Public Security, the number of mass incidents and demonstrations, such as collective suicide attempts, traffic blockage, and other public forms of civil disobedience taken by desperate workers, increased ten fold from 8,700 in 1993 (quoted in Pei 2003) to 87,000 in 2005 (*The New York Times*, 20 January 2006). Unofficially, at least one strike involving more than 1,000 workers occurs every day in the manufacturing hub of the Pearl River Delta region in Guangdong, to say nothing of the many smaller spontaneous strikes (AFP, 15 January 2008).

We provide an analysis of one such strike here to provide an example of the emerging forms of migrant working class resistance. Our study is based on our longitudinal fieldwork in the industrial town of Shenzhen between 2003 and 2007. During the period, we conducted intensive research into migrant workers' working life

and social life in the town by participant observation, interviews and documentary research in dormitories, migrant communities and workers' centres. The strike we discuss here occurred in a German electronics company in one of the industrial towns in Shenzhen in 2007. This strike encouraged a series of strikes in other factories leading to wage increases across the town.

### GERMAN FACTORY STRIKE IN 2007<sup>3</sup>

Factory X is a German funded enterprise which produces batteries, power cords and other components for mobile phones. Since setting up in 1993, it has expanded into two large plants at two industrial towns in Shenzhen. It employed about 8000 workers, of which 80 percent were women aged between 18 and 30. The wage level in Factory X was comparatively high in the town. The minimum hourly wage rate was basically observed and social insurance was provided for all of the workers. The factory operated two shifts. The day shift is from 7:00am to 6:30pm with a one-hour lunch break, while the night shift is from 7:00pm to 6:45am with a 45-minute mid-night break. Ordinary workers usually work six days per week and their monthly salary is from 1000 to 1400 yuan (approximately US\$ 150-200).

In this factory, production workers are called *yuan gong*, employees, while others, including managers, supervisors, engineers, technicians, office clerks, are collectively called *zhi yuan*, staff. Most of the workers, *yuan gong*, live in the factory-provided dormitories where 8 or 12 workers share a room. 30 yuan is deducted from wages as rent. The factory pays an accommodation subsidy from 200 to 300 yuan per month to *zhi yuan* to rent private rooms outside of the factory.

In July 2005, when the minimum wage rate in Shenzhen was raised to 580 yuan, the factory adjusted the salary accordingly. The minimum wage was further increased to 700 yuan in 2006. Workers in Factory X also got a pay rise accordingly. After two years of consecutive pay rises, however, the factory steadily began to increase the work quotas of the production line and units. If workers could not finish the quota unilaterally set by the management for the 11 daily working hours, they are 'requested' to perform extra work the next day without payment. The practice created conflict between experienced, and hence more efficient, workers and the inexperienced, as well as between the front line supervisors, who announced the new quota and forced their subordinates to work faster, and the production workers. Therefore, 'too exhausted' rather than 'low pay' was the most common cause of discontent in the factory. Many workers quit the factory after a few months or a year, but most of them were not permitted to do so and there was always a long queue of those who had applied to leave. For those without proper 'permission', the factory would confiscate their salary and they were prohibited from returning to the factory for employment for six months.

A special 'rationalization reform' was also made to lower the wage costs of the *zhi yuan* by restricting their overtime working hours in March 2007. From July, the maximum overtime hours of *zhi yuan* was set at 72 per month. They would not get extra pay for any hours worked beyond that level. The impact for front line supervisors was

that they had to take care of more lines when other supervisors were on leave. For technicians, a smaller number was on duty in each shop.

The immediate cause of the strike was due to the wage policy of the city government. As mentioned, the city had significantly raised the minimum wage rate in July 2005 and 2006, and workers generally expected a similar pay rise in July 2007, but the government finally decided not to raise the legal minimum rate but maintained it at 700 yuan. A strike was immediately sparked on the second day after the workers got their July pay slip in August.

#### COLLECTIVE ACTION FOR A REASONABLE WAGE AND WORKING CONDITIONS

Workers got their pay slips on Thursday 16 August. Workers' salaries had not been raised. Furthermore, technicians and supervisors found their incomes were severely reduced due to the overtime restrictions. For example, one of the technicians, whose salary was always well over 2000 yuan, only received 1400 yuan. On the Friday evening, when the managers (who only work during the day) had left the factory, a public letter was posted on the notice board of all of the workshops.

The letter was issued in the name of all of the Factory X workers and entitled 'voices from *zhi yuan* and *yuan gong*'. It began by pointing out that the management had attempted to lower their salary from the end of 2006, and now their income had been reduced by 50 percent from the same period last year, while work quotas and living costs had doubled. 'We have reasonable demands', the letter stated:<sup>4</sup>

1. To adjust our current wage standard. We all know the market wage standard now, and thus demand it should be adjusted to the following ways: *yuan gong*, 1500 yuan or more; second level *zhi yuan*, 2000 yuan or more; third level *zhi yuan*, 2500 yuan or more; fourth level *zhi yuan*, 3000 yuan or more; the above does not include any subsidy.
2. To raise the accommodation and food subsidy for living outside.
3. To improve welfare conditions, provide reasonable allowances for high temperature, toxic, outdoor and occupational disease-prone posts and regular occupational disease and body checks.
4. To provide night shift subsidy and snack allowance for those working on the night shift.
5. The company should buy unemployment, maternity, medical care and all of the other insurances requested by the labour law.
6. To solve the hygiene problem of drinking water.
7. To improve the reasonability of overtime work.
8. The trade union should function appropriately and its core members should invite the grass roots *yuan gong* to participate in it.

The letter ended up stating that the workers requested that the company answer these demands in written form and that they would not accept an oral reply from anybody, including the company CEO. News began to circulate among the workers that the technicians would start a strike soon.

After more and more workers, mostly young women, joined in, the technicians then led the crowd onto a crossroads in the industrial town. It was not a busy road and not many cars came, several policemen just stood by the workers peacefully. 'One policeman even told us that it was useless to stay there and we should go to the major national road', a worker said. Half an hour later, the mass walked out to the national highway and occupied one half of the main road. Hundreds of security forces, including patrol police, military police, transport police and local government security guards, came followed by labour bureau officers, the town Party general-secretary and the factory managers. The local party head, labour bureau representative and top manager spoke to the strikers with amplifiers and asked them to go back to the factory for negotiation. Officers said that it was illegal to stand there and that anything could be discussed in the factory while the manager asked the workers to elect their representatives. Some of the workers responded that 'we are all representatives' or 'we have no representatives'.

One of the significant features of this strike was that it also happened almost simultaneously at the subsidiary factory in a different town. This strike was soon spread out to other factories around the industrial town. It had a significant knock-on effect on other factories in the same community and in the same business group. In our observation, the strike wave from 2003 to 2007 at least partially accounted for the dramatic rise of the legal minimum wage rate and the local state's improved labour law inspections. Moreover, it was a breakthrough that organizers in factory X were able to coordinate workers in two factories to stage a strike together in order to enhance their bargaining power. The strike resulted in a 10 per cent increase in the wage of the technicians and supervisors and a 5 per cent wage increase for production workers.

This strike demonstrates an important process for us to understand in the formation of the new Chinese working class. The alliance between the supervisory staff and the production workers in factory X and the knock-on effect from factory X to another factory in the industrial district show an increasingly maturity of the working class in China which has learned how to take collective actions step by step. In recent years, workers in foreign owned enterprises in coastal China more frequently resort to strikes to express their grievances and discontents. We argue that recent labour protests are mostly interest-based, purposively induced to improve working conditions and oppositional against capital. Without strong leadership or formal organization, most of the labour conflicts are triggered off squarely at the point of production, with the reproduction space as the bedrock for labour mobilization.

Turning to labour disputes referred to legal bodies, these too have been soaring since the early 1990s. To restore social stability, the Chinese government has attempted to resolve labour disputes through institutional means. In August 1993, the State Council promulgated its Regulations on the Handling of Enterprise Labour Disputes. Employees of all kinds of enterprises were legally entitled to raise complaints concerning wages, benefits, occupational health and safety, and termination of contracts to labour dispute arbitration committees at the county, city and provincial levels. The number of arbitrated labour disputes was 19,098 in 1994 and it reached an all-time high of 317,162 in 2006, involving 679,312 workers nationwide (see Table 1). Also significant has been the rapid rise of arbitrated collective labour disputes, involving 3 or more workers. In 1994, 1482

cases were recorded. By 2006, the number had increased to 13,977. These statistical data indicate a deterioration in labour relations.

*Table 1 National total of arbitrated labour disputes in China, 1994-2006*

Year	Arbitrated labour disputes (cases)	Arbitrated collective labour disputes (cases)*	Total employees involved
1994	19,098	1,482	77,794
1995	33,030	2,588	122,512
1996	47,951	3,150	189,120
1997	71,524	4,109	221,115
1998	93,649	6,767	358,531
1999	120,191	9,043	473,957
2000	135,206	8,247	422,617
2001	154,621	9,847	556,230
2002	184,116	11,024	608,396
2003	226,391	10,823	801,042
2004	260,471	19,241	764,981
2005	313,773	16,217	744,195
2006	317,162	13,977	679,312

Source: China Labour Statistical Yearbook 1995:491 (Tables 8-11), 1996:423 (Tables 8-9), 2004:518 (Table 4), 2007:515-516 (Table 9-1).

\* Note: 'Arbitrated collective labour disputes' is defined as arbitrated labour disputes involving three or more workers, and is a sub-set of the total number of arbitrated labour disputes (Article 5 of Regulations on the Handling of Enterprise Labour Disputes of the People's Republic of China).

The majority of labour disputes are concerned with the non-payment and/or under-payment of basic wages and overtime premiums, illegal termination of labour contracts and refusal to pay social insurance and benefits.

The climate of deteriorating labour relations shows no sign of abating as a result of the global economic crisis and the threat of unemployment. In fact, quite the opposite. In

the first six months of 2008, Ministry of Human Resources and Social Security statistics revealed that arbitrated labour disputes soared by 145 percent in Chongqing and 92.5 percent in Shanghai (*Southern Weekly*, 31 July 2008). In the same period, courts in Guangdong province received nearly 40,000 new labour dispute cases – a 157.7 percent increase from 2007, in which the Pearl River Delta area accounted for 96.5 percent of all cases (*China Daily*, 22 July 2008). Between January and September 2008, labour arbitration departments in Beijing handled 32,954 labour disputes, up 104 percent from the same period in 2007 (*Beijing Review*, 20 January 2009).

Furthermore, there is ample evidence that Chinese migrant workers are becoming more pro-active in defending their rights. We observe the radicalization of labour in which strikes, street actions and public demonstrations are increasingly used (Leung and Pun 2009). Indeed, despite institutional barriers to labour self-organization, migrant workers have expressed their discontent and demanded changes by staging factory-level strikes, bargaining on wages and other terms, launching collective complaints, and/or resorting to media exposure for the redress of their problems.

### ***5. Channeling Labour Conflicts Into State Institutions***

The increasing number of labour protests and labour conflicts has pressured the central government into setting up a new legal regulation framework. Under the decentralization policy and the 1993 Regulation on Enterprise Minimum Wages, local governments were given the autonomy to formulate their own level for the legal minimum wage. More significantly, a national Labour Law was codified and legislated in 1994, effective 1 January 1995. The law laid down a foundation for workers' legal rights as well as collective contracts and collective consultations between official trade unions and management (Ng and Warner 1999; Taylor, Chang and Li 2003; Clarke, Lee and Li 2004).

The huge discrepancy between legal entitlements and the actual delivery of protection, however, was so telling that the legitimacy of the Chinese state has been undermined. Labour contracts in written form, if provided at all, have been predominantly short-term. Workers' rights are blatantly disregarded. Officials have responded by speeding up labour disputes into an expanded system of arbitration committees and courts. The goals are to individualize and demobilize worker discontent through the bureaucratic and legal procedures, to continue driving economic reforms and holding on to the one party regime.

In 2007, the state promulgated three new national labour laws, namely, the Labour Contract Law, the Labour Dispute Mediation and Arbitration Law and the Employment Promotion Law.

The first of these laws, the Labour Contract Law, which went into effect on 1 January 2008, is considered the most significant piece of Chinese labour law reform in more than a decade (Ngok 2008). Faced with strong corporate opposition at home and abroad, or a 'sweatshop lobby', to the proposed legislation on labour contracts (Global Labour Strategies 2007), the Chinese government eventually pushed through the law. Important provisions include: mandatory labour contracts for new employees for all

employment relations; strengthening worker representatives' and workplace-based trade unions' roles in representing their workers' interests; worker entitlement to severance pay upon the expiration or termination of contracts under certain conditions; the regulation of contingent labour; and the imposition of disciplinary measures on officials who neglect their responsibilities or abuse their authority. By mid-March 2008, the Vice President of the All China Federation of Trade Unions (ACFTU) reported to the media that up to 80 to 90 percent of employees nationwide had already signed their written employment contracts (*China News*, 15 March 2008), notwithstanding findings to the contrary analyzed by a number of Hong Kong and Chinese NGOs based in southern China (Chan, forthcoming). The second law on the mediation and arbitration of employment disputes was enforced on 1 May 2008, International Labour Day. It facilitates access to the arbitration system by waiving arbitration fees, amounting to several hundred yuan. It further streamlines the process of arbitration and extends the time limit for aggrieved and injured workers to bring their claims to arbitration. The third law on equal employment opportunities mandates local governments to take measures to eliminate discrimination and to promote equality in all forms of employment. Millions of HIV carriers in China, for example, should enjoy their rights to fair recruitment and equal terms at work.

Last, but not least, the state-run union aims to set up more branches in the workplace (at the grassroots level), thereby mediating labour disputes at the first place. By March 2008, the ACFTU had a 193-million strong membership – the largest in the world – and more than 1.5 million enterprise-based unions nationwide, across the state and non-state sectors (*China News*, 15 March 2008). Union officials are mandated to promote the rule of law and foster a harmonious relationship between employers and employees.

#### STATE ABSENCE FROM DEFENDING WORKERS' RIGHTS IN STRUGGLES

Despite the formulation of a better legal framework, in the critical realm of workplace collective bargaining and labour strikes, the Chinese state is almost entirely absent. Workers' fundamental right to strike – the clause removed from China's 1982 Constitution – remains absent under the twice amended Trade Union Law in 1992 and 2001. Although the state has actively engaged in workplace relations through labour legislation, workers' basic economic rights especially those of strike, association and collective bargaining as benchmarked by international standards, are all still absent in the reforms (Chan 2008a, 2008b). The intention to weaken workers' associational power is very explicit.

In reality, official unions are politically constrained in confronting employers, leaving workers to fight on their own. In collective bargaining and negotiation, union cadres are the only legal labour organization to represent the interests of workers. As Cai (2006: 66) precisely puts it: the ACFTU would never 'assume the role of organizers for the workers' collective action against the management, not to mention against the government.' Without the rights to organize, Chinese workers do not have institutionalized associational power to bargain with employers. The existing collective

contract system in China, which is supposed to be based on collective negotiation, is therefore unable to reflect workers' collective right in any meaningful sense (Chen 2007).

Worse yet, the unpredictability of the decisions made by arbitrators or judges, if not overt unfairness, have brought about very tense labour relations. Under fiscal and administrative decentralization policies, local states are driven to retain revenues and accumulate resources rather than to implement labour laws and regulations. Intense competition among localities to lure foreign investment has resulted in the 'flexible' enforcement of labour laws. Lower courts continue to depend on funding from local governments, and local judges lack autonomy and independence to uphold the law, especially in cases where outcomes are contrary to powerful interests. Despite the fact that the lower courts are increasingly reaching out to other courts of equal rank for guidance in making difficult legal decisions – an impressive development of 'horizontal networking' between the courts in fostering legal innovations – extensive external interference from higher courts and party officials persists (Liebman 2007). Under these circumstances, workers' rights often end at the courtroom door.

At times of financial slowdown, Chinese workers' structural position becomes even more precarious: about 8,500 enterprises in Guangdong province alone shut their doors in October 2008 (Associated Press, 19 October 2008). China's manufacturing sector contracted for the fifth consecutive month in December 2008, leaving tens of thousands of workers from the exported-oriented manufacturing industries jobless. At the critical moment, the Dongguan municipal government, fearing a break out of popular protest, paid more than 24 million yuan to compensate for the unpaid wages of the 7,000 protesting workers of two toy factories owned by Smart Union Group (Holdings) Limited, a Hong Kong publicly listed company, when the owner secretly fled and the production suspended in mid-October 2008 (Associated Press, 19 October 2008; *China Daily*, 23 October 2008). However, much-needed social security programs, such as unemployment insurance for migrant workers, has never been put in place. Indeed, the state is still largely remaining outside of the urban reproduction of migrant workers by denying them basic social and political rights.

Subject to continuing class and social deprivations, disgruntled workers are standing up to fight for their interests. China's judicial departments predict that the number of labour disputes is likely to keep rising across provinces, autonomous regions and municipalities, amid the downturn in the global economy.

## **6. Conclusion**

In this paper we have argued that the great transformation of China's socialist economy was largely driven by the role of state. The launch of Deng Xiaoping's reform and open policies in 1978 was historic and unprecedented. It has changed not only the path of Chinese socialism but also the road of global capitalism. The Chinese state has brought the country into the WTO, further demonstrating this state-driven process of economic globalization.

The state-initiated process is, paradoxically, accompanied by a state retreat process from the key areas of social reproduction and social protection. Alongside the rise of a

new working class in the industrial and urban areas, the state (at various levels) is almost missing in providing collective consumption such as housing, education, medical care and other basic necessities for migrant workers in particular to live in the towns and cities. This has underlain a specific path of proletarianization of Chinese peasant-workers which contributes to a sharp rise of migrant worker struggles in China.

In summary, this paradoxical role of the state has resulted in the formation of a new working class in China which is left unprotected, despite the proactive role of the state in promulgating new labour laws and regulations. The absence of the ACFTU in times of collective labour disputes and workers' strikes further weakens the associational power of the workers who, due to their peasant-worker identity, already suffer acutely from their lack of market bargaining power. Worker radicalism has intensified, as workers have learned how to organize collective action on their own. In concrete, lived space – in the workers' dormitories and social communities – Chinese workers are developing higher levels of class awareness and identification that make them more capable of forming mutual support networks based on shared interests. Their resilience is likely to intensify further in the face of the current global economic recession.

#### NOTES

<sup>1</sup> A Gini coefficient at 0.4 or above is considered very high by international comparative standards (the measure used to compare international income inequality in which 0 indicates absolute equality and 1 absolute inequality).

<sup>2</sup> In the 2000 China Population Census, internal migrants or floaters are defined as those who have resided at their destinations for six months or more. The National Bureau of Statistics adopts a broad definition of the floating population that includes inter-provincial, intra-provincial and intra-county migrants.

<sup>3</sup> This discussion, and that in the next subsection, draws upon material published in Chris King-Chi Chan and Pun Ngai (2009) 'The Making of a New Working Class? A Study of Collective Actions of Migrant Workers in South China', *The China Quarterly* 198(June): 287-303

<sup>4</sup> Our own translation, September 2007.

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