

OCCASIONAL PAPER

2

Livelihood Struggles and Market Reform

(Un)making Chinese Labour after State Socialism

by Ching Kwan Lee





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SUMMARY

The surge of China as the workshop of the world has been founded on, among other things, a fundamental restructuring of the labour force. Massive unemployment in the state industrial sector is taking place simultaneously with momentous migration of peasants into global factories. Both the unmaking and the making of the Chinese working class are heavily shaped by the state. This paper traces the historical evolution of core changes in Chinese labour reform and worker entitlements: from the introduction of labour contracts to the promulgation of a national labour law, the demolition of work-unit socialism and its replacement with a national social security system. I also examine workers' livelihood struggles in response to this epochal transformation.

The central problem for Chinese workers is not the new labour and welfare systems, but the wide discrepancies between the stipulation and the implementation of these new policies. The institutional source of these gaps, this paper argues, lies in two contradictions inherent in the strategy of Chinese reform. Firstly, the imperative to rely on local accumulation to fuel marketization clashes with the imperative to maintain legitimacy by providing a basic level of justice and welfare for the most disadvantaged. Local state agents are more interested in the former than the latter, especially when they can count on central government financial intervention to maintain social stability. The second contradiction in Chinese reform that is conducive to uneven protection of labour rights has to do with the illiberal nature of the Chinese legal system. The state uses the law as a means of controlling society, while allowing itself to remain mostly unrestrained by the law. When it is not in the interest of the local officials to enforce labour regulations, there is hardly enough countervailing authority—from the judiciary, for instance—to preserve the sanctity of the law.

The result is that many workers, on seeing their legal rights and entitlements unjustly denied, and pressured by livelihood needs, become politically restive. Sharp increases of labour conflicts are accompanied by proliferation of labour activism, taking both conventional (that is, petition, labour arbitration and litigation) and unconventional (that is, protests, marches and road blockage) forms. The state has responded with measured mixes of concessions and repression. Economic and livelihood demands are recognized and, in many cases, at least partially answered by swift financial compensation doled out by the central or provincial governments. On the other hand, political demands such as those relating to the removal of officials and cross-factory actions are relentlessly suppressed and harshly punished.

Protests notwithstanding, the Chinese Government has ardently pressed ahead with social security reform, targeting problem areas such as pension arrears, unpaid wages, unemployment benefits and medical insurance. Additional, earmarked funds are funneled from Beijing to provincial coffers to deal with social grievances that may erupt into social instability. There are also plans to systematically institutionalize the provision of legal aid to people who fall below a particular income level. Therefore, the Chinese state has responded to popular demands, if only slowly and selectively. Finally, both migrant workers and state workers are not totally dispossessed or proletarianized. Rural land rights for peasant migrants and private home ownership for state sector workers have functioned as safety valves to sooth the effects of massive unemployment and diabolical exploitation.

Women in the two segments of the working-class examined here do face gender-specific difficulties. The disappearance of enterprise-based welfare means more demands put on the family unit to provide service and financial support. These domestic burdens are still borne predominantly by women. Also, women are among the first to be let go when enterprises restructure by down-sizing the workforce. Facing gendered disadvantages in the labour market, and under a welfare-entitlement regime based on employment rather than universal citizenship, female workers are likely to fall through the cracks of the new social safety net. The male bias in socialist allocation of housing in the past has inadvertently undermined women's opportunities to become homeowners when work units began privatizing welfare housing in the reform period. For young female migrants toiling in global factories, the lack of maternity benefits forces them to truncate their factory careers to give birth and take care of children and elderly kin. Recent legal changes in land use rights have the potential to encroach on women's equal access to land use, with grave long-term implications for female migrant workers' livelihood security. However, gender bias does not begin to capture the plight of millions of Chinese workers during the reform period. Middle-aged workers in the state sector, whether male or female, confront age discrimination, and migrant workers of both genders suffer from their caste-like status of being a rural resident. Unpaid wages and pensions will continue to plague the lives of both men and women in the working class, for as long as the legal system and the government fail to enforce the Labour Law.

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RÉSUMÉ

Pour s'imposer comme l'atelier du monde, la Chine s'est notamment appuyée sur une restructuration radicale de sa force de travail. Un chômage massif dans le secteur des industries d'Etat va de pair avec un afflux important des paysans vers les usines multinationales. C'est l'Etat qui, dans une large mesure, fait et défait la classe ouvrière chinoise. Cette étude retrace l'évolution historique de la réforme du travail et des droits des travailleurs en Chine et les principaux changements qui l'ont marquée, depuis l'introduction des contrats de travail jusqu'à la promulgation d'un droit national du travail, le démantèlement du socialisme de l'unité de travail et son remplacement par un système national de sécurité sociale. Elle s'intéresse aussi à la réaction des travailleurs à ces bouleversements et aux luttes qu'ils mènent pour leurs moyens d'existence.

Pour les travailleurs chinois, le problème essentiel ne tient pas à la nouveauté des régimes du travail et de la sécurité sociale mais au fossé qui existe entre la définition de ces nouvelles politiques et leur mise en application. La source institutionnelle de ce fossé tient, selon l'étude, à deux contradictions inhérentes à la stratégie de réforme chinoise. Premièrement, la nécessité de compter sur la thésaurisation locale pour laisser le marché opérer est en contradiction avec l'impératif de légitimité qui est d'assurer aux plus démunis un minimum de justice et de sécurité sociale. Les représentants locaux de l'Etat s'intéressent plus au premier impératif qu'au deuxième, surtout lorsqu'ils peuvent compter sur l'intervention financière du gouvernement central pour maintenir la stabilité sociale. La deuxième contradiction de la réforme chinoise, qui risque d'aboutir à une protection inégale des droits des travailleurs, tient à la nature non libérale du système juridique chinois. L'Etat se sert de la loi pour contrôler la société mais, dans la plupart des cas, n'entend pas que la loi restreigne son action. Lorsqu'il n'est pas de l'intérêt des agents locaux de l'Etat de faire appliquer le droit du travail, il n'est guère d'autorité—le pouvoir judiciaire par exemple—qui puisse préserver le caractère sacro-saint de la loi.

En conséquence, de nombreux travailleurs, se voyant injustement privés des droits que leur donne la loi et pressés par la nécessité d'assurer leur subsistance, deviennent difficiles à contrôler sur le plan politique. Les conflits du travail, qui ont nettement augmenté, s'accompagnent d'un militantisme contagieux, qui prend des formes à la fois classiques (pétitions, arbitrage et recours aux tribunaux) et moins habituelles (manifestations, défilés et blocage de routes). L'Etat a réagi en dosant savamment concessions et répression. Les pouvoirs publics entendent les revendications d'ordre économique, qui touchent aux moyens d'existence, et, dans bien des cas, y répondent, au moins partiellement, par une rapide indemnisation financière octroyée par le gouvernement central ou provincial. En revanche, les revendications politiques telles que celles qui concernent le départ ou le limogeage de certains responsables et les actions s'étendant à plusieurs usines sont implacablement réprimées et sévèrement punies.

Malgré la contestation, le Gouvernement chinois a poursuivi avec ardeur la réforme de la sécurité sociale, ciblant des secteurs à problème tels que les arriérés de retraite, les salaires impayés, les indemnités de chômage et l'assurance médicale. De plus, Beijing verse dans les coffres des provinces des fonds affectés pour leur permettre de satisfaire aux revendications sociales susceptibles de dégénérer en instabilité sociale. Il est également question d'instituer une assistance juridique systématique pour les personnes dont le revenu tombe en dessous d'un seuil donné. L'Etat chinois a donc répondu aux exigences populaires, même s'il l'a fait lentement et de manière sélective. Enfin, les travailleurs migrants et les travailleurs de l'Etat ne sont pas totalement démunis ni prolétariés. Les droits à la terre pour les paysans migrants et celui de posséder son logement pour les travailleurs du secteur public ont servi de soupapes de sécurité en adoucissant les effets d'un chômage massif et d'une exploitation diabolique.

Dans les deux segments de la classe ouvrière étudiés ici, les femmes rencontrent des difficultés liées à leur sexe. Avec la disparition de l'entreprise providence, on recourt davantage à la famille lorsqu'on a besoin de services et d'une aide financière. Ce sont encore les femmes qui, pour une très large part, supportent ces charges. Ce sont aussi les premières licenciées lorsque les entreprises en cours de restructuration compriment leur personnel. Les droits à la sécurité sociale étant liés à l'emploi plutôt qu'à la citoyenneté, les femmes actives, qui sont défavorisées en raison de leur sexe sur le marché du travail, risquent de passer à travers les mailles du nouveau filet de sécurité sociale. Comme on avait tendance, au temps du socialisme, à privilégier les hommes dans l'allocation des logements, on a, sans s'en rendre compte, réduit les chances qu'avaient les femmes de devenir propriétaires de leur propre logement lorsque les unités de travail ont commencé à privatiser les logements sociaux à l'époque de la réforme. Quant aux jeunes migrantes qui s'échinent dans les usines multinationales, l'absence d'indemnités de maternité les forcent à tronquer leur carrière d'ouvrières d'usine pour accoucher et s'occuper de leur enfant et de leurs parents âgés. Les récents changements apportés aux droits d'occupation des sols dans la loi risquent d'empiéter sur l'accès des femmes à cette occupation, jusqu'à présent égal à celui des hommes, ce qui aurait de graves répercussions sur les moyens d'existence des femmes migrantes. Cependant, la tendance à favoriser les hommes n'explique pas le sort que subissent des millions de travailleurs chinois à l'époque de la réforme. Parvenus à l'âge mûr, les travailleurs du secteur public, hommes et femmes, sont victimes d'une discrimination fondée sur l'âge, et les travailleurs migrants des deux sexes souffrent de leur situation de ruraux, qui agit à la manière d'une caste. Les salaires et retraites impayés vont continuer d'empoisonner la vie de nombreux travailleurs, hommes et femmes, tant que le système juridique et le gouvernement ne feront pas respecter le droit du travail.

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RESUMEN

El surgimiento de China como el taller del mundo, se ha basado, entre otros aspectos, en una profunda reestructuración de la fuerza de trabajo. El desempleo masivo en el sector industrial estatal tiene lugar al mismo tiempo que la trascendental migración de campesinos a las fábricas mundiales. Tanto la desaparición como la aparición de la clase trabajadora china han sido determinadas en gran medida por el Estado. En este documento se examina la evolución histórica de cambios fundamentales en la reforma laboral de China y en los derechos de los trabajadores: desde la introducción de los contratos de trabajo hasta la promulgación de una legislación laboral nacional, la destrucción del socialismo basado en unidades de trabajo y la sustitución por un régimen de seguridad social nacional. También se analiza la lucha de los trabajadores por sus medios de vida como respuesta a esta transformación de trascendencia histórica.

Para los trabajadores chinos, el problema fundamental no son los nuevos sistemas laborales y de bienestar, sino las grandes discrepancias entre la estipulación y la aplicación de estas nuevas políticas. En este documento se señala que la fuente institucional de este desequilibrio radica en dos contradicciones inherentes a la estrategia de la reforma china. En primer lugar, el imperativo de depender de la acumulación local para impulsar la comercialización entra en conflicto con la necesidad imperiosa de mantener la legitimidad al ofrecer a la población más desfavorecida un nivel elemental de justicia y bienestar. Los agentes estatales locales están más interesados en el primer imperativo que en el último, en particular cuando pueden confiar en la intervención financiera del gobierno central para mantener la estabilidad social. La segunda contradicción inherente a la reforma china que propicia la protección desigual de los derechos laborales está relacionada con la naturaleza intransigente del sistema jurídico del país. El Estado utiliza la ley como un medio para controlar a la sociedad, mientras que, en la mayoría de los casos, el mismo Estado no se somete a dicha legislación. Cuando la aplicación de la legislación laboral no está en el interés de los funcionarios locales, apenas existe autoridad compensatoria—del poder judicial, por ejemplo—que preserve la inviolabilidad de la ley.

Por consiguiente, al comprender que injustamente se les niegan sus derechos jurídicos, y presionados por sus necesidades de subsistencia, muchos trabajadores se rebelan contra la política. El notable incremento de los conflictos laborales está acompañado por la proliferación del activismo laboral, que adopta formas tanto convencionales (es decir, peticiones, arbitraje laboral y litigios) como no convencionales (a saber, protestas, manifestaciones y obstrucción de carreteras). El Estado ha respondido combinando moderadamente las concesiones con la represión. Las demandas económicas y de subsistencia son identificadas, y en muchos casos atendidas al menos parcialmente, con una rápida compensación financiera subsidiada por el gobierno central o provincial. Por otra parte, las demandas políticas como aquellas relacionadas con la destitución de los funcionarios o con medidas adoptadas en las fábricas son implacablemente reprimidas, y castigadas con dureza.

A pesar de las protestas, el gobierno chino ha seguido presionando con fuerza para llevar a cabo la reforma de la seguridad social, centrándose en solucionar cuestiones problemáticas como el retraso en el pago de las pensiones, salarios no saldados, las prestaciones por desempleo y el seguro médico. Asimismo, los fondos ya destinados se canalizan de Beijing hacia las arcas provinciales, para hacer frente a las quejas sociales que puedan estallar en inestabilidad social. También se ha previsto institucionalizar sistemáticamente la prestación de asistencia jurídica a las personas con ingresos por abajo de cierto nivel. Así pues, el Estado chino ha respondido a las exigencias populares, pero sólo de forma lenta y selectiva. Por último, no se ha despojado totalmente de sus bienes o proletarizado a los trabajadores migrantes ni a los trabajadores estatales. Los derechos territoriales rurales para los campesinos migrantes y el derecho a un hogar privado para los trabajadores estatales han funcionado como válvulas de seguridad para calmar los efectos del desempleo masivo y de la explotación atroz.

Las mujeres pertenecientes a los dos sectores de la clase trabajadora aquí analizados se enfrentan a dificultades específicas de la distinción por género. Al desaparecer el bienestar basado en la empresa, la unidad familiar se ve obligada a redoblar sus esfuerzos para asegurar la prestación de servicios y el apoyo económico. Estas cargas domésticas siguen recayendo fundamentalmente sobre las mujeres. Asimismo, las mujeres son las primeras en ser despedidas cuando se lleva a cabo la reestructuración de las empresas recortando su plantilla. Al enfrentarse a las desventajas relacionadas con la distinción por género en el mercado de trabajo y al estar sujetas a un régimen de derecho al bienestar basado en el empleo y no en la ciudadanía universal, las mujeres trabajadoras no están protegidas por la nueva red de seguridad social. Los prejuicios de los hombres en lo que respecta a la asignación de la vivienda durante el régimen socialista en el pasado han socavado involuntariamente las oportunidades de las mujeres de llegar a ser propietarias cuando las unidades de trabajo comenzaron a privatizar viviendas “de bienestar” durante el período de la reforma. Para las mujeres jóvenes migrantes que trabajan duramente en fábricas mundiales, la ausencia de prestaciones por maternidad les obliga a truncar su carrera en la fábrica para poder dar a luz y cuidar a sus hijos, y también a sus familiares mayores. Los recientes cambios legales en lo que respecta a los derechos de utilización de la tierra podrían acabar con la igualdad de acceso de las mujeres a la utilización de la tierra, lo que tendría graves consecuencias a largo plazo para la seguridad de los medios de vida de las mujeres migrantes. Sin embargo, los prejuicios en la distinción por género todavía no han empezado a hacer mella en la difícil situación en que se encuentran millones de trabajadores chinos durante el período de la reforma. Los trabajadores de mediana edad del sector estatal, ya sean hombres o mujeres, son objeto de discriminación por motivos de edad, y los trabajadores migrantes de ambos sexos sufren las consecuencias de pertenecer a la “casta” de residentes rurales. La falta de pago de los salarios y las pensiones seguirá menoscabando la vida de los hombres y mujeres de la clase trabajadora mientras el sistema jurídico y el gobierno sigan sin aplicar la legislación laboral.

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I.

chinese socialism and worker entitlement

What was socialism for Chinese workers? While no simple or singular response can adequately capture the layered and fragmentary experiences of a vast and heterogeneous workforce, many ordinary workers surveyed in the 1990s emphasized employment security and welfare entitlement (Hung and Chiu 2003; Lee 1998). The centrality of these two issues in workers' collective memories is significant not only in historical terms. In so far as memories of the

past are always reconstructed in light of the present, and with a view to the future, these two aspects of working-class lives will continue to play a pivotal role in shaping the evolving relationship between this segment of society and the state during the reform period. This paper outlines the institutions that defined working-class employment and entitlement under state socialism. It then traces how their collapse and revamping have prompted workers' livelihood struggles. The implications for women's welfare will be discussed, even though the novelty of these policy changes and the paucity of gender-sensitive research only allow for educated conjectures, not conclusions.

Its egalitarian ideology notwithstanding, Chinese socialism had constructed an elaborate social structure of inequalities. In the absence of a market, resources, life chances and welfare benefits were unevenly allocated through bureaucratic redistribution. The most salient and fundamental divide was the one between rural and urban residents, demarcated by their respective "household registration status". State power was predicated on people's material dependence on government redistribution. The general population was also subjected to political control imposed through the far-reaching arms of the state apparatus, ranging from the military and the police to the Party cells, which exist on the shop floor, in urban neighbourhood committees or rural production teams. For the industrial workforce, this web of all-encompassing control and organized dependence operated through the "work unit" (or *danwei*) (Walder 1986). From the 1950s until the eve of economic reform in the late 1970s, intra-class inequality among urban industrial workers, in terms of wages and benefits, was organized and solidified according to the type of work unit to which workers belonged.

At the apex of this hierarchy were the permanent state workers, or workers in state-owned enterprises with urban household registration. In 1981, at the beginning of reform, this labour aristocracy accounted for 42 per cent of the entire industrial labour and produced 75 per cent of total industrial output. Their employment conditions epitomized "socialism's superiority": cradle-to-grave welfare, permanent job tenure, housing provision, life-long medical and pension benefits, and superior wages. Only 32 per cent of these permanent state workers were female. The next group down the industrial rank order consisted of workers in urban collectives—enterprises that were initially set up by local government bureaux to absorb unemployed personnel or provide employment for state-dependent workers. Some were subsidiaries of state-owned firms catering to the latter's production needs. Operating without protection of the state budget, and accounting for 18 per cent of urban industrial

employment, collectives varied greatly in terms of their welfare provisions. It was a feminized sector: 57 per cent of the workforce were women in 1981. Beyond these two major groups of workers, temporary workers in state-owned enterprises and those in rural industries received even fewer benefits. Their rural residency prevented them from becoming permanent workers in state and collective factories (Walder 1986). Among permanent workers in state firms, finer differences in the quality and quantity of welfare entitlement existed among heavy, light and military industries, and among firms of different bureaucratic ranks. Within the same enterprise, seniority, Communist Party membership, gender and personal ties with cadres determined the distribution of bonuses, training opportunities and housing benefits, etc. Gender inequalities, for instance, were manifested in pay disparity, occupational and job segregation, and welfare gaps, despite state efforts to increase women's labour participation rates. On the eve of reform, women's average wage was 83 per cent that of men's; the male-female ratio of Communist Party membership was 2:1 and male-headed households were given priority in terms of welfare housing allocations (Logan et al. 1998; Ping 1998).

If not all workers were treated equally, neither were they merely docile subjects of a totalitarian state. Economic inequalities rooted in the socialist industrial system, fueled at times by state-inspired factionalism, have periodically propelled different segments of the workforce to engage in collective action and to make economic demands. Thus, even in the pre-reform period, Chinese workers claimed a history of proletarian rebellion and activism, notably in the strike wave of 1956–1957, factional strife and violent protests during the Cultural Revolution (especially in 1966–1967), and workers' participation in the 1976 April Fifth Movement.

Seizing the opportunity of the Hundred Flowers Campaign, when Chairman Mao encouraged dissent from below to pre-empt larger-scale revolts similar to those in Hungary, workers displaced by the socialization of industries staged more than 1,300 strikes in Shanghai alone between the months of March and June in 1957. Launched most fervently by apprentices and temporary workers and those in joint-ownership enterprises, striking workers demanded higher wages, better welfare, permanent worker status and guaranteed promotion (Perry 1994). The Cultural Revolution a decade later offered another political opportunity for labour struggles. Turmoil inside Chinese factories across the nation was partially shaped by factional cleavages created by the Party's network inside the factories, distinguishing the royalists (comprised of loyal members of the Party's organization, activists, party members, shop-floor leaders, model workers, etc.) from the rebels (including a diverse group of ordinary workers who were either victimized by the royalists or by factory managers prior to the Cultural Revolution, or those who had criticized the Party authority). But labour conflicts during this period were also structured by deep-rooted occupational grievances and inequalities, with apprentices, the unskilled, irregular workers and younger workers most prominent in making economic demands and joining rebel factions across the country.¹ Then, in the spring of 1976, mass demonstrations and riots with a strong contingent of worker participation broke out in more than 40 places across the country. The backbone of this uprising was made up of young workers, who had been the basis of mobilization during the Cultural Revolution but had been stigma-

1 Perry 1996; Perry and Li 1997; Walder 1996.

tized for their bourgeois leanings. They used the occasion of the commemoration of the late Premier Zhou Enlai to express their dissatisfaction with the Gang of Four, as well as the political persecutions and the injustices they suffered (Heilmann 1993).

Overall, in the Maoist era of state socialism, the working class as a whole made great strides vis-à-vis other social groups, notably the peasants, the bourgeoisie and the intellectuals in terms of political status, wages, welfare and employment security. Thanks to the egalitarian bent of the Maoist road to modernization, which placed dual emphasis on industrialization and public ownership, Chinese workers (including both blue collar and white collar employees in urban China) benefited from the “urban bias” in resource allocation commonly found in developing countries. Furthermore, Maoist ideology enhanced the position of workers vis-à-vis the intelligentsia and managerial cadres. The latter groups were required to engage in productive labour periodically, sometimes being sent to the countryside for this purpose, and their salaries were capped, following the Cultural Revolution, at only 10–30 per cent above that of the highest-paid skilled workers. In material terms, despite a low wage system, workers’ real wage levels in 1970 represented a 35 per cent rise above those of 1952. Despite periodic setbacks, the revolutionary regime made available unmistakable improvements in worker consumption—food, housing, medical care, education and training opportunities (Hoffmann 1974). Politically, state paternalism had led to both dependence and defiance. While, in normal times, the penetration of the state into workers’ everyday life pre-empted autonomous political activities among workers, there were also volatile periods when marginal workers who felt deprived of their fair share of socialism’s superiority rose in rebellion against the state.

II.

a new labour regime

A quarter-century of market reform has drastically restructured the economy and the workforce. First, there has been a fundamental shift in the ownership pattern of industrial firms. Table 1 underscores the secular decline in the proportion of state-owned or state-controlled industrial units. In terms of total industrial output, they dwindled to a mere 18 per cent over a 20-year period. At the

same time, private, foreign-owned and joint venture firms (that is, the category “Others” in table 1) mushroomed, especially in the 1990s when the government made a decisive push to let go of unprofitable small and medium-sized state firms. Bankruptcy and privatization have significantly undercut the numerical and social prominence of the old socialist working class.

TABLE 1
PERCENTAGE OF GROSS INDUSTRIAL OUTPUT BY OWNERSHIP

Year	State-owned or state-controlled (%)	Collective (%)	Individual (%)	Others (%)
1981	74.76	24.62	0.04	0.47
1985	64.86	32.08	1.85	1.21
1988	56.80	36.15	4.34	2.72
1990	54.60	35.62	5.39	4.38
1991	56.16	33.00	4.83	6.01
1992	51.52	35.07	5.80	7.61
1993	46.95	34.02	7.98	11.05
1994	37.34	37.32	10.09	14.85
1995	33.97	36.59	12.86	16.58
1996	28.48	39.39	15.48	16.65
1997	25.52	38.11	17.92	18.45
1998+	28.24	38.41	17.11	22.91
1999*	30.56	17.07	4.46	47.96
2000*	23.53	13.90	6.09	56.48
2001*	18.05	10.53	9.18	62.24

Notes: + The sum of these percentages does not add up to 100% as some of the state-owned enterprises are double-counted under the headings of “State-Owned” and “Others”.

* The sum of these data from this time period represents the national total gross industrial output of all state-owned enterprises and non-state-owned enterprises with an annual sales income of over 5 million yuan².

Source: National Bureau of Statistics 1999b; 2000:407; 2001:401; 2002c:423.

2 The rate of exchange with the US dollar is 10 Chinese yuan to US\$1.2 (as of 27 October 2004).

This industrial restructuring has dealt a severe blow to permanent state workers' entitlement, shattering their prized employment and livelihood security, known colloquially as the "iron rice bowl". Workers in collective enterprises, which had always functioned as subsidiaries of state firms, likewise suffer the same fate of massive lay-offs. Women accounted for 44.6 per cent of all laid-off workers in 1999 (Institute of Labour Science 2003:80). On the other hand, the rise of the private and foreign sector has opened up unprecedented employment opportunities for the massive pool of peasant migrants. This immense labour reserve was released from agriculture in the wake of de-collectivization in the late 1970s, when collective land use rights were redistributed to peasant households. These surplus labourers took advantage of foreign investors' demand for factory hands and the loosening up of the household registration system by the state at that time. Female migrant workers accounted for about 47.5 per cent of all migrant workers in 2000 (Liang and Ma, 2004). They are most concentrated in industrial cities. In Shenzhen, they account for 65.6 per cent of all migrants (Liu 2003: 129). Reform therefore has spawned two historical processes: firstly, the unmaking of an entire generation of workers rooted in Maoist socialist tradition and institutions; and, secondly, the making of a new and young generation of migrant workers who are inserted into the orbit of capitalism without being fully proletarianized or deprived of their land rights. Tables 2 and 3 present, in numerical terms, the concurrent rise and decline of these two generations of workers.

TABLE 2
INDUSTRIAL EMPLOYMENT IN STATE-OWNED INDUSTRIES

Year	Total number of industrial workers employed (10,000 persons)	Number of industrial workers employed in state-owned industries (10,000 persons)	Workers in state-owned industries (%)
1995	6610	4397	66.52
1996	6450	4278	66.33
1997	6215	4040	65.00
1998	4753	2712	57.06
1999	4428	2412	54.47
2000	4102	2096	51.10
2001	3838	1824	47.52
2002	3729	1546	41.46

Source: National Bureau of Statistics 1999a (section 13-2); 2002c:460.

TABLE 3
NATIONAL TOTAL OF MIGRANT POPULATION, 1982–2000

Year	Migrant population (millions)
1982	11
1989	18
1990	28
1995	56
1996	68
2000	79

Sources: For 1982–1996, China One Percent Population Sample Surveys; for 2000, China Population Census 2000. From 1982 to 1996, temporary “migrants” are those who have stayed at the place of destination for six months or more. In 2000, official statistics replaced migrants with “floating population”, which refers to those who have resided at the place of destination for no less than a year or have been absent from the county of household registration for more than a year (Liang 2003).

tions of minimum wage and working hours limit the extent of exploitation, while *laissez-faire* policies can strengthen employers’ domination over the workforce (Burawoy 1985; Burawoy and Lukacs 1992). Whereas the state in the pre-reform period extended itself into the workplace and controlled the workforce through central planning, administrative orders and political campaigns, market reform has ushered in a regime whereby the state separates itself from factory administration and regulates labour relations through a legal framework.

Institutionalizing a labour rule of law is a protracted process of gradual change over two decades, touching on different aspects of labour relations in different phases of reform. Consistent with the general gradualist approach adopted by the Chinese leadership in other arenas of reform, labour reform usually begins with local experiments or local initiatives in certain sectors of the economy. New practices with proven effectiveness are then adopted by the central government and later promulgated as national laws and regulations. This chapter traces the historical evolution of core changes in labour policy: from the introduction of labour contracts in a small foreign investment enclave, to the promulgation of a national labour law, the demolition of work unit socialism and its replacement with a national social security system. The following discussion tries to answer two broad questions: How have worker rights and entitlements evolved over time? What are the imperatives of the state in devising a new labour regime?

II.A.

labour contracts

Labour contracts did not exist under the planned economy. Instead, an “iron rice bowl” system, whereby workers were administratively allocated to a *de facto* job tenure system in urban work units, had been gradually consolidated since the 1950s. By the early 1980s, 97 per cent of the state workforce were “fixed workers” with effective job tenure to remain in their enterprise for life (White 1987). Labour power was not yet a commodity to be sold and bought by workers and employers in the marketplace. Labour contracts were introduced in the late 1970s

To understand the politics of the making and unmaking of classes, and to assess the impact of market reform on workers’ livelihoods, we have to examine the new institutional framework, or a “regime of production”, that constitutes and reconfigures workers’ interests, rights, entitlement and capacity, in relation to employers and different levels of the Chinese state. The notion of a labour regime or a production regime refers to the political apparatus that regulates the organization of work and the reproduction of workers’ capacity to labour. More specifically, it directs analytic attention to extra-production institutions that shape how factories control and maintain workers, and how much leverage workers have vis-à-vis their employers. The state plays a pivotal role in shaping labour relations through intervention or non-intervention. For instance, state intervention in the form of social security provision and unemployment benefits reduces workers’ dependence on waged employment. Regula-

for two reasons. The Chinese Government then was confronted with the political urgency to alleviate the tremendous unemployment pressure caused by the return of some 15 million sent-down youths. Labour contracts were introduced as a way of expanding employment, by allowing enterprise managers to recruit their own workers and create more new employment channels run by collectives and private enterprises (White 1987). When unemployment pressure abated in the early 1980s, reformers shifted their focus from creating employment to enhancing enterprise productivity. The experiment with labour contracts for new recruits in state and collective enterprises was one such productivity-boosting measure. Other such measures included linking performance with wage and bonus, examinations for hiring and promotion, tightening labour discipline, and purchasing more advanced technology (Shirk 1981). In February 1983, the Ministry of Labour and Personnel issued a formal circular expanding the labour contract experiment from 13 provinces to all provinces, calling upon localities to choose their own pilot enterprises and industries.

A second reason for introducing labour contracts was the reform leadership's decision to allow foreign investment in special economic zones in south China. In enterprises involving foreign capital, provisions for labour contracts were promulgated alongside a joint venture law in 1979. The government saw the labour contract as an instrument to attract and regulate an experimental economic zone at the margin of the national political economy (Gallagher, forthcoming).

At the beginning, such attempts at overhauling a time-honored quintessential socialist institution were greeted with ambivalence and debate. Supporters of labour contract argued that it was instrumental for realizing the principle of "distribution according to labour", bringing about choices for both labour and management, and clarifying each party's responsibility, power and benefits (Tomba 2002). Yet, deep disagreement among policy elites and academics, as well as mass anxiety about employment security and worker morale, had stalled the universalization of labour contracts for more than a decade. Although the labour contract system was extended to all new recruits to state factories in July 1986, it was not until 1993 that the government set a timetable for universalizing the policy nationwide, covering enterprises of all ownership types. The Labour Law, which was passed in 1994 and became effective in 1995, formally requires that all employees sign labour contracts with their employers (Gu 2001b). Official statistics show that labour contracts had become universalized in the state sector by the end of the 1990s. However, a more dismal picture for the non-state sector is revealed by surveys suggesting that only about 23–30 per cent of migrant workers in private enterprises have contracts (Dai and Zhu 1999; Li 2002). The political consequences of this contract gap will be discussed later.

II.B.

labour dispute resolution

Another early attempt by the Chinese Government to regulate employment relations through legalization concerns the resolution of labour disputes. A labour dispute-arbitration system existed briefly in the early years of the

People's Republic but was abolished once private industry was socialized by the late 1950s. Under the permanent employment system and the socialist ideology proclaiming workers "masters" of their enterprise, there was no formal mechanism for settling disputes in the workplace. Informal mediation between the workshop director and the aggrieved worker was the preferred method of dispute resolution. But with the introduction of labour contracts in both state and private sectors, the government saw the need to formalize a set of administrative channels for resolving labour conflicts arising from contractual employment relations. In 1987, the State Council promulgated the Provisional Regulations on the Handling of Enterprise Labour Disputes in State

Enterprises, which revived the basic three-step procedural structure abolished in the 1950s. It stipulated the mechanisms and the administrative units for mediation, arbitration and litigation. Then, in 1993, the Regulation for the Handling of Labour Disputes replaced the 1987 Provisional Regulations. The new regulation expanded the scope of conflict resolution to include disputes over matters other than contract termination, such as wages, benefits and occupational health and safety. Employees of all kinds of enterprises, not just those in the state sector, are now covered. A national hierarchy of labour-dispute arbitration committees has been set up. By 2003, there were some 222,888 labour-dispute-mediation committees in state-owned enterprises, 3,192 labour-dispute-arbitration committees at the county, city and provincial levels and 24,000 labour dispute arbitrators (Ho, forthcoming). These committees theoretically follow a tripartite principle and should consist of representatives from the labour bureau, the trade union and the enterprise. But, in practice, most of the cases are heard by one arbitrator wearing a double hat as representative of the union and of the labour bureau. Appeals against arbitral awards can be made to the courts as civil lawsuits.

The construction of this dispute-arbitration system turns out to be a double-edged sword. On the one hand, a safety valve is created as the state rationalizes the resolution of conflicts, confining and subjecting them to bureaucratic and judicial processing. On the other hand, the dispute-resolution system opens up new opportunities and resources for workers to challenge not only employers who violate the law, but also local state agents who decide what rules must be obeyed and what rights and responsibilities must be recognized. Table 4 shows the staggering increase in the number of arbitrated labour disputes and employees involved since the implementation of the 1993 Regulation. Workers have obviously been keen to use the law as a weapon to protect their interests. Most of those cases were initiated by employees and, according to official statistics, 50–80 per cent of arbitral awards, depending on localities, were in favour of employees (Gallagher 2002; Lee 2003). However, what these figures conceal is the often illusive boundary separating institutional and non-institutional activism. When workers are encouraged to seek legal and bureaucratic redress, only to find that the local state often colludes with employers, they are emboldened to resort to mass action to draw the attention of superior levels of government to right local wrongs.

TABLE 4
NATIONAL TOTAL OF ARBITRATED LABOUR DISPUTES, 1994–2002

Year	Arbitrated labour dispute (cases)	Arbitrated collective dispute (cases)	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	467,150
2002	184,116	11,024	608,396

Source: National Bureau of Statistics, China Labour and Social Security Yearbook 1995–2001; China Statistical Yearbook 2002, p. 794 and 2003 p. 824.

II.C.

*national labour law
and workers' rights*

If reinvigorating the labour-arbitration system inadvertently encourages labour activism, the legalization of labour rights is an even more direct catalyst. In 1994, China passed its first-ever National Labour Law since the establishment of the People's Republic. As a basic law, it

stipulates the legal principles for contractual employment relations, elaborates a range of workers' rights, and redefines the role of the state as regulator of labour relations. In terms of workers' rights, the most important, and interestingly also the most commonly violated, are: the right to get paid for one's labour, the right to rest days and holidays, the right to a safe workplace environment, and the right to receive social insurance and welfare. Another significant feature of the Labour Law is the minimum wage system, the level of which is set by the provincial legislature. The Labour Law also stipulates special provisions to protect women's interests, such as proscribing gender discrimination in recruitment and remuneration, and setting limits on the types of work that may be performed by pregnant, nursing or menstruating women (Gallagher 2002; Lee 2003).

In several fundamental ways, the Labour Law marks a drastic break between "socialist" and "market socialist" employment systems. First, in recognizing the unequal power and disunity of interest between workers and management, the Law jettisons the previous ideological assumption of harmonious relations between employees and employers. The Labour Law is enacted with a view to protecting the legal rights of workers—the weaker party—by placing the state more on their side. Second, the Labour Law abolishes previous distinctions among workers in different types of enterprises—for example, state, collective, private, migrant, temporary or permanent—and provides a uniform legal framework as well as setting labour standards that are applicable to all workers in all types of enterprises. Third, by stipulating a contribution-based social security system for all workers independent of the ownership nature of their factories, the law shifts the financial burden of worker welfare away from the state and toward the employers and workers themselves. Employment is now a private contractual relationship and the state is a regulator of the labour market rather than an administrator of employment. Whereas the Labour Law lays down the general principles of workers' rights to insurance and the responsibility of workers and employers to contribute to social insurance funds, supplementary regulations and laws have been, and will be, passed to implement those welfare provisions.³

From the workers' perspective, the most immediate and sensitive concerns in the Labour Law are those relating to pension, unemployment benefits, medical care and housing. In the past decade, the transition from a workplace-based and state-funded welfare regime to an employment- and contribution-based system has wreaked havoc on many working-class lives, as unemployment becomes a national social problem. Although in both the pre-reform and reform periods, welfare is based on employment and rather than on universal citizenship (Sainsbury 1996), the disadvantaged position of women in the labour market during the reform period means that women are more likely than men to fall through the cracks of the social safety net. But it should be pointed out that, even under work-unit socialism, a male household model informed the allocation of housing—a practice that has seriously undermined women's prospects of owning their own homes in the reform period. Women's earlier mandatory retirement age also means a lower retirement wage.

3 For details of these regulations, see Josephs 1990 and Ho 2004. For procedural details of mediation, arbitration and litigation, see Ho forthcoming. The Labour Safety and Health Law was implemented in May 2003 while the Labour Contract Law, the Collective Contract Law and the Law on Settlement of Labour Disputes are in the drafting and planning process. See Gallagher and Junlu (eds.) forthcoming.

II.D.

pensions

Hailed as a manifestation of the superiority of socialism by the government, guaranteed pension is widely considered a sacrosanct entitlement by ordinary workers in state industries. The 1951 Labour Insurance Regulation provided

pension, medical, injuries and maternity benefits for workers and their family members in enterprises with more than 100 employees. Such provisions, formulated by party leaders experienced in skilled workers' unions during the Communist Revolution and modeled after artisan's native-place guilds, were later expanded to include government employees and smaller enterprises (Perry 1997; World Bank 1997:15-16).⁴ From the 1950s to the mid-1960s, China patterned its social security system after the Soviet model, with insurance schemes administered by the official union and the Ministry of Labour. Work units contributed portions of their total wage bills (about 3 per cent) to a pooled fund to cover the expenses for employees' pension and medical expenses. This system was abandoned during the Cultural Revolution (1966–1976), when the official union and the Ministry of Labour were abolished. Since the late 1960s, pensions, along with other forms of welfare, have become the responsibility of the individual work units, which pay their retirees directly out of current revenue. The retirement age is 60 for male workers and cadres and 55 for female cadres and 50 for female workers. Replacement rate for cash wages stands at a high of 80 per cent (the international average is about 40–60 per cent), with in-kind benefits continuing at the pre-retirement level (World Bank 1997:5). The ratio of pension to pre-retirement compensation therefore reaches 90 per cent, depending on the employee's post, grade and sector (Gu 2001a).

Based neither on taxation nor contribution and accumulation, this “pay-as-you-go” system at first depended totally on central government appropriation after enterprises remitted all profits. Pensions were drawn from enterprises' employee welfare funds, the size of which varied with the size of the enterprise and came from the government. With a massive graying working population, the government recognized very early on in the reform process that the old, work-unit-based social security was a fiscal time bomb. Reform of the pension system began well ahead of other types of welfare because of the immense demographic pressure. The number of urban retirees increased 7.3 times in 15 years, from a mere 3.14 million in 1978 on the eve of reform to 25.98 million in 1992. In 2000, China had 36 million retirees. The corresponding ratios of working to retired employees worsened from 30.3:1 in 1978 to 5.7:1 in 1992 (Zheng 2002). By the mid-1990s, retirees were estimated to represent 37 per cent of the total workforce of large and medium-sized state-owned enterprises (O'Leary 1998:57). The World Bank estimated that the proportion of the total wage bill that is used for pensions would rise from 7 per cent in 1978 to an alarming 40 per cent by 2030 (Feng 2001:80; World Bank 1997:24). Pension was also a tremendous financial burden on enterprises, depriving them of a level playing field in market competition. Following enterprise reform in the mid-1980s, state-owned enterprises were required to generate their welfare funds from their profits. The older the enterprise, the heavier the pension burden on enterprise budget, and the less profitable the enterprise became. The rise of new foreign firms, joint ventures and township and village enterprises, which usually employ younger workers, creates formidable competitive pressures for state firms saddled with permanent older workers.

After years of local and sporadic experiments, the government gradually imposed a unified system by issuing several circulars and provisional regulations between 1986 and 1997. From 1997 to 2000, the emphasis had been on standardizing local practices into one national system, and centralizing the administration and management of pension insurance schemes in the hands of the provincial governments, not the municipal governments. Employees are required to contribute up to 8 per cent of their monthly wage and employers up to 20 per cent of

⁴ For a somewhat different interpretation of the origin of welfare and pension, see Frazier 2002.

the total wage bill. The funds are deposited into two kinds of accounts: a social pooling account and an individual account, the proportions of which are decided by the provincial government. A retiree's pension will therefore have both pay-as-you-go and contributory components. The Labour Law requires that all enterprises, regardless of ownership category, and all employees, including migrant workers, participate in this contributory system. In light of migrant workers' high job mobility, some localities have issued their own policy allowing migrant workers to withdraw their accumulated contribution in their personal account, but not the social pooling account, when they leave their employer. For instance, in Shenzhen, since 2001, migrant workers have been entitled to pension stipends when they reach retirement age if they have made continuous contributions to their pension accounts, and if they have 15 or more years of employment in Shenzhen (Li 2002).⁵ In 2001, the average monthly wage of an employee participating in old-age insurance was 695 yuan and the average pension received by a retiree was 576 yuan, or a pension substitution rate of 82.8 per cent (National Bureau of Statistics 2002a:256).

The implementation of pension reform has met with serious problems. First, in terms of coverage, the state sector has been most successful in expanding the participation rate, reaching 96 per cent in 1998. The coverage rates for collective and all other non-state enterprises were only 53 per cent and 30 per cent respectively (Feng 2001:34). Overall, across all types of enterprises, only 40 per cent of firms participate in pension scheme. A survey on some 1,500 migrant workers in Guangdong (China's export powerhouse and the most popular destination for migrant workers), found that 73.8 per cent of the respondents did not have any form of social security in 2001 (*Southern Metropolis News*, 16 January 2002:A06). One reason for this limited coverage is the common practice by local governments of allowing employers to enroll only 10–20 per cent of their employees in social insurance, instead of pressing for the impossible goal of full enrolment, as required by law (Liu 2004:44).

A second and more urgent problem is the massive pension default and arrears that occurred in the late 1990s, caused by insolvency of many old state firms with large numbers of retirees on their payroll. Market reform has brought about financial independence for state companies, as enterprise managers enjoy wide-ranging autonomy in setting wages, determining output prices, hiring and firing, and allocating investment finances. But such independence also means that welfare expenditures have to be drawn from their profits, too. Unprofitable enterprises have nowhere to turn for funding. Many state firms that have nominally joined the pooling system are in heavy debt and have suspended their contribution.

In 2000, for instance, nationwide, of all the work units participating in pension insurance funds, about 25 per cent of them failed to fully pay their contribution. Some 43,617 work units were not able to pay full pensions to some 4 million retirees. And one-third of these retirees were concentrated in Liaoning province—one of the oldest industrial bases in China (Research Department of the All China Federation of Trade Unions 1999:90). In the provincial city of Shenyang, Liaoning, 26.4 per cent of retirees have reported pension arrears (Giles et al. forthcoming). Furthermore, pension burdens sometimes spawn wage arrears. Enterprises with pension burdens are often faltering and unprofitable, seriously impairing their solvency and ability to pay wages to their working employees. According to official union statistics, there have been staggering increases in both the number of enterprises and the number of workers involved in wage arrears (table 5). A recent five-city survey revealed that 10.6 per cent of working-age adults who worked during the 1996–2001 period experienced wage arrears (Giles et al. forthcoming).

⁵ Li reports that many migrants withdraw funds on leaving their employer or returning home, since they have no intention of retiring in Shenzhen. The Shenzhen Employee Social Insurance Policy stipulates that temporary residents can qualify for a pension if they contribute to a pension fund for at least 15 years.

Due to the practice of replacing retiring workers with their own offspring, since the 1970s, it is not uncommon to find entire working-class families suddenly being plunged into financial difficulties when the enterprise for which they all work goes out of business. Under pressure from several years of widespread worker protests in the late 1990s, the central government had infused additional emergency funding to social insurance funds. Nevertheless, in 2001, despite a 349.4 billion yuan transfer, there was still a shortfall of 2 billion yuan for the repayment of owed pensions (National Bureau of Statistics 2002a:256). As we shall see below, the rampant non-payment crisis has led to numerous petitions and protests in rustbelt cities.

TABLE 5 NUMBER OF ENTERPRISES AND WORKERS INVOLVED IN PENSION ARREARS		
	Number of units owing retired and resigned people's pensions	Number of retired and resigned people whose pensions have been owed
2000		
National	43,617	3,881,306
Liaoning	4,709	1,193,006
1999		
National	29,919	3,647,004
Liaoning	2,485	443,909
1998		
No issue in 1998		
1997		
National	1,122,486	1,268,098
Liaoning	194,112	166,955
1996		
National	692,272	1,040,448
Liaoning	157,365	214,442

Source: National Bureau of Statistics. Chinese Trade Unions Statistic Yearbook 2001: pp. 66–7, 79, 88–90.

II.E.

unemployment benefits

Unemployment has become an explosive social and political problem since the mid-1990s. In public opinion polls, ordinary citizens and officials alike consistently ranked unemployment the primary threat to social stability in urban China (Ding et al. 2002; Hu 2002).⁶ The root of massive unemployment lies in the changing direction of state-owned enterprise reform in the 1990s. Prior to the mid-1990s, enterprise reform focused on enhancing enterprise efficiency by reforming the system of management incentives, autonomy and governance (Lin et al. 2001). As late as 1995, the national leadership emphasized enterprise function and obligation to provide livelihood to employees; acquisition and merger rather than bankruptcy was the solution for loss-making firms. Banks

⁶ The China Social Stability Research Unit surveys in 2000 and 2001 revealed that ordinary citizens consider corruption, unemployment and peasant burdens as three major causes of social instability. A 1999 survey conducted with 56 mayors in China reported that unemployment was perceived as the most significant threat to social stability.

were forced to continue their loans to struggling enterprises. Then, between 1995 and 1997, the government shifted gear with a new policy of “grasp the big and let go of the small”, meaning that the government would allow bankruptcy, merger and acquisition or lease of small firms while reorganizing big firms in strategic sectors. Bankruptcy and the sale of small and medium-sized state enterprises became common. With widespread bankruptcies (see table 6), production suspension and privatization, came a soaring number of unemployed workers.

By mid-2001, there were 7.69 million officially-registered “laid-off” (or *xiagang*⁷) workers and 6.19 million officially-registered “unemployed” workers (or *sheye*) (Mo 2002). These two terms denote two groups of workers who are shed from their work units under different conditions and who, in theory, enjoy different entitlements. A “laid-off” worker is one who (1) began working before the contract system was instituted in 1986 and had a formal, permanent job in the state or collective sectors; (2) was let go because of their firm’s problems in business but has not severed relations with the original firm; and (3) has not found other employment. Many laid-off workers fail to obtain an official laid-off certificate, which they need in order to obtain government assistance but the provision of which implies financial responsibility for their enterprises (Solinger 2001).⁸ “Unemployed” workers are those whose firms have been officially declared bankrupt and whose posts have therefore disappeared. Many former employees who lose their jobs when firms collapse without going through the official bankruptcy procedures cannot be registered as unemployed workers. Therefore, official statistics on both laid-off and unemployed employees are widely considered to be underestimations. Whereas official

unemployment rates hovered around 3–4 per cent in the 1990s, academic researchers⁹ reported rates that are three to four times higher.¹⁰

Year	Cases accepted
1989 (Jan–May)	98
1990	32
1991	117
1992	428
1993	710
1994	1,625
1995	2,348
1996	6,227
1997	5,697
1998	7,746
1999	5,622
2000	7,219
2001	9,110

Source: 1989–1996: Cao, Siyuan, “Bankruptcy Law in China.” *Harvard China Review* 1(1); 1997–2001: National Bureau of Statistics, China Statistical Yearbook 1998–2002

Initially, women formed a disproportionately large segment of the laid-off population. But, as laid-off and unemployment increased in tandem with the rise in enterprise bankruptcy, the gender gap began to narrow. For instance, in 1993, the official union found that female workers accounted for 37 per cent of all state workers but 60 per cent of the laid-off and unemployed combined. By 1999, they made up 44.6 per cent of the laid-off and unemployed (Chang 1995; *China Employment Report* 2002:78). Unemployment is now determined more by workplace, class and regional factors than by gender.

To maintain social stability in the face of the massive and rapid increase in the number of unemployed workers, the central government has devised several policies to guarantee a standard of basic livelihood, independent of paid employment. Collectively known

7 *Xiagang* literally means “stepping down from the post”.

8 Dorothy Solinger argues that “laid-off” only applies to state-owned enterprise, but most surveys of laid-off workers include workers shed from urban collectives as well.

9 Li et al. 2001:3; Tang 2001; Giles et al. forthcoming.

10 Giles et al. (forthcoming) finds 12.9 per cent in 2001, up from 7.2 per cent in 1996.

as the “three lines of guarantees”, these policies include the unemployment insurance system, the “Re-employment Project” and the policy on basic living allowances. The local governments are the key actors in implementing these national policies, resulting in uneven realization of actual protection for workers, depending on the extent of enterprise compliance, the economic structure and history of the province, and the integrity and competence of local officials.

Let us begin with the unemployment insurance system, which first came about in 1986 with the labour contract reform and the bankruptcy law. Before the mid-1990s, unemployment insurance covered only the state sector where both enterprises and workers contributing to a pooled fund at the “county-ranked” city level. By the mid-1990s, when unemployment increased, all kinds of enterprises were gradually required to participate. Under the 1999 Regulation on Unemployment Insurance, employers contribute 2 per cent of total expenditure on salaries and employees contribute 1 per cent of their salaries, forming a pooled fund at a prefecture-ranked city administration. Insured employees are paid a monthly allowance set by the local government and for a period of 12–24 months, depending on the length of service of the unemployed (*Blue Book of Chinese Society* 2002; Gu 2001b). From the beginning, there have been problems with collections as a result of failing enterprises being unable to pay and profitable companies unwilling to join. While official statistics claim that 78.2 per cent of urban employees are covered by unemployment insurance, surveys reveal a grimmer picture: 11 per cent of the working population in major cities, 2.8 per cent of the unemployed and 4 per cent of those in the private sector at the end of 1999 participated in unemployment-insurance schemes (Solinger 2001:321). An extensive survey revealed that fewer than 30 per cent of unemployed men and 25 per cent of women had access to public unemployment or laid-off subsidies. One-third to one-half of the unemployed aged 40–50—the group most affected by enterprise restructuring—receive no public support at all (Giles et al. forthcoming).

In short, unemployment creates a huge demand for public assistance that has become the administrative and financial responsibility of the local government. Due to collection problems, misuse of funds and widespread informal bankruptcy, many workers are deprived of their legal entitlements. Disgruntled and desperate workers take to the streets and staged numerous protests, undermining social stability. The central government responded with circulars, repeatedly urging local governments to take seriously their task of guaranteeing the livelihood of unemployed and laid-off workers. In 2000, the State Council even stipulated that different levels of local governments should increase their budgeted expenditure for social security. At the same time, the central government began a multi-year appropriation to make up the pension and unemployment fund deficits. This special infusion of funds increased from 12 billion yuan in 1998 to 300 billion yuan in 2000. In addition, in 2000, central appropriation for guaranteeing the livelihood allowance of laid-off and unemployed workers reached 458 billion yuan (Hung 2003).

The nationwide Re-employment Project is the government’s response to massive lay-offs. The government could not afford to run the political risk of throwing millions of former permanent workers out into the market. Instead, it gives workers continuing access to their work-unit-based benefits, especially pension contribution by their employers through local re-employment centres. Enterprises with laid-off employees are required to partially fund “re-employment centres”, run by individual enterprises, an industry sector, or local labour bureaux. These centres assume trusteeship of laid-off workers for three years, providing them with job training, job placement services, disbursement of basic livelihood allowances and payment of their social security insurance. Workers have to sign an agreement to terminate their labour relation with their work units upon entering the re-employment centres. At the end of the three-year period, workers are completely on their own or they can register themselves as unemployed. The Re-employment Project has been funded on a “three-three” principle—that is, a third of the funding comes from each of the three sources: local government, enterprises and

unemployment insurance funds.¹¹ In 2001, the central government announced that re-employment centres would gradually disappear as enterprises were allowed to terminate contracts with employees who become unemployed without going through the transitional laid-off period.

The last measure of livelihood guarantee for the impoverished is a basic living allowance system established in 1997. It targets all urban residents who fall below certain locally determined household income levels. Laid-off and unemployed workers make up a large part of this group of urban poor, but households with special difficulties, such as those with sick or handicapped household members, are also eligible. The amount of per capita allowance varies according to the living standard of each city, ranging from 100 to 120 yuan in provinces such as Jilin and Heilongjiang and more than 200 yuan in Guangdong and Beijing, with a national average of 150 yuan in 1996 (Feng 2001:ch. 7). This welfare responsibility falls squarely on city governments, which fund their civil affairs departments to implement this policy. Implementation is far from satisfactory. Many eligible residents are unable to receive benefits due to lack of local funding, or to local officials' unwillingness to recognize the fact that such residents qualify for benefits. For instance, in Shenyang, Liaoning, only 29 per cent of those qualified were paid the basic living allowance in 2000 (China Labour 2002). Again, the central government continued its financial infusion to make up for local deficits. The Ministry of Civil Affairs allocated 8 billion yuan in 2000, 23 billion yuan in 2001, and 46 billion yuan in 2002 to local departments for providing this basic living allowance. Consequently, more people have received the benefits: 3.82 million in 2000, 11.9 million in 2001 and 19.3 million in mid-2002 (Hung 2003:78).

II.F.

medical care

From the 1950s to just before the reform era, the vast majority of urban employees (some 94 per cent, by 1956) were covered under a free medical-care system (Zheng 2002:123). The enterprise medical-care system provided

free services to employees in state-owned and large collective enterprises while the public medical-care system did the same for employees in administrative and non-productive work units. Dependents of employees were either given medical services free of charge or at half price. The financial burden had always been borne by the enterprise, whether budgeted as part of the enterprise's administrative cost or paid from the enterprise's welfare fund, which was apportioned by the state at a rate of 11–14 per cent of the total wage bill. Like the pension systems, after the Cultural Revolution in the late 1960s, work units rather than trans-work unit entities (such as the trade union or local government labour department) became the main provider and administrator of medical welfare. In addition to free medicine and care in out-patient clinics and in hospital, employees on medical leave were paid 60–100 per cent of their basic wage (Feng 2001:ch. 3).

Wastage of resources, hoarding of medicine by patients and the lack of control over medical expenditures contributed to a fiscal crisis. The average annual growth rate of medical care expenses hovered around 24 per cent during the reform years between 1988 and 1994 (Gu 2001a). The rise and rapid development of the non-state sectors means that a new medical-care system is needed to cover employees outside the state sector. Experimental reforms began in 1988, when the State Council led a multi-ministry committee to study medical reform proposals. Pilot schemes were carried out in the Jiangsu, Jiangxi and Hainan provinces, and they provided the basis

11 National Bureau of Statistics 2002b; Feng 2001; Gu 2001a; Solinger 2001.

for the 1998 State Council decision that required all provinces to implement a basic health-insurance scheme. The new system is basically a contributory, social pooling system whereby employers and employees contribute to a local medical insurance fund, and each employee has an account combining personal and socially-pooled contributions. All cities have to set up their schemes to be administered by city-level bodies led by the Labour and Social Security Department, and all employers contribute 6 per cent of their payroll and employees 2 per cent of their wages. All employees' contributions and at least 50 per cent of employers' contributions (depending on the length of employment) are deposited into individual accounts, and the remainder to a social pooling account. Below a minimum benefit level, employees have to pay out of pocket for any medical services they need. Above that, payment must first be drawn from employees' personal accounts. Any additional expenses exceeding 5 per cent of employees' income are paid from the social pooling component of their accounts and by employees. The percentage of employees' financial responsibility decreases as the cost of service increases. There are other regulations on proportionate reimbursement of different kinds of drugs and hospital care (Feng 2001). Yet, the overall drift of the reform is to shift the burden of medical care from the state onto employers and employees.

Thus far, as in other arenas of welfare reform, implementation of the new health-insurance system has been uneven, both in terms of coverage and actual access to benefits. Much depends on local economic conditions, local leadership's administrative capacity and political will. For instance, a recent multi-city survey revealed that only 55.7 per cent of employed workers had socialized health insurance in 2001, with the highest rate in Shanghai (88.6 per cent), compared to a dismal 9.1 per cent in Shenyang. Even more important than coverage is whether workers can get the benefits that they are entitled to. Overall, the survey revealed that 22.1 per cent of working adults with health insurance experienced expenditure-reimbursement arrears. Shanghai has the lowest rate, at 18.9 per cent, while Shenyang registered a high of 27.7 per cent (Giles et al. forthcoming). Judging from the coverage rates, local governments are not always successful in enforcing the legal responsibility of employers to contribute to their employees' health benefits. The more impoverished the localities, where workers are more likely to be unemployed, the larger the health-insurance gap.

II.G.

housing reform

The trend in housing reform is to turn what was formerly an employee entitlement into a commodity for private ownership. Since 1949, several decades of socialist transformation in cities have basically eradicated private rental

housing and substantially reduced owner-occupied housing. Various surveys carried out in the early 1980s concurred that work-unit housing—that is, apartments constructed and allocated by work units to their employees—comprised some 60–75 per cent of the housing stock in urban China, with municipalities housing taking up some 20–25 per cent and private housing about 10 per cent (Wu 1996). The role of the work unit as a provider of housing was far more important in China than in other former state socialist societies, where enterprise housing usually accounted for only 10–30 per cent of housing stock (Wu 1996). State factories drew on their capital construction investment funds, allocated by their supervising government agencies, to construct “welfare housing”. Municipalities allocated their housing budgets to municipal housing bureaux to develop public housing for small and street-level collective enterprises that were unable to receive capital construction investment. Enterprises could also rent municipal housing for their employees. The rent charged had remained very low: between 1949 and 1990, rent in most Chinese cities accounted for only 2–3 per cent of total household income, with monthly rent for a typical flat costing less than a packet of good cigarettes. In the 1980s, the

state paid 5–6 billion yuan each year to subsidize housing maintenance (Wang and Murie 1996). Large state enterprises and institutions all had residential quarters adjacent or close to their workshops, and managers and ordinary workers lived in the same compounds, forming very closely-knit communities. The basic criteria for housing allocation are urban residence and permanent employment by the work unit. Priorities depended on the status of the employees (for example, cadres were given higher priority than workers) and length of service. In addition, the size of household and the number of dependent children would sometimes be taken into consideration, especially in the more informal negotiation with allocation cadres (Wang and Murie 2000).

Financial burden on the state, chronic shortage and the poor quality of housing stock are key problems that have prompted reform since 1980. The emphasis has been on commercialization—specifically, the subsidized sale of public housing to current tenants, rent increase and introduction of housing allowances for employees to purchase their own homes on the market. The central government stopped the distribution of housing to urban employees in 1998 and replaced it with a cash subsidy for private purchase of housing. At the same time, local governments were asked to establish a supply system of affordable housing for sale to low-income families. Special central government loans and free land allocation for such housing projects were introduced in 1994. Local governments were to decide when to implement housing reform and most found it hard to come up with the necessary funds to pay subsidies to the many public and enterprise employees (Wang 2000; Wang and Murie 2000).

Overall, housing reform has turned out to be a slow process due to cadres' and workers' vested financial interests in the old system. From the mid-1980s to the early 1990s, when enterprises were given the autonomy to retain after-tax profits for welfare use, a construction craze occurred and many workers were allocated work unit flats that were subsequently sold to them at subsidized prices (Gu 2001a; Wu 1996). The caveat was that the buyers only bought part of the full property rights, or the right to use and inherit but not the right to sell in the open market without compensating the work unit for a portion of the profit made in the resale. This complicated property rights issue would become even more confusing when work units collapsed in large numbers in the late 1990s, leaving the partial property right of employees ambiguous and the maintenance of housing stock problematic. Some worker protests have emerged due to neighbourhood and housing issues. For younger workers in failing state-owned firms or smaller private enterprises, housing allowances simply do not exist due to enterprise financial difficulties or the unwillingness of employers to contribute. Due to a traditional preference for men in enterprise housing allocation (Ping 1998; Logan et al. 1998), privatization of work unit housing has tended to confer ownership to men rather than women. But, so far, there are no statistical data to document this gender bias.

For the millions of migrant workers, their rural household registration status excludes them from acquiring either usage rights or ownership rights for municipal and work-unit housing. Housing schemes mentioned above are for urban residents only. In some cities, high-income migrants are given special residency permits if they buy housing units locally. But, for the vast majority of migrant workers, dormitories attached to factories or renting private housing are the only options. Seventy-five to eighty per cent of migrant workers in major cities live in institutionally-provided dormitory rooms measuring about 26 square metres, shared by an average of 12 people (Wu 2002). This “dormitory labour system” serves employers by having labour available on tap, facilitating flexible extension of the working day, inhibiting workers' job-search time, reducing the cost of social reproduction, and strengthening employer control over workers' personal lives (Smith 2003).

II.H.

trade unions

There is only one legal union in China—the All China Federation of Trade Unions (ACFTU). Independent unions are illegal and attempts at forming autonomous unions have been charged by the government as treason

or subversion.¹² According to the law, any enterprise with 25 employees or more should establish a grass-roots union under the auspices of the ACFTU. In 2002, there were 165,800 enterprise-level unions, 30 provincial unions and 19 industry unions. Historically, the Chinese official union has been institutionally subordinate to the Communist Party and financially dependent on the enterprise budget. For instance, party organizations at each level are responsible for setting up new unions, the nomination of trade union leaders and the transmission of Party policies to workers. Financially, enterprises have to contribute 2 per cent of the total wage bill to their unions and workers pay 0.5 per cent of their wage as membership fees. The Trade Union Law in 1992 transfers the responsibility for paying the salary of full-time union cadres from the unions to the enterprises, making them more dependent than ever on management (Seung 2000).

In the reform era, the Trade Union Law of 1950 has been revised twice (in 1992 and in 2002) with the basic goal of strengthening the legal status of the ACFTU. The unions' right to legally represent workers against intimidation by management and to receive enterprise contributions equivalent to 2 per cent of total wage bills, as well as the unions' legal role of signing collective contracts and engaging in collective bargaining with employers, are stipulated in the 2001 Trade Union Law (Gallagher and Jiang, forthcoming). Notwithstanding these legislative reinforcements, the official union continues to be plagued by several fundamental weaknesses, which have only been exacerbated by market reform.

First, industrial restructuring and the rise of the private and foreign invested sectors have beset the ACFTU with a membership crisis. The shrinkage of the state industrial sector—through bankruptcy, merger or privatization—has substantially depleted the traditional membership base for the official union. Membership in that sector decreased by about 15 million between 1990 and 2000. On the other hand, the private and foreign sectors remain quite impervious to union organizations, with the rates of membership remaining at a low of 9.6 per cent and 31.1 per cent respectively in 1998 (Taylor et al. 2003:125). Many workers simply do not know what unions are about (Eckholm 2001).

Second, the contradiction inherent in Communist unions' dual role as representatives of worker interests and promoter of the national, common interest is sharpened under market reform. As market reform has incessantly chipped away at workers' entitlements and tilted the balance of power further toward the employers, the weakness of unions as defenders of labour rights is acutely felt. The conflicts in the union's double institutional identity explain why the ACFTU would spare no effort at pre-empting the emergence of worker protests and collective actions. At best, official unions have represented individual workers and sometimes groups of workers when they make their claims through state-sanctioned channels such as civil litigation or labour dispute arbitration (Chen 2003). This classic dilemma is exacerbated by the particular alignment of interests in the Chinese reform process. Many local governments are establishing partnerships with foreign joint ventures. Their entrepreneurial interests hold enormous sway over city- and county-level unions, which are, themselves, parts of the local state apparatus (Seung 2000:60). In failing and ailing state-owned enterprises, union cadres are often party officials or deputy managers (Lee 1999).¹³ The wearing of multiple hats as Communist Party members, managerial

12 For a brief account of the emergence of independent unions since 1989, see Lee 2003; for information on individuals arrested and sentenced for organizing independent unions, see Amnesty International, 2002, pp. 9–10.

13 Seung shows that, in his Zhejiang survey, 41.5 per cent of union cadres were recruited from managerial cadres, 35.8 per cent were from full-time party cadres and only 11.3 per cent were from workers; 77.8 per cent of union cadres had Party membership.

staff and union leaders in many state-owned firms severely hampers the role of unions in defending workers when their interests can no longer be camouflaged as unified with that of the enterprise. Likewise, in many of the newly established unions in non-state enterprises, the managerial staff serves concurrently as union cadres. In Special Economic Zones in Guangdong, where unionization rates are reportedly high among foreign-owned companies, a survey found that almost all enterprise union chairs are also enterprise managers.¹⁴ These enterprise unions are concerned with recreation and welfare rather than with working conditions or labour rights. Management of these firms sees in enterprise unions an additional instrument for better discipline and control over workers—a position that ACFTU shares and promotes. For instance, union cadres in Guangdong proffered the advantage to foreign managers of setting up unions, saying,

“We propagated the Trade Union Law to foreign investors. We indicated that, if the migrant workers would not be organized under the union, they themselves might organize a ‘local gang’ on the basis of their hometowns, which would destroy the stability of production and create conflicts between different gangs. We also told the employers that, different from western trade unions, the unions in China are a ‘middle-man’ in adjusting labor relations. They will absolutely not organize strikes. Their role is to protect the interest of both parties” (Li and Taylor 2002; Seung 2000).

The above quotation touches on the sensitive issue of workers’ right to strike. Guaranteed by the Chinese Constitution until 1982, the right to strike was revoked by the government haunted by the rise and development of the Polish Solidarity movement (Wilson 1990). To date, even after the People’s Republic of China ratified the International Covenant on Economic, Social and Cultural Rights, and became a member of the International Labour Organization, the Chinese Government still refuses to ratify certain core international labour standards. The most contentious of these are the right to free association, which, in its broadest sense, includes rights to negotiate and to strike. Some scholars promoted the view that the law does not prohibit strikes although it does not legalize them (Chang 2000; Qiao 2002). Nonetheless, Article 27 of the 2001 Trade Union Law explicitly prescribes a pro-production mediating role for unions. In the case of a slowdown or production stoppage, the law requires unions to assist enterprises in recovering the normal state of production as soon as possible, and to reflect workers “reasonable demands” through negotiation with the enterprise.

Given all the institutional constraints and political subordination of the ACFTU at a time when market reform relentlessly erodes the traditional shield of state paternalism, it is not surprising that ordinary workers are alienated from the unions. Surveys consistently reveal popular disappointment with the emasculated union as a working-class institution. The ACFTU’s own survey in 1997 indicated that only 50 per cent of the workers polled gave positive evaluation of the union’s overall work, and only 34.6 per cent of workers found that the union played a significant role in defending their interests (Research Department of the All China Federation of Trade Unions 1999:218). Provincial union and academic surveys have confirmed the declining status of unions. A Zhejiang Province union survey found in 1994 that only 13.1 per cent of workers sought help from the union about work-related problems, and two-thirds of workers and staff did not believe that trade unions were doing their job (Seung 2000:62). Chinese workers’ cynicism toward the official union is hardly unique. A recent study on post-Communist trade unions found that even independent unions have become discredited in the eyes of their own working-class constituencies because of their historical powerlessness and notoriety as a tool of the Party state (Crowley and Ost 2001).

14 Chan 1998; China Labour 2002; Gallagher 1997.

In short, in the reform era, the allocation and remuneration of labour (formerly under the remit of government administration and planning) are now to be determined by market demand and supply. Labour power becomes a commodity sold and bought in the marketplace and labour relations are to be founded on contracts, enforced by the law. The other concurrent and counteracting tendency is the limitation on a full commodification of labour. State regulations, through legislations pertaining to working conditions, minimum wage, pensions, unemployment benefits, medical care and housing entitlements, constrain employers' capacity to extract labour power from workers. As Karl Polanyi maintains, labour, unlike other factors of production, is a 'fictitious' commodity whose unlimited exploitation will destroy the use value of the commodity itself. Historically, in nineteenth century Western Europe, social movements from below or state legislations from above had arisen in different societies to limit commodification. Likewise, in China, the panoply of laws and regulations passed in the last two decades are poignant examples of initiatives from above. And, despite the absence of an autonomous labour movement, Chinese workers push for changes from below, as well, as we shall see later in the discussion. They are spurred to collective action by the glaring discrepancies between the existence of labour regulations and the practical application of these regulations on the ground. Overall, uneven transition of welfare from a work-unit-based entitlement to a universal legal right has led to a general deterioration of workers' livelihoods, especially in the 1990s. In particular, women among the unemployed and migrant workforce are confronted with gender-specific difficulties. For instance, women were the first to be let go when state enterprises were restructured and female workers had to deal with the reduction of enterprise welfare, which added to their household responsibilities. In addition, pregnant young migrant workers lacking maternity benefits have to leave their jobs and return to their native villages to give birth.

III.

tensions of reform

Many ordinary workers in China approve of the need for, and the urgency and direction of, opening and reform, as they are keenly aware of the shortcomings and irrationalities of the planned economy. The problem, they maintain, lies with the local governments' failure to implement

labour regulations promulgated by the central government. The popular perception that the local government is the culprit of flawed reform contrasts starkly with academic theories. The literature on China's phenomenal economic development overwhelmingly lauds the local state as the linchpin of reform dynamism. This divergence between lay and scholarly views reflects a contradiction between the imperative of local accumulation and the imperative of regime legitimization. Another tension that contributes to the failure in policy implementation is one between legal reform and China's authoritarian political system.

III.A.

accumulation and legitimization

At the beginning of reform, the central leadership pursued the strategy of local accumulation to engender political support for market reform. Provincial governments are allowed to retain revenues at the local level. Beginning in 1980, fiscal decentralization, through revenue-sharing

contracts between central and provincial governments (and between any two adjacent levels of governments from the province down), has generated vested interests among provincial officials in promoting and sustaining the reform drive, creating "a political counterweight to the central bureaucracy and achieve market reform

while preserving China's Communist institutions" (Shirk 1993:149). Decentralization in the reform era was built on the foundation of China's relatively decentralized pre-reform economy (Naughton 1996).¹⁵ However, this new round of decentralization is different from the previous cycles, economists have argued, in that it is combined with financial incentives, reliance on market mechanisms, and a new openness to international markets (Montinola et al. 1996).

The positive economic effects of decentralization are captured by several influential theoretical formulations. "Local state corporatism", for instance, depicts the developmental, market-promoting and entrepreneurial role of local officials in nurturing the spectacular growth of village and township enterprises. Hard budget constraints and local property rights provide the incentive structure fostering competitive local industries (Oi 1998). Elsewhere, the notion of "competitive liberalism" (Yang 1997) highlights how the centre has induced competition among localities to liberalize the local economy and to provide better infrastructure in order to attract capital. Still others have coined the term "Chinese-style federalism" to explain both reform success and the more recent privatization of small and medium-sized state-owned enterprise in the mid-1990s (Montinola et al. 1996; Cao et al. 1999). Their argument is that, under increasing competition from non-state firms and a hard budget constraint, failing state firms became such a fiscal burden for the local government budget that they had a strong incentive to privatize and restructure state enterprises under their jurisdiction.

The celebratory undertone of many of these studies has eclipsed the dark side of local state accumulation. The predatory dimensions of local state power has been conspicuously absent in the literature. For instance, local state agents have pursued illicit, rent-seeking and market-distorting activities, exploiting local state's regulatory power and monopoly over vital resources in ways that violate official rules and regulations, at the expense of both public and state interests. Organizational corruption by public agency, in the form of illicit levies, fines and apportionments, has become rampant (Lu 2000). Another manifestation of the dark side of decentralization is the illicit asset-stripping and transfer of state assets to private ownership. Privatization and corporatization of former state-owned firms are so poorly supervised that they have become opportunities for officials to create and amass their own private property (Ding 1999, 2000).

Finally, and most relevant to workers' welfare, sharing revenues with local governments has led to a decline in central funds; one solution to close the gap was to shift more budgetary responsibilities to the provinces, handing over virtually all responsibility for price subsidies, housing and urban infrastructure, education and health. For instance, since 1993, the responsibility for providing nine years of compulsory education to all citizens has fallen on the shoulders of local governments, with the central government contributing about 50 per cent of educational funding to cover only teachers' salaries (Yin 1993).

Decentralization of welfare provision also means uneven provision, due to uneven economic development. Pension arrears become a common problem in many old industrial cities because social insurance fund pooling occurred at the city or county levels before 2001. Workers from non-contributing enterprises that were concentrated in old industrial regions or cities could not benefit from contributions from more prosperous localities. In

15 Naughton argues that compared to the Soviet Union, China's industrial economy had always been characterized by a more limited scope of central plan, a smaller number of commodities subject to central allocation, stronger local government property rights and financial control over the vast majority of small and medium state enterprises owned by local governments. Nevertheless, central government control remained extremely tight over overall development strategy, labor allocation and remuneration, and commerce and agricultural procurement. The Great Leap Forward and the Cultural Revolution were periods of further if chaotic decentralization, resulting for example in enterprises being subordinate to many different government bodies, with lines of subordination different according to different types of decisions. The entire economy was more inefficient than that of the Soviet Union by the late 1970s.

2001, the central government increased the pressure to standardize pooling at the provincial level after the eruption of numerous protests by pensioners (Zheng 2002: 102-104). Likewise, unemployment benefits and basic livelihood allowances, for instance, were also paid out of local government coffers. These responsibilities contravene the collective and individual career and financial interests of local officials, who are also pressured by the central leadership to demonstrate high growth rates (Shirk 1993:183). Thus, in the 1990s, Beijing demanded repeatedly, but in vain, that local governments guarantee payments to retirees and laid-off workers.

In old industrial provinces such as Shenyang, which was dragged down by the historical baggage of having a high concentration of retirees and laid-off workers from bankrupt state factories, the central government had no option but to apportion special relief funds to the provincial governments, out of concern for maintaining social stability. In 2000, the central government had pitched in 45.8 billion yuan for local governments to repay owed pensions and laid-off worker livelihood allowances (Hung 2003:78). Leaders and cadres of impoverished inner and north-eastern provinces allegedly tried to hold Beijing hostage over the proliferation of labour unrest, in an attempt to demand more central funding for economic development and social insurance payment. In 1998, an extra 0.3 billion yuan was allocated to these provinces as emergency funds (Ming Pao, 24 July 1998). As long as localities give priority to accumulation over legitimization policy, due to officials' interest in short-term and concrete financial gains, implementation of labour legislation will be hampered. As the central government's extractive capacity declined, redistributive function of the state also diminished. In 2000, China's spending on social safety-net programmes accounted for less than 1.2 per cent of GDP. Public spending on education and health care amounted to less than 3.5 per cent—a low level compared to both developed and developing countries (Wang 2003:41).

These negative impacts of local accumulation without a corresponding emphasis on welfare and justice have begun to chip away at the regime's legitimacy. Even as the market economy expands, the general population still views good governance as including provision of welfare (Croll 1999). Even in a highly marketized city such as Shanghai, the vast majority of citizens are in favour of government intervention to provide guaranteed jobs, equal education for children of poor households, and guaranteed basic income (Wong and Lee 2000). Corruption and inequality have consistently been ranked the most serious destabilizing factors in surveys conducted among the general population and the political elite alike (Li 2002; Hu 2002). Elite obsession with economic growth has generated intense discontent among the majority of workers and peasants whose livelihood security has been severely undermined by market competition. The legitimacy of the Chinese state, once based on Communist ideology in the Maoist era and then shifted to economic performance in the 1980s, has to be reconstructed by emphasizing welfare and justice, in addition to growth. Perhaps in response to the palpable sense of a looming legitimacy crisis, the new national leadership that came to power in late 2003 has vowed to pursue a broadened agenda of "social development", or growth with equity.

III.B.

illiberal legality

Ineffective law enforcement is the result of another contradiction of reform. The Chinese Government espouses an instrumental attitude to the law, and is committed to an illiberal regime of "rule by law" rather than being willingly constrained by a "rule of law". Legal scholar William Alford writes of a genuine ambivalence in the Chinese project of legal construction: "On the one hand, they wish to reap the advantages of liberal legality in terms of its perceived capacity to support economic growth, engage the international community, and legitimize the existing regime. On the other, however, they aspire to do so without being unduly subject to its constraints..."

In effect, this design is the counterpart in law of the larger effort to carry out a substantial transformation of the economy without a commensurate relinquishing of political control” (Alford 1999:198–199). Central government law and regulation may provide an elaborate provision of rights and entitlements for workers, but when these are in conflict with local government’s pro-capital interests, the legal system cannot exercise countervailing power over the government. Poor enforcement of the law is caused by the court’s lack of institutional autonomy vis-à-vis the local government. When local governments are vying for investors, courts are particularly susceptible to administrative interference. “Local courts are beholden to the interests of local governments... court budgets and the salaries and welfare benefits of judges are determined by the local government, not by the Supreme Court of the central government. It is standard procedure to reduce a judge’s bonus according to the number of verdicts reversed on appeal, a situation that discourages judges from cooperating with lawyers and from deciding cases according to legal criteria” (Michelson 2003:264). Until the requirement for judicial examination was implemented in 2002, most judges lacked formal legal training and knowledge and were recruited in large numbers from the military. Extreme cynicism of the legal system as immoral and unprofessional is palpable among both lawyers and their clients, so much so that lawyers are often hired on the basis of their relationship skills and official connections (Michelson 2003:6; 17).

Under this general subordination of the court to the government, the weak rule of law in labour relations is to be expected. The labour bureaux that are responsible for enforcing the Labour Law are marginalized and play second fiddle to economic and commerce bureaux in the local bureaucracies. Labour officials reported extreme difficulties in imposing fines and penalties on employers for violation of the law, due to the general priority given to creating a favourable investment climate. “Our job is to educate employers on the labour law, not punish them,” proclaimed one Guangdong labour official (Ho and Lin 2003:689).

That the law is not always duly enforced does not mean that legal reform is inconsequential. Firstly, workers still take legal provisions seriously because they are their only ammunition in making claims against employers. The rising volume of labour arbitration cases and litigation are indications of workers’ legal activism. Secondly, flawed local enforcement of the law has, on many occasions, transformed orderly petitions and courtroom procedures into public outrage and protests. Inadvertently and sometimes serendipitously, legal reform has made the state a catalyst of labour activism. The oscillation between the courtroom and the streets—between routine, institutionalized conflict resolution and non-institutionalized mass action—is a potent source of social instability. The following section examines the mode and limitations of workers’ protests.

IV.

livelihood struggle I: collective mobilization

The first decade of market reform was experienced by most workers as a period of improved living standards, rising wages and increased opportunity. Strikes by migrant workers in foreign enterprises and veteran workers in state firms demanding wage hikes and better welfare remained sporadic. The most significant working class protests took place in 1989, when state sector workers joined students, intellectuals and private entrepreneurs in a nationwide

anti-corruption, anti-inflation, pro-democracy movement. The government's deadly crackdown, coupled with heavy sentences for worker leaders, resulted in labour acquiescence for the first half of the 1990s.¹⁶ But, since the mid-1990s, facing an increasingly volatile labour market, both migrant workers and state workers have once again become restive. Whereas unemployed and retired workers wage a "Polanyi-type" struggle against the retreat of social compacts or state paternalism, migrant workers stage a "Marxist-type" battle in the face of the commodification of their labour (Silver 2003). Although these two types of worker resistance are found in other times and places, the challenge that China faces is that they are occurring simultaneously. Geographically, state worker protests happen mostly in rust-belt regions with a drastic decline in state industries while migrant worker protests and strikes are concentrated in high-growth areas dominated by non-state employers.

Chinese statistics on protests and strikes are sketchy and unsystematic. But a number of indicators depict a general picture of intensified labour conflicts and proliferating labour activism over the past 15 years. Firstly, as mentioned earlier, there was a staggering increase in officially-arbitrated labour disputes throughout the 1990s (table 4). Secondly, the number of "letters and visits" (*xinfang*) and collective petitions (*jiti shangfang*) is also soaring. According to the State Letters and Visits Bureau, in 2000, there were a total of 10.2 million cases of petitions made to their provincial, county and municipal offices nationwide—an increase of 115 per cent over 1995; 76.5 per cent of the petitioners were involved in "collective petitions", defined as those involving five people or more. The total number of collective cases and collective petitioners in 2000 saw a 280 per cent and 260 per cent rate of increase respectively over those of 1995. Among collective petitions in cities, more than 60 per cent were lodged by state enterprise employees (Remin Xinfang 2001).

Thirdly, there are scattered figures of protests and demonstrations from various sources, and they all show a rising trend of popular protests by workers. In 1993, a Ministry of Labour source revealed some 2,500 such collective incidents. In the first half of 1995, some 3,700 public gatherings, strikes, petitions and demonstrations took place all over the country. Then, in October 1997 alone, 455 strikes and demonstrations broke out. The situation worsened in 1998, when the first three months of the year witnessed more than 3,000 incidents of worker protests, and a total of 6,767 episodes of collective protests occurred over the whole year (*Cheng Ming Monthly*, various issues). In 2000, one internal report was cited as counting 30,000 incidents with worker participation, while another report cited a figure of 8,247 incidents involving more than 250,000 workers (Pan 2002a; Pringle 2002).¹⁷ This general trend of significant increase in the incidence of worker protests dovetails with that of collective protests and riots, which, according to the Ministry of Public Security, rose consistently from 8,700 in 1993 to 32,000 in 1999. The increase is particularly dramatic in the late 1990s, when the volume of incidents more than doubled between 1997 and 1999—from 15,000 to 32,000 (Pei 2003). In what follows, I shall analyse

¹⁶ For a more in-depth discussion of strikes, demonstrations and independent unionism in the 1980s and the aftermath of the 1989 uprising, see Lee 2003.

¹⁷ The Hong Kong-based Information Center for Human Rights and Democracy estimates that there were 60,000 demonstrations across China in 1998, rising to about 100,000 in 1999, FBIS-CHI-2000-0516.

the commonalities and differences between labour activism of migrant workers in Guangdong (an export powerhouse) and state workers in Liaoning (one of the oldest industrial bases in China). In both provinces and for both groups of workers, nonpayment of wages or pensions is by far the most common cause of protests. Other grievances include inadequate severance compensation, lack of winter heating in work-unit living quarters, and management corruption.

IV.A.

organizational capacity

To date, labour agitation remains diffuse and localized, without any cross-class or cross-region collaboration. The only exception was the spat of protests in Liaoyang, Liaoning, in the spring of 2002, when some 30,000 work-

ers from more than 20 factories joined forces in a city-wide protest that lasted intermittently for two weeks. Other than that, protests are usually based in one single factory in both private and state sectors. Plant closure, bankruptcy or relocation cause the most protests, as these are moments of heightened solidarity among workers who find themselves collective victims suffering from unpaid wages and pensions. Both state-owned enterprises and non-state factories share similar ecological and social features that can be conducive to workers' collective action. Dormitories for migrant workers in export factories and residential quarters for state workers are geographically close to factories, forming self-contained, all-encompassing communities where production and social activities take place. They facilitate communications and an aggregation of interests, especially in times of massive layoffs or dismissals. A major difference between the two types of communities is that state workers' residences survive the termination of their employment, in contrast to migrant workers' itinerant status and lack of permanent dwelling in the cities. Thus, labour struggles in the northeast have the potential to last for longer periods of time—up to several years, in some cases.

The prevalence of work-unit revolts also means a general lack of laterally-organized opposition across firms or regions. Official trade unions are conspicuously absent in autonomous worker protests, making inter-factory mobilization difficult. The regime's highly repressive stance toward "organized dissent" also generates self-limiting action among workers in protests. As long as workers remained work-unit-bound in their demands and action, the government responded with moderation and toleration. Finally, the lack of cross-class support has constrained the development of worker protests into broader social movement activism. Students and intellectuals, who were the key instigators of the pro-democracy movement in the late 1980s, have been silenced and disillusioned, and many have become winners in the economic reform of the 1990s. The politically concerned members of the intellectual stratum have shunned protests and found in constitutional and legal reform a more promising way to bring about social change (Eckholm 2003). Workers under market reform wage their own struggle, rather than riding on the tide of others' political activism as they did in the Maoist period.

IV.B.

repertoire of action

Workers with grievances—about wage or pension arrears, dismissals or employers’ violation of the Labour Law—usually begin their collective action by lodging complaints, requesting local government intervention. In so doing, workers are following a well-established channel of political participation under Chinese Communist rule. Dating back to the 1930s, petitioning to the Letters and Visits Bureau is an institutionalized and legitimate means of making demands and expressing popular discontent toward the government (Luehrmann 2003). Officials handling the petitions usually direct workers to labour-arbitration committees or pressure state enterprises to redress workers’ grievances. When repeated visits to the labour bureau fail to deliver owed pensions, or when migrant workers are frustrated by pro-employer decisions of labour arbitrators or judges, petitioners are prone to take their demands from the courtrooms to the streets. Many incidents of workers blocking traffic, demonstrating outside government buildings or marching through downtown streets have their origins in mass outrage against official failure to redress their legitimate grievances. In rare cases, such unconventional and what workers call “radical” actions can lead to city- or neighbourhood-wide, multi-day confrontations. Violent clashes with police or even the armed forces sent in by the higher authorities have also led to arrest and imprisonment of workers’ leaders.

Organized on the basis of production units and armed with legitimate demands, workers have sometimes inadvertently crossed the elusive boundary between ordinary and extraordinary politics. It is the unpredictability of such non-institutionalized political processes that the Communist regime finds most unsettling. Yet, there is an important difference in migrant workers’ and state sector workers’ proclivity to street action. Migrant workers, no matter how marginalized, are indispensable to the local economic development, whereas laid-off, unemployed and retired workers in the rustbelt are a liability to the local government. The distinction in their position of subordination is that between “exploitation” and “exclusion”. Therefore, regions with more migrant workers also have a more developed legal infrastructure. The result is that migrant workers are more susceptible to bureaucratic processing, routinization and rationalization of labour-conflict resolution. Veteran state workers in rustbelts are more inclined toward spontaneous mass and radicalized action. My research in Guangdong and Liaoning provinces is suggestive of such divergent tendencies of “rationalization” and “radicalization”, although in reality workers have mixed both strategies.

IV.C.

the fragmentation of the working masses

Rural migrant workers and urban state workers, although demonstrating similar political sensibilities and following similar strategies of petition and protest, see each other as distinct social groups. Migrant workers do not see themselves as “real” workers because they lack an urban house-

hold registration and because, as peasants, they have the land-use right given to each peasant. This material entitlement powerfully orients migrant workers toward an eventual return to the countryside, and provides a significant safety valve with which to weather the vagaries of the labour market in the cities. In a number of labour disputes that I have researched, workers returned to the countryside after the factory was closed down. Their dispersal in the vast countryside dissipates the momentum and solidarity needed for sustained protests or legal battles. Peasant workers’ access to their own land and means of subsistence is another factor that distinguishes them from urban state workers. When asked about the difference between themselves and migrant workers, veteran state workers spoke jealously about peasant land ownership. Urban state workers complain that they fare worse than peasants because migrant workers have their land to fall back on when they lose their jobs.

On the other hand, when asked why they do not see any connection with state workers, peasant migrant workers point to urban workers' entitlement to pension, housing and medical benefits. Indeed, the privatization of work-unit housing in the 1990s has turned many state sector workers into private-property owners. They can resell the apartments they bought at subsidized prices, even after their enterprise has declared bankruptcy. In short, these material entitlements are endowed and enforced by state policy. They form the basis for entrenched urban-rural identity fragmentation within the workforce, while also tying each group of workers to the authority of the state. Notwithstanding the plight of unemployed workers and migrant peasant workers, they are not the classic dispossessed and proletarianized workers who own nothing but their labour power. Unemployed workers and retirees who organized protests insisted that "no one is starving" and peasant workers admit that rural land produces enough for subsistence, although profit-making is out of the question. That may be why workers themselves insist on the legitimacy of the central government and consider their interests to be represented by the national leadership. In both cities and villages, popular protests have so far only targeted the local authority, with the central authority enjoying bolstered legitimacy due to its issuance of protective law and regulation. It can be argued, therefore, that these state provisions for social reproduction, independent of workers' labour market participation, have contributed to stalling the emergence of a strong labour movement in China, even in the face of super-exploitation of migrant workers and massive unemployment in the state sector.

V.

livelihood struggle II: individual/familial coping strategies

In many ways, economic reform is a double-edged sword for workers. The market economy has both oppressive and liberating effects. If there are contradictions in the Chinese reform that have prevented the institutionalization of a labour rule of law and a new social safety net, the ambivalence of the state in retaining or discarding "socialist" principles of allocation may have unwittingly provided some protection for the most vulnerable mem-

bers of society. More specifically, unlike dispossessed proletariats elsewhere who have no other means of subsistence, Chinese migrant workers are entitled to land use rights in their home villages. Likewise, many state sector workers have retained full or partial property rights over the housing unit allocated to them by their enterprises even after the latter have collapsed and declared bankruptcy.

Migrant workers return home periodically not just to take respite from the unrelenting pressure of work in the city. Some of them are forced to go home during spells of unemployment. Also, at certain stages in their lives, young adults see the countryside as the ideal place to get married and start a family before venturing into the city again. Still others return home to take care of elderly relatives or young children. In a 1999 survey carried out in Sichuan and Anhui (two provinces that are home to vast numbers of migrant workers), it was found that, among returnees, 56.6 per cent return home because of employment difficulties, and the rest do so mainly for family reasons (Bai and He 2002).

Land rights are almost universal for migrant workers with agricultural *hukou* (household registration). Since 1956, China has ended all private ownership of land: urban land and natural resources are state-owned, accounting for some 53 per cent of China's territory in 1996, while the remaining 46 per cent of suburban and rural land is collectively owned (Ho and Lin 2003). Under the planned economy, collectively owned agricultural land was worked by peasants organized into production teams, which, in turn, formed larger administrative units such as

brigades and communes. Since the rural reform of the late 1970s dismantled the communes and adopted the household responsibility system, the villages (formerly production teams) have contracted agricultural land to rural households, based on household size and composition.¹⁸ The length of the land contract was originally three years, but it was extended to 15 years or more in 1984. Under the 1998 Revised Land Administration Law, to improve tenure security, land is contracted for 30 years with no adjustments. Therefore, a typical Chinese peasant is entitled to contract a plot of land from the village collective into which he/she was born. Land leases are adjusted periodically to take into account population changes due to births, deaths and women marrying into and out of the localities. By the late 1990s, at least 80 per cent of the villages in China had adjusted land allocation at least once (Ho and Lin 2003:689).¹⁹ The size and quality of their farmland vary across localities, but the national average in per capita allocation of arable land was 1.2 *mu*²⁰ in 1997 (Murphy 2002:74).

Since land provides old age security and a social wage for rural residents, it is important to consider gender differences in land right distribution. By law, women are as entitled to land allocation as men, which results in a general belief among migrant workers that agricultural land allocation is a birth right of a rural resident. In practice, available data suggest that women are, by and large, enjoying equal entitlement to rural land as men. For instance, a 17-province national survey undertaken by the All China Women's Federation found that 5 per cent of Chinese female peasants were without land and that most of those women had recently married and moved to their husband's village after land adjustment (Yang 2002). Gender biases purportedly emerged after the 1998 Land Administration Law was passed. That law discouraged land redistribution as a means of enhancing tenure security and peasants' incentive to invest in production. But it has also led to discrimination against women who are entitled to land readjustment due to marriage, divorce, widowhood or parents' death. The lack of clear official stipulations for these special circumstances means that patriarchal village values and norms prevail (Li 2004).

Both migrant men and migrant women lead a double existence and their livelihood is dependent on both rural and urban economies. When they work in the cities, their land is farmed either by family members, kin or fellow villagers. Many migrant workers report that their remittances pay for agricultural inputs, such as seeds and fertilizers, and for state taxes. While generating a profit from growing grains and maize is difficult, due to rising prices of input and declining grain prices, farming guarantees subsistence for most peasants.

Land rights represent social security—a substitute for the institution of pensions available mostly to city residents. The phenomenon some call the “rural house-building craze” reflects the popular mentality that rural land plots hold the key to old-age protection. Rachel Murphy, for instance, finds that, in Jiangxi, among rural households with migrant labourers, house-building is by far the most important item of expenditure, followed by education, daily livelihood and farm inputs (Murphy 2002:ch. 4). In the more prosperous Zhejiang countryside, Sally Sargeson summarizes the motivations among migrants, noting that, “Housing... is an investment in the family's future. A new house accommodates increasingly diverse, individualized lifestyles and thereby allows for family extension. It conveys to the world information about the wealth and status of its inhabitants, giving sons

18 There is ambiguity in the law as to which organization represents a “farmers' collective”, leading to increasing volume of land disputes relating to requisition and land boundary assessment. A “farmers' collective” can variously mean the administrative village (the former commune), the small group (previously production team) or the township government. See Ho 2001; Cai 2003.

19 Two types of adjustments have been reported: big and small. When big adjustments are made, all farmland is taken back and then reallocated so that households get different plots of land. With small adjustments, households with added or lost members receive or return land to the village.

20 1mu=0.1647 acres/0.07 hectares.

a wider choice of potential partners. Unencumbered by debt, young couples can channel money into business and education. Finally, a new house offers security and sanctuary to out-migrants and serves as a conduit through which the wages they earn can be drawn back into the family” (Sargeson 2002:945).

Besides building houses, migrant workers are also keen on educational pursuits as a strategy for familial and personal advancement. Young workers use their money to pay for tuition for short-term courses in computer skills, English or vocational skills such as book-keeping, cooking or sewing. Married migrant workers spend heavily on children’s education fees—a major rural expenditure for many migrant families. In short, until the government totally dismantles the household registration distinction that excludes peasant migrants from obtaining equal medical, educational and housing benefits, most migrant workers will hang onto their land rights and invest in their village homestead for long-term economic security.

If individual land use rights and the rural household economy allow for some degree of livelihood protection for migrant workers, how do state sector workers cope when they fall through the social safety net? Firstly, no matter how dilapidated or cramped, work-unit apartments that were distributed to workers in the state sector became workers’ private properties in the 1990s. Parallel to land use rights for peasant migrants, private ownership of their residence at least relieved unemployed and retired workers of one of their major financial burdens. After having lived in these units for a certain period, they can also resell them on the open market, sometimes with the caveat of sharing part of the profits with the local housing authority. Because seniority was a major factor of housing allocation within the enterprise, the legal owners of work-unit housing are usually elderly male retirees who are now in a better position to provide free lodging for their middle-aged unemployed offspring. These middle-aged former state employees were too junior in their enterprises a decade ago to qualify for the apartment units that were built and allocated as welfare. Ethnographic studies have revealed that residents in enterprise housing commonly take in boarders or rent the entire apartment unit to outsiders so as to generate additional income (Liu 2004).

Besides privatization of welfare housing, surveys and field studies have revealed that reciprocity, or intra-family transfers, among members of working-class families in Liaoning make up for the shortfalls in state redistribution and the vagaries of the market. Thus, a large-scale survey on urban workers found that, among those who experienced unemployment, the main source of support was income from other household members (33.8 per cent for men and 54 per cent for women) and the next main source of private support was one’s own savings (23 per cent for men and 12.4 per cent for women). Only about a quarter of these unemployed workers received some form of public subsidies (Giles et al. forthcoming).

Informal employment, or what some Chinese academics called “flexible employment” has become a major source of income for the unemployed and the laid-off. Availability of such employment varies across cities and regions, but the research arm of the Ministry of Labour has estimated that, among the 25 million unemployed and laid-off workers nationwide, some 15 million have found jobs in the informal sector (Institute of Labour Science 2002:147). In China, informal employment for former workers usually includes domestic service, personal care or community work, part-time or temporary work, and self-employment as street vendors or small business owners. The defining feature of this wide range of employment is that it is unstable work, with mostly unregulated pay, working hours and benefits. In some cities, local governments play an active role in promoting informal employment as a way of absorbing the massive workforce shed from the state sector. For instance, in Shanghai, the pioneer in this area, the Women’s Federation and the ACFTU ran “home economics” training and referral services for laid-off women workers to help them find work in their communities as domestic workers to the newly emerged middle class (Wang 2003). Workers with financial means have opened up private or

family businesses such as restaurants, salons or neighbourhood stores.²¹ At the other end of the informal job market, especially in the northeast rust belt, where economic growth has been sluggish, male workers can only find odd jobs as day labourers of construction teams, as street peddlers or as casual helpers for private entrepreneurs. In popular parlance, they can only aspire to difficult (*ku*), dirty (*zang*), tiring (*lei*) and dangerous (*xian*) jobs (Won 2003). Unemployed women workers have sometimes turned to prostitution as a source of income. In one study conducted in three northeastern cities, among the 100-plus sex workers surveyed, 74 per cent were former state-owned enterprise workers, and most of them (92 per cent) became sex workers after a prolonged period (51.5 months) of failing to find suitable alternative employment (Huang and Pan 2003).

There are few aggregate statistics that indicate clear patterns of gender disparity in the re-employment of laid-off workers. Qualitative studies have offered divergent interpretations. One study in Wuhan finds that female laid-off workers have a better chance of starting a service-oriented business than their male counterpart who are more adverse to service roles but have more success in finding positions in established companies (Tsui 2002). Another focus group study in three cities found that age discrimination was at least as serious as sexual discrimination. “Almost every interviewee over 30 cites their age (rather than sex) as a major obstacle to finding re-employment” (Cook and Jolly 2001: 55). This is compounded by the fact that they were sent to the countryside and deprived of a sound education. Cook and Jolly also note that, subjectively, women reported experiencing more psychological stress caused by difficulty in re-employment. “Men are still viewed as the ‘breadwinner’, involving obligations of financial support, whereas women still have the responsibility physically to put rice in the bowl... Pressure within the family as well as in the labor market makes women more vulnerable to loss of employment...” (Cook and Jolly 2001: 66).

VI.

conclusion

The surge of China as the workshop of the world has been founded on, among other things, a fundamental restructuring of the labour force. Massive unemployment in the state industrial sector is taking place simultaneously with momentous migration of peasants into global factories.

Both the unmaking and the making of the Chinese work-

ing class are heavily shaped by the state—especially its construction of a labour rule of law and a new social security system. Broad discrepancies, however, exist between the stipulation and the implementation of these new labour regulations designed to protect labour rights and entitlements. The institutional source of these gaps, this paper argues, lies in two contradictions inherent in the strategy of Chinese reform. Firstly, the imperative to rely on local accumulation to fuel marketization clashes with the imperative to maintain legitimacy by providing a floor of justice and welfare for the most disadvantaged. Local state agents are more interested in the former than the latter, especially when they can count on central government financial intervention to maintain social stability. The second contradiction in Chinese reform that is conducive to uneven protection of labour rights has to do with the illiberal nature of the Chinese legal system. The state uses the law as a tool of control over society, while allowing itself to remain mostly unrestrained by the law. When it is not in the interest of the local officials to enforce labour regulations, there is hardly enough countervailing authority (from the judiciary, for instance) to preserve the sanctity of the law.

21 While there are no statistics on the number of workers-turned-entrepreneurs, ethnographic studies show that they are very common. See Lee, forthcoming; Liu 2004.

The result is that many workers, on seeing their legal right and entitlement unjustly denied, and pressured by livelihood needs, become politically restive. Sharp increases in labour conflicts are accompanied by proliferation of labour activism, taking both conventional forms (such as petitions, labour arbitration and litigation) and unconventional forms (such as protests, marches and road blocks). The state has responded with measured mixes of concessions and repression. Economic and livelihood demands are recognized and, in many cases, at least partially answered by swift financial compensation doled out by the central or provincial governments. On the other hand, political demands such as calling for the removal of officials and cross-factory actions are relentlessly suppressed and harshly punished. But not to be overlooked are factors that have promoted social stability, amid sea changes in workers' lives. Most importantly, the Chinese Government has ardently pressed ahead with social security reform, targeting problem areas such as pension arrears, unpaid wages, unemployment benefits and medical insurance. Additional, earmarked funds are funneled from Beijing to provincial coffers to deal with social grievances that may erupt into social instability. These efforts have focused on reducing the incidence of protests in the rustbelt since 2001. In 2002, the central government has forcefully demanded that excessive fees and abusive detention policies targeting migrant workers be abolished by the local governments. There are also plans to systematically institutionalize the provision of legal aids to people who fall below a certain income level. Therefore, the Chinese state has responded to popular demands, if only slowly and selectively. Finally, both migrant workers and state workers are not totally dispossessed or proletarianized. Rural land rights for peasant migrants and private home ownership for state sector workers have functioned as safety valves, alleviating the impact of massive unemployment and diabolical exploitation.

Women among the two segments of the working class examined here do face gender-specific difficulties. The disappearance of enterprise-based welfare means that more demands are put on the family unit to provide service and financial support (Croll 1999). These domestic burdens are still borne predominantly by women. Also, women are among the first to be let go when enterprises restructure by shedding the workforce. Facing gendered disadvantages in the labour market, and under a welfare entitlement regime based on employment rather than universal citizenship, women workers are likely to fall through the cracks of the new social safety net. The male bias in terms of socialist allocation of housing has, in the past, inadvertently undermined women's opportunities of becoming home owners when work units began privatizing welfare housing in the reform period. For young women migrants toiling in global factories, the lack of maternity benefits forces them to truncate their factory careers to give birth and to take care of children and elderly kin. Recent legal changes in land use rights have the potential to encroach on women's equal access to land use, with grave long-term implications for women migrant workers' livelihood security. However, gender bias does not begin to capture the plight of millions of Chinese workers during the reform period. Middle-aged workers in the state sector, whether male or female, confront age discrimination, and migrant workers of both genders suffer from their caste-like status of being a rural resident. Unpaid wages and pensions will continue to plague the lives of both men and women in the working-class for as long as the legal system and the government fail to enforce the Labour Law.

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