

Country Inventory: China's informal labor and labor organizing

Pun Ngai (Hong Kong Polytechnic University) and Tong Xin (Peking University)

October 2012

A. Introduction

Incorporating into the global capitalist economy, China is undergoing fast-changing capital-labour relations in reform period in general, and particularly the process of informalization that is occurring across all industrial sectors and in all regions of China. The nature and the process of informalization of the Chinese economy deserve an in-depth on the recent changes in state policy, legal reform, labour market and industrial restructuring that have had an impact on the working conditions and labour rights of the new working class. This new working class is composed of the urban poor, who have suffered from the breakdown of the iron rice bowl system, and the rural migrant workers who have become the second generation of dagongzai/mei, the internal migrant workers.

Market reform and the opening of the Chinese economy to international capital have brought radical changes to the structure of employment and labor relations. Since the 1970s, reformist leaders and business elites have called for greater labor flexibility to rejuvenate the rural and urban economy. Labor markets reemerged in rural areas as township and village enterprises absorbed surplus farm labor following the dismantling of the People's Communes. Employment of rural-to-urban migrants in the non-state sector in coastal cities also grew rapidly from the 1980s, creating a two-tier labor structure in which rural migrants hold minimum wage jobs with few benefits in contrast with the urban-based working class. By the mid-1990s, the number of rural migrant workers was in the range of 50 to 70 million nationwide, and the numbers have kept growing. As structural reform deepened from the mid-1990s to early 2000s, the number of state-owned enterprises shrunk as a result of enterprise restructuring and privatization, with layoffs estimated between 35 and 40 million (Solinger 2009; Hurst 2009). Some of the adversely affected urban workers found jobs in the new economy, while many others were forced into early retirement or informal employment. According to the 2009 census data, more than 229 million rural migrant workers are working alongside local workers, mainly in private and foreign-invested workplaces (China's National Bureau of Statistics 2010: Table 1). Thus the Chinese working class has been remade through decollectivization, industrial privatization and export-oriented industrialization (Andreas 2012). The informalization of labor and the diversification of capital ownership have brought profound challenges to the Chinese working lives.

Given the scope of the informal laborers in China, there is no official definition or generally agreed definition among Chinese labor sociologists or scholars to define “who are the informal laborers” at this stage. The common understanding is that informalization as a change in state-labor relationship and a proliferation of precarious labor use forms by capital signalled a change from a state socialist economy to a global capitalist economy, in which the working lives of the Chinese people were increasingly subjected to new labour situations and capital-labour relations. In these new labour relations, informalization and casualization are two major processes that occur throughout the labour market, regardless of the nature of the companies (foreign-invested companies, joint-ventures, private companies or state-owned enterprises) and irrespective of industry or sector. This means that manufacturing, service and construction sectors are all using informal laborers. Flexible employment, no contracts, no social insurances were often the norm in the 1980s and 1990s. With the introduction of Labor Contract Law in 2008, there is substantial progress in manufacturing sector, but construction and service sectors still remained intact. Hence, the secret of the capital accumulation on a global scale and the extended reproduction of capitalism in China lies in the process of informalization.

From Iron Rice Bowl to Informalization: Markets, Workers, and the State in a Changing China (2011) is the most recent edited volume which provides an overview of the transformation of the labour market, the role of the Chinese state and the reformulation of social policy in addressing the challenges posed by the rapid deterioration of working conditions. This edited volume raises an intriguing issue observed in China’s official statistics, that there is a substantial group of “missing workers” who are actually rural migrants working in various informal sectors. It also reviews Labour Contract Law reform in detail and highlight the fact that multiple agents of the Chinese state, such as legislators, lawyers, professors and trade unionists, participated in the law-making process, especially in the mid 2000. These enable us to understand the changes in the nature of the market and the state at a time when the Chinese economy is highly governed by the global capitalist logic.

Generally speaking, the informal laborers in China are largely unprotected by the state and seriously lacking in organizing. With the implementation of the Labor Contract Law, the emergence of a two-tier labour market across sectors are witnessed and the growing percentage of dispatched workers used in firms and the inevitable outcome of capital-labour conflicts that accompany the informalization process. Among multiple precarious labor forms we could observe in China, we would like to highlight some groups of workers who are particularly deserved attention: women workers in domestic work; student-laborers in manufacturing industry, especially in Foxconn; and subcontracted male laborers in construction industry.

B. Relation to State and Trade Union

In the light of a global campaign to build a global trade union movement, progressive trade unions from the West were eager to build a link with the ACFTU, contemplating that the ACFTU holding the largest membership union should be a major partner in this ambitious project. Union leaders and intellectuals from the West have been holding meetings with ACFTU (All-China Federation of Trade Unions) representatives across different levels since the early 2000s. As of September 2011, the Chinese trade union federation had a total membership of 259 million nationwide, of which 37 percent (96.56 million) were said rural migrant workers (ACFTU, 20 July 2012). The numbers surpass the ITUC (International Trade Union Confederation) global membership of 175 million workers in 153 countries and territories excluding China (ITUC 2011). By June 2012, 82.73 percent of non-state companies were unionized, including various types of business entities and labor contracting companies (ACFTU, 19 July 2012). This is in sharp contrast to the United States, where in recent decades private-sector labor unions have shrunk to a small percentage of the industrial and service workforce (Chun 2009; Milkman and Voss 2004). Will this “global strategy” of building linkages with the ACFTU be useful?

Throughout the last two decades of the 20th century, rural migrant workers were completely excluded from the ACFTU, China’s sole legal union. In the face of large-scale layoffs of state sector workers beginning from the early 2000s and the resulting loss of long-time members from the state and collective sectors, the ACFTU turned its attention to unionizing the booming private and foreign-invested sectors. Between 2003 and 2007, the increase of the number of migrant-worker union members – from virtually zero to 70 million – was impressive (Traub-Merz 2012: 28-29). The main targets of the state-led unionization campaigns were large firms like Foxconn, rather than small or informal workshops. By the end of 2009, unions were set up in 92 percent of the Fortune 500 companies operating in China (Liu 2011: 157).

In almost every case, enterprise management controls both the appointment of union committee members and the financial capacity of the union (A. Chan 2012). According to the Guangzhou municipal government’s “Methods for Enforcing the Trade Union Law” approved in 2007, the chairperson of a company trade union cannot be a manager. Similarly, in Shenzhen city, the “Implementing Regulations” specify that top management should not hold union committee positions. In many state and non-state firms, however, union leaders are concurrently board directors, personnel department heads or senior managers who normally stand with management rather than with workers (Kong 2012: 80-82). Within this subservient structure, the workplace union branches are worse than weak: they almost invariably take a pro-management stance in mediation and pre-empt workers’ organizing efforts.

The Chinese union institution is characterized by a dual dependence with state and

capital working hand in hand. In the world's largest "unionized" company, Foxconn workers – like the more than 200 million rural migrant workers toiling in large and small workplaces throughout China – have no trustworthy communication channels through which to raise their voices, protect their rights or or collective bargaining. In the absence of union effectiveness and institutional support, workers in crisis have attempted to organize on their own, attempting various spontaneous forms rather than conventional trade union organizing.

C. Labor NGOs or Workers' Center

Lack of support from the state or official trade unions at various levels, alternative forms of labor organizing have been developing in China, especially in the Pearl River Delta (PRD). Generally speaking the development of Labor NGOS can be divided roughly into three phases:

1. 1996-2003, Labor NGOs first emerged as an alternative form of labor organizing in the PRD, with some external help especially from Hong Kong;
2. 2004-2007, Labor NGOs mushroomed in the PRD and gradually developed in the Greater Shanghai area and Beijing when deeper capital-labor conflicts observed. The labor NGOs started to form by the migrant workers themselves to stand up to fight for their own rights and interests;
3. 2008-2012, due to the stricter state control or co-optation of labor NGOs, only those NGOs that were provided social services and social work other than labor rights have tolerated by the government. About ten pro-labor rights NGOs in Shenzhen were suppressed and forced to close their workers' centers in the first half year of 2012. Labor NGOS have been treated differently and strictly monitored, resulting in division of the labor NGOs currently.

Among the labor NGOs, we provide two examples to illustrate their activities of labor organizing. They were the Chinese Working Women Network (CWWN), and the Panyu Migrant Worker Documentary Center (MWDC).

The CWWN was established in 1996 by Hong Kong academics, activists, social workers, labor organizers and feminists whose mission was to promote better lives for Chinese female migrant workers and feminist awareness of workers' empowerment. In the beginning it was well received, and cooperated with the All China Federation of Trade Unions (ACFTU) from 1996 until the early 2000s in Nanshan District of Shenzhen, where it was provided with office space for running a women worker's center. CWWN offered four types of services for female migrant workers in the PRD: a *Center for Women Workers* tailored to the needs of young women, a *Mobile Health*

Express Service, a *Women Workers' Cooperative*, and a *Occupational Health Education Center* that collaborated with the Guangdong Prevention and Treatment Center for Occupational Diseases. This latter center offered hotline services, information, and training workshops on occupational health. In 2003 it started to see injured workers in hospitals and provided legal counseling on work injury compensation. Whereas local government officials had been supportive of the CWWN's services for female migrant workers, after 2004 they became more cautious and reluctant. Since 2004 the Nanshan district branch of the ACFTU has distanced itself from the CWWN and in 2006 the CWWN was relocated to Bao'an District, a large labor-intensive export production zone, and it continues to support self-help workers groups and engaged in policy advocacy.

The Panyu MWDC was founded in 1998. After successfully helping two injured fellow workers to write appeal letters to the Labor Dispute Mediation Committee, Liao Xiaofeng, a migrant himself from Sichuan Province, decided to set up the MWCD and provide fee-based services for migrants by handling their labor dispute and compensation cases. The MWCD was established as a self-employed entity with the Bureau of Industry and Commerce Administration. Despite initial praise and support from the Communist Youth League, the MWCD lacked the necessary resources to pay items such as staff salaries and office rent. Soon after the MWCD was established, Liao left the organization. Co-founder Zeng Feiyang assumed the position of director, and over the next few years continued to charge small fees for legal aid services. After attending a legal aid seminar sponsored by the Beijing University Women's Law Studies and Legal Aid Center in Beijing in 2000 where he attracted the attention of some foreign donors, Zeng reorganized the MWCD into a non-profit organization providing legal aid services free of charge to labor migrants, but the organization remained registered as a self-employed business entity.

The MWCD's program includes a Legal Aid Counseling Center, a Cultural Development Center for Migrant Workers, the Pearl River Delta Occupational Safety and Health Support Network which builds on MWCD staff hospital visits to injured labor migrants in the PRD by documenting their cases and offering legal counseling on workplace injuries, and a Factory Auditing and Training Program which especially promotes CSR initiatives such as monitoring the implementation of codes of conduct, interviewing workers and collecting information on labor conditions, and conducting workshops on Chinese labor law and international labor standards. In 2004 the MWCD opened a new office in Dongguan. As pressure increased from the local government around 2007, the MWCD opened additional offices, one in Foshan in December 2009 and one in Zhongshan in May 2010, to spread the organizational risk.

D. Dispatched Domestic Workers

Due to the rapid marketization in the reform period, various forms of paid domestic work have been surged in the market. Rapidly increased in the last two decades,

domestic workers include those who worked in individual household, household-base service institution and supporting care work either in the family or hospital. According to national statistics, the number of domestic workers has risen to 15 million in China in 2010. Another report from China Development Fund states that about 15% of the 0.19 billion household in total would have a demand on domestic work services, and this means that another 14 million of domestic workers are needed.¹

In Beijing, 3000 agency companies have been registered as domestic work services companies which are responsible for recruiting all kinds of domestic work including cleaning, cooking, family care, and others. In 2006 there are 230,000 domestic workers in Beijing, which soared to over 300,000 in 2007 and then 400,000 in 2010.² About 85% of the domestic workers are female.

Most of the domestic workers are unprotected informal laborers. Broadly speaking, there are three kinds of them: first, dispatched domestic workers employed by agency companies who send the women workers to work in the household. However, the wage would be paid by the household owner directly to the worker. In principle, these dispatched workers can form labor relationship with the company and are entitled to the Labor Law and Labor Contract Law protections. Second, the domestic workers are employed by the agency companies as casual laborers and not attached to particular household. They work for a few households as duties would be assigned by the agency company which charges service fees from users. Third, domestic workers are employed by individual household directly. This form of employment would not be protected by Labor Contract Law since the unit of household is not a legal entity entitled to form labor relationship with laborers in China. Hence domestic workers of this type are the least who could enjoy legal protections and social insurances. Work hours, public holidays, methods of payment and basic health and safety protections are common issues enjoying no legal protection.

Like other informal laborers, most of the domestic laborers have not been organized. The labor NGO in Beijing which has done advocacy work for domestic workers is “Home for Female Workers”. Since 2004, a self-help workers group was set up and it also creates a platform for information sharing, self-development, emotional support and labor rights education among the domestic women workers. “Home for Female Workers” hold monthly meeting for the domestic workers and organizes four kinds of activities: cultural and entertainment activities, psychological counseling, occupational planning and training, and educational activities. The NGO has also set up an emergency aid fund and has supported more than one hundred women workers who were deeply in need of financial support. The strength of this NGO is a labor

¹ 人力资源和社会保障部劳动工资研究所课题组:《家庭服务业劳动使用关系研究》(未发表稿), 2010年4月。

² 由于缺乏有效统计,北京市家政工总数尚无定论。有其他学者认为,2011年北京市家政服务员总数只有28万人(赵树海、王喜云、刑林和:2011)。

rights group which offer legal aid supports to the domestic workers providing more than 4000 cases of legal consultation.

Another experimental project for helping the domestic workers to set up trade union was in Xian where university legal scholars, district trade union, women federation and domestic workers joined hand to a labor right-oriented union. About 182 workers who had joined the trade union, about 98% of them were laid-off women workers above the age of 40; and 70-80% of them were single-headed families. The Other forms of organizing include district trade unions or company trade unions in Beijing which are mainly mobilized by the official trade unions and hence their effectiveness to support the domestic workers remains an issue to be studied.

E. Construction Workers

A global China is spatially made possible by Chinese construction workers who are comprised of more than 40 millions of peasant workers hailing from all parts of countryside in China. Unlike domestic workers who are mostly female, 90% of the construction workers on the ground are male workers. About 30% of all migrant workers from the countryside work in the construction industry.³ In order to build Beijing and Shanghai as the center of China's global cities and speed up the process of urbanization, since the Tenth Five Year Plan (2001-2005) China has invested about \$376 billion in construction each year, and it has become the fourth largest industry in the country. At the turn of the 21st century, the construction industry was already one of the strategic industries, accounting for approximately 6.6% of China's GDP.

The rapid development of the construction industry and its structural change have given rise to a highly exploitative labor subcontracting system. Labor subcontracting was forsaken in the socialist period but has now been reborn in the reform period. This labor system embodies two processes: the rapid commodification of labor through non-industrial social relations organized by a quasi labor market in the rural villages; and the expropriation of labor in the production process of the construction sector in the urban areas. These two processes shaped a specific labor informalization in China, resulting in a never-ending process of wage arrears and the struggle of the construction workers to ask for compensation for their injuries or deaths. These actions include legal litigations such as suing the subcontractors or the companies as well as collective actions such as damaging buildings, using bodily abuse and even suicidal behaviors.

In contrast to the enormous gross profits and output value of the construction industry, it became clear to the research team that the construction workers remain the badly protected Chinese working class.⁴ In the late 1990s the labor market working via the

³ See the report on "Construction Workers Alienated", China Daily July 9, 2007.

⁴ The "badly protected working class" refers to the materiality of work such as work intensity, work

labor subcontracting system was maturing, leaving the rural workforce entirely without any state or social protection. They had no health cover, no insurance to cover accidents, nor any disability payments. The subcontractors recruited peasant-workers as casual laborers, who were not even provided with a legal contract as required by the Labor Law of 1995. Until now, none of the construction workers whom we interviewed receive regular monthly payments and none had signed a labor contract. Despite the fact that the new Labor Contract Law was in force as of January 2008, neither the contractors nor subcontractors observed the new law, and only a few of the workers were aware of the new legal obligations that their contractors were supposed to abide by.

The first labor NGOs in China devoted to protect the labor rights of construction worker is the Construction Workers Center, named, “Toiling on the Earth” set up in 2008 in Beijing. Formed by labor sociologists, social workers and student activists, this center aims to fight for the rights of labor protections for workers, especially in the aspects of labor contract law implementation, prevention from and compensation for industrial injuries and deaths as well as trade union organizing on the construction site. The Center organizes daily outreach program such as evening classes, cultural activities and newsletter delivery on the construction site. It also engages in policy advocacy by conducting annual national surveys and hold press conference to release research findings. Starting 2009, “Toiling on the Earth” has advocated December 5 as the Day for Care of China’s Construction Workers. On the day, more than 300 construction workers, a hundred student volunteers and a number of labor scholars and media would join the event.

F. Student-Laborers in Foxconn

Foxconn, in the summer of 2010, made use of the labor of 150,000 student interns. Our research highlights the emergence of a new form of student labor in China that is likely to play an important role in the global labor regime. Vocational school students 16 to 18 years old do “internships” for terms between three months and a year, subject to extension as production requires at short-staffed factories. Far from being freely chosen, the Chinese internship program is collectively organized on a mass scale, with enterprises, local governments and schools subverting the fundamental goals of internship to the detriment of students and for the profit of Foxconn, Apple and other electronic behemoths. We document the dual control, by school and enterprise, over student labor, the illegal forced night and overtime required of interns, and the student workers’ resistance.

China’s vocational school students participating in internships are legally defined as interns, not employees. When interned in the workplace, interns are not entitled to employment contracts, which define labor relations under the Labor Contract Law

hours and the payment methods, but not necessarily the paid rates of construction workers when compared to those of workers who work in manufacturing or service sectors.

(effective 1 January 2008). The internships are implemented under the framework of the Education Law (effective 1 September 1995), Vocational Education Law (effective 1 September 1996) and Labor Law (effective 1 January 1995). The “internship agreement” stipulates that the intern receives adequate workplace training and supervision as well as the basic protections of educational and labor rights. However, in China, interns’ rights are inferior to those of formal employees in several key aspects.

The Regulations on the Management of Vocational School Student Internship require employers to pay interns for their labor (Article 8). But the minimum level of remuneration is not specified. In the absence of effective collective bargaining, interns are often paid less than the minimum wage. Fundamentally, school studies and internships are disconnected, defeating the primary goal of teaching and learning in a work organization. Student interns are recruited in bulk as cheap labor to flexibly meet the needs of firms, especially when the labor market has been tightening over time. From the early 2000s, China has been facing a growing labor shortage in some coastal and inland cities. Coupled with a new generation of rural migrant workers’ increased movement between jobs, employers face higher pressures in hiring, labor management, cost control, production flexibility and, ultimately, profitability. Successive labor legal reforms have also posed challenges to employers, such that the provision of employment contracts and employee welfare and benefits are required, and the hiring of temporary and agency workers regulated (Zhang 2011). Under these conditions, the incorporation of vocational education into global production through student internships is one important new form of labor use facilitating Foxconn’s accumulation and relocation from the coastal to interior cities.

Pressures for progressive change from concerned educators and labor rights advocates can strengthen the movements emerging among interns at Foxconn and other companies in China and in other countries worldwide. University Foxconn Research Group was formed since 2010 and it has released two reports on the use of student laborers and the reports findings were widely reported in local as well as international media.

Reference:

Pun Ngai and Xu Yi (2011), “Legal Activism or Class Action? The political economy of the “no boss” and “no labour relationship in China’s construction industry”, *China Perspectives*, No 2011/2. Pp. 9-17.

Pun Ngai, Chris Chan and Jenny Chan (2010) “The Role of the State, Labour Policy and Migrant Workers’ Struggles in Globalized China”, *Global Labor Journal*, Vol.1, Issue 1, pp132-151.

Sarosh Kuruvilla, Ching Kwan Lee and Mary E. Gallagher (2011).eds. *From Iron Rice Bowl to Informalization: Markets, Workers, and the State in a Changing China*. Ithaca, NY, and London: Cornell University Press.

Rudolf Traub-Merz and Kinglun Ngok (2011) *Industrial Democracy in China: With Additional Studies on Germany, South-Korea and Vietnam*, edited by. Beijing: China Social Sciences Press.

Zhang, Lu. 2011. "The Paradox of Labor Force Dualism and State-Labor-Capital Regulations in the Chinese Automobile Industry." Pp. 107-37 in *From Iron Rice Bowl to Informalization: Markets, Workers, and the State in a Changing China*, edited by Sarosh Kuruvilla, Ching Kwan Lee and Mary E. Gallagher. Ithaca: Cornell University Press.

郭慧敏，2009，《家政女工的身份与团结权政治——一个家政工会女工群体的个案研究》，《妇女研究论丛》，第六期。

冯小双，2004，《转型社会中的保姆与雇主关系》，孟宪范主编，《转型社会中的中国妇女》，北京：中国社会科学出版社。

（澳）杰华，2006，《都市里的农家女——性别流动与社会变迁》，吴小英译，南京：江苏人民出版社。

赵树海等，2010，《北京家政服务业的现状及其规范性发展》，《经济研究参考》第57期。