



CAPTURING THE GAINS



*economic and social
upgrading
in global production networks*

China's New Labour Contract Law: State Regulation and Worker Rights in Global Production Networks

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Abstract

In 2007/2008, the new Labour Contract Law was enacted in China. This law has substantially changed the conditions under which workers and employers can enter into contracts and has had important effects on the ability of workers to shape their conditions of work. This paper outlines the conditions and terms of the 1995 Labour Law and how the new law changes these. It details the legal requirements of the new law and then assesses the consequences of these changes for global buyers sourcing from China and for workers and enterprises in China. In particular, it assesses the differential impacts of the new law on permanent and temporary workers in state-owned and private enterprises, and between private- and public-sector employees.

Keywords: apparel, China, global sourcing, Labour Contract Law, private- and public-sector workers.

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Introduction

As global sourcing has driven down contract prices and squeezed margins and wages among export producers in the global South (the 'race to the bottom'), building or re-building international and state institutions that protect workers in export processing zones in the South has become an urgent matter (Appelbaum et al 2005). In recent years, the condition of workers and the difficulty of ensuring standards compliance in complex global production networks have increased pressure from organized labour and NGOs to push labour provisions into bilateral and regional trade agreements and even into the heart of policy agendas of Bretton Woods institutions such as the World Bank and IMF. However, as Mayer and Pickles (2011) have pointed out, "significant obstacles remain in the development of effective inter-governmental regulatory or distributive governance capacity at the global or regional level." In part this results from the erosion of institutional and governance capacities at the level of the national state after 20 to 30 years of neo-liberal deregulation and market-based mechanisms, and in part it results from the mobility of global value chain sourcing as it moves among low-cost producing locations in countries with less-well-developed facilitative, regulatory, and compensatory capacities.

Some emerging economies, particularly among the BRICS (Brazil, Russia, India, China, and South Africa) have begun to reconsider their earlier commitments to neo-liberal policies (de-regulation, privatization, and the withdrawal of the state from the economy), and are now adapting their existing state institutions and developing new governance capacities to regulate production processes and, to a lesser extent, to provide social safety nets and other forms of compensatory mechanisms for workers who have been affected by the unregulated and, at times, predatory practices of manufacturers and global buyers. In Latin America, governments in Venezuela, Bolivia, Ecuador, Nicaragua, Argentina and Brazil seek to create the possibility for autonomous alternatives to global neoliberal models of free trade and open markets, each mobilizing state resources and national institutions to foster economic and social development. Thus, Piore and Shrank (2006, p.3) report that:

Brazil, Chile, Costa Rica, and the Dominican Republic have rededicated themselves to labour law enforcement in recent years. And potentially more fundamental reforms are underway from Argentina, where they are motivated by domestic party politics, to Central America, where they are a product of transnational pressure emanating from the campaign for a US-Central America FTA.

Moreover, Shrank (2007) found that for Central America firms there was a positive relationship between labour law enforcement and the propensity to upgrade human resources, with potentially important impacts on competitiveness.

In these endeavours, global brands and companies have not always opposed stronger state regulation of labour codes and practices. For such companies, earlier attempts to regulate global value chains through corporate social responsibility (CSR), standards, and code monitoring and compliance failed in the face of complex supply chains and the competing pressures on cost and brand reputational risk. In Bangladesh, deep social unrest driven by low wages and poor working conditions after a decade of declining contract prices led in 2010 to a coalition of major apparel buyers – including Wal-Mart, Tesco, H&M, Zara, Carrefour, Gap, Metro, J. C. Penney, Marks & Spencer, Kohl's, Levi Strauss and Tommy Hilfiger – joining labour advocates to pressure the government for an increase in the minimum wage for apparel workers. In response, Bangladesh increased its minimum wage in the apparel sector by 80 percent, although the increase was far

below what had been demanded by workers. Weak trade unions continue to hamper the ability of workers to press for further gains (Anas 2011).

Institutional reforms in post-socialist states may also be instructive. In these countries, the roles played by former state socialist institutions have changed quickly in recent years. Planned economies were deregulated quickly after 1989, state institutions were weakened, and manufacturing industries suffered massive retrenchment with the loss of long established Council for Mutual Economic Assistance (CMEA) markets and trade. Export-oriented industries declined, employment was shed rapidly, and plant and capital were redirected into private hands, sold, or abandoned.¹ But most post-socialist states retained the working (albeit weakened) institutions of state socialism (Labour Inspectorates, Health Inspectorates, working hours law, overtime regulations, insurance and pensions requirements, etc.), and by the late 1990s and early 2000s some governments (such as Bulgaria and Slovakia) were providing additional support and funding to them to ensure basic working conditions were better regulated. While many cases of workplace abuse and hyper-exploitation have been reported (most notably in Bulgaria by Clean Clothes Campaign), in general the legacies of labour inspectorates, health and safety inspectorates, respect for working hours, child labour laws, and wage payments and contract conditions, remained important partial regulators of predatory business practices (Pickles et al 2006; Smith et al 2008).²

China and its new Labour Contract law is a particularly important example of this 'return' to managed regulation, but in a way that is different from post-socialist reforms in Central and Eastern Europe. This paper focuses on the new Labour Contract Law (NPC 2008) passed on June 29, 2007, at the 28th session of the Standing Committee of the 10th National People's Congress, and which took effect on January 1, 2008 replacing the 1995 Labour Law (NPC 1995). In general, the new law is regarded as a major step forward in legislating and regulating labour issues in China and has increased protections for many private sector workers. But it is also a central pillar of efforts to reform and liberalize public sector employment and has downgraded the conditions of contracts and working conditions for many in these sectors.

The paper is divided into three parts. First, it introduces the background of the new law, and shows the changes of the social-economic conditions between the old and new laws. Second, it compares the two laws and analyses the social issues beneath legal demands. Third, it assesses some of the immediate consequences in the two years since the announcement of the new law.

China's Labour Law

China's first Labour Law came into being only in 1995 (NPC 1995). In general, the law was a legal response to the reforms of 'the socialist market economy' and the burgeoning labour market they created (Cooney et al 2007). Before the reforms there were no labour contracts because all workers were supposedly the 'masters of the nation' with permanent positions (the 'iron rice bowl') in state-owned enterprises (Warner 1996). A series of reforms in the early 1990s significantly

¹ By the mid-1990s, the delocalization of European and US clothing manufacture had revitalized the industry throughout the region around stitch-up, Cut-Make and Cut-Make-Trim contract manufacturing, structured largely by international buyers and manufacturers. As a result, the industry re-emerged quickly, but largely under the radar of the state authorities. These remained weak and the institutions of the state continued to be under-funded and under-incentivized (see Pickles et al 2006).

² For documentation of abuses in Bulgarian supply chains see Laleva and Musiolek's (1999) account of the "Conditions in the Savina Factory in Sandanski." For discussion of the consequences of state socialist institutions on post-socialist working conditions, see Pickles and Smith (2010).

changed this condition and made labour law necessary. First, the central government initiated reform in state-owned enterprises to deal with the huge deficits they had accumulated. One step was the installation of the employment contract system, a measure that was not unambiguous in its effects, removing as it did the security of the iron rice bowl for many workers. Second, the proliferation of export factories in nascent Special Economic Zones created an army of workers in the private sector, a phenomenon never seen before in the People's Republic. Surveys by the Ministry of Labour showed that there were 12,500 'large-scale' disputes in 1993 alone (Ministry of Labour 1994, cited in Warner 1996). Essentially, these workers were not under any legal protection and conflicts around workplace conditions were creating problems for local governments. The result was the 1995 Labour Law. This law sought to create guidelines for local governments and ensure that economic reform occurred in a regulated manner.

Increasing dissatisfaction with the old law centred on three aspects of the law. First, the law focused solely on the termination of the labor contract without paying enough attention to when and how a contract comes into being. In many cases, employers would simply refuse to sign a contract, which effectively invalidated obligations required in the law (Cooney et al 2007; Haiyan Wang et al 2009). Second, the law was widely regarded as vague and overly simplified, and many potential abuses were not covered by the law (Guo 2008). Third, the old law had nothing to say about informal employment and precarious work, which officially did not exist in the early 1990s. During the years between the old Labour Law and the new Labour Contract Law, thousands of administrative regulations had to be promulgated by local governments to deal with these omissions. Although some of these regulations were progressive and effective, many of them contradicted each other and caused further problems for labour control (Cooney et al 2007; Haiyan Wang et al 2009).

From the 1990s on GDP and the number of labour disputes increased. In 1996, 57.2 percent of urban workers were still employed by the SOEs (Lin et al 1998, 422), and labour relations in those enterprises were still relatively harmonious (Cooney et al 2007). But from the 1990s, the number of public protests increased dramatically, from about 10,000 in 1990 to more than 80,000 in 2007 (Ye 2009). In 2007, China's labour dispute arbitration committees accepted 350,000 cases, an increase of 10.3 percent from 2006 (China Labor Bulletin 2008, 14). The same survey revealed that the average number of workers in disputes had risen to 28.6 in publicly-owned enterprises and 51.3 in privately-owned enterprises. 'Making peace' and 'building a harmonious society' thus became an urgent task for the government internally and increasing pressure from global buyers to meet compliance standards became increasingly important externally.

Long before its passage in 2007, the intention to implement the new law was widely and publicly announced, generating an unprecedented amount of public comment. It was arguably the most publically debated law in the history of the Peoples Republic of China (PRC) (Haiyan Wang et al 2009), and was clearly used by the government to demonstrate that it was responsive to the concerns of labour and local governments (Haiyan Wang et al 2009; Cooney et al 2007). Moreover, the law was not published by itself but as part of a new legislative structure. During the same year (2007) the Employment Promotion Law (on August 30) and Law on Mediation and Arbitration of Labour Disputes (on December 29) were also passed, as well as a number of local regulations (CLB 2009, 21).

The new Labour Contract law (LCL) has made many changes to prevailing contracting and employment practices, perhaps most notably by introducing new requirements for employers to enter into written contracts with all of their workers (Table 1). The main intention of the new LCL was to expand protection to employees by offering an 'employee-friendly' environment and

ensuring that this was extended to all foreign-invested and domestic enterprises, as well as state-owned enterprises and public organizations.

Table 1. Key points of China's New Labour Contract Law

	Key provisions
1	In drafting or revising work rules and regulations, an employer must consult with the applicable labour union, employee representatives or the employees. If the work rules are deemed to be inappropriate, the labour union, employee representatives or the employees may raise issues during the consultation process.
2	Employers are required to execute a written labour contract with an employee within one month of hiring or face statutory penalties.
3	The probationary period of an employee is determined according to the length of term of the labour contract.
4	An employer may require an employee to sign a service agreement requiring a period of service for, and imposing an early termination penalty on, an employee who receives training at the employer's expense. Only senior management personnel, senior technical employees or other employees who have access to an employer's trade secrets may be required to sign confidentiality and non-compete agreements, which may extend for a period of up to two years.
5	Three types of labour contracts are authorized: fixed-term contracts, non-fixed-term contracts and project-based contracts.
6	Severance payments are required in many circumstances under which an employee is terminated.

Source: BMU Service, Jan 2008, 'An overview of PRC's New Labour Contract Law'

Retrieved on Nov 14, 2010 from: http://www.bmuconsulting.com/userfiles/2008_01.pdf

Although the law was generally welcomed by workers, it generated outright resistance from both domestic employers and foreign investors. Reactions from both workers and employers were widely reported before and after the law took effect. The Shanghai-based American Chamber of Commerce, for example, is reported to have lobbied hard and eventually was given some concessions in the framing of the new law (Costello et al 2007). The European Union Chamber of Commerce was also active in its opposition to the law (CLB 2009, 18).

Before we turn to the consequences of the law's implementation, we briefly compare the main clauses of the old and new laws. We make this comparison in terms of five aspects of the law: coverage, probationary period, written contract, labour dispatching, and collective bargaining and the rights to unionize. After comparing the two laws, we turn to an analysis of the consequences of the introduction of the new Labour Contract Law for manufacturers and workers, focusing particularly (but not exclusively) on textiles and apparel.

Table 2. Comparison between the 1995 Labour Law and 2008 Labour Contract Law

	1995 Labour Law (NPC 1995)	2008 Labour Contract Law (NPC 2008)
Coverage	Private sector and state-owned enterprises No. of clauses: 1	All organizations in both of the private and public sectors No. of clauses: 1
Probationary period	6 month limitation No. of clauses: 2	Detailed limitations from 3 months to 6 months depending on the contracted term. Minimum wage. Restricted dismissal. Clear penalty and compensation. No. of clauses: 5
Written contract and the non-fixed term	Requirement for contract. Allowed non-fixed-term contract after 10 years. No. of clauses: 2	Requirement for written contract. Forced non-fixed-term contract after 10 years. Clear penalty and compensation. No. of clauses: 4
Labour dispatching	N/A	Requirements for the registered capital, business strategy, and sectoral restriction of the business. Delimitation of the responsibility between the dispatching agency and the actual employer. No. of clauses: 11
Collective bargaining and the trade union	Union's presence in the creation of the collective contract and collective bargaining on overtime. No. of clauses: 5	Government-union-employer triad. Union's presence in the issues including individual labour contracts, layoff, dismissal, collective contract, and labour dispute. Special, sectoral, and regional collective contracts. No. of clauses: 13

Coverage

One initial difference in the 1995 and 2008 Labour laws has to do with the coverage each gives to workers and enterprises. The new labour law provides a much wider coverage than the old one (Guo 2008). The 1995 Labour Law applied to all production enterprises, private economic organizations, and employed workers within the border of People's Republic of China (Clause 2), while the 2008 Labour Contract Law applies to all enterprises, private economic organizations, *private non-enterprise organizations*, including those in government, public institutions, and other social organizations, and all those employed on a labour contract (Clause 2). The big change in the law, besides its expansion to include workers in the private sector, was thus the extension of labour contract rights to workers in the public sector and government. Specifically, the Appendix of the Labour Contract Law requires that:

for public units and units which follow the public employment system to create, practice, alternate, dismiss or terminate the labour contract, if there is any other law or administrative regulation, they shall follow that law or regulation; if there is not, they shall follow the Law. (NPC 2008)

Probationary period

In the 1995 Labour Law, labour contracts could include a probationary period of no more than six months (Clause 21). This clause was intended to favour employees, but there were no clear mechanisms for employees to appeal to employers or government authorities under its provisions. Even if they did appeal, there were no clear penalties or mechanisms for enforcing them on employers. Under Clause 32, if the employer used force, violence, or intimidation, or if the employer failed to pay wages or provide working conditions based on the contract, the employee did have the right to terminate his or her labour contract at any time during the probationary period. But the labour market has long been a buyer's market and because many workers feared losing their jobs during the reforms few exercised this right.

As a consequence, it had become common before 2008 for employers to require a probationary period in labour contracts. Conflicts over labour rights during such a probationary period had been proliferating. In particular, since the reforms in higher education in the late 1990s which produced tens of thousands of new college graduates every year, the probationary period had been used increasingly by employers to exploit upwardly mobile and aspiring young skilled workers for short periods of time. The new Law explicitly stressed the tensions among these new graduates and sought to redress them (Guo 2008).

The new law also seeks to protect workers from other abuses. Wages during the probationary period cannot be paid at levels below the minimum enterprise wage, at less than 80 percent of the formal wage in the labour contract, or below the minimum wage of the local standard (Clause 20). During the probationary period, except in the cases of Clause 39, Clause 40 Item 1 and 2, in the Law, the employer shall not dismiss the contract, and if the contract is dismissed for one of these reasons the employee must be given a full explanation (Clause 21). A worker may dismiss a contract by giving written notice of 30 days. In the case of probationary workers, only three days' notice is required (Clause 37). If the employer violates the conditions of the law on probationary periods, the local labour administration must intercede. If the probationary period is unlawfully terminated, the employer has to pay the worker compensation in an amount based on the full amount of contracted wage and the time of illegal probationary period completed (Clause 83).

Written contracts and permanent contracts

In the 1995 Labour Law the labour contract was the basis for an employment relation and indicated the rights and responsibilities between employees and employers (Clause 16). Clause 20 defined the type of labour contract (whether fixed-term or permanent) and the nature and amount of work required (Clause 20). For those workers who had been working continuously for one employer for more than 10 years, both parties could agree to extend the contract as a permanent contract. Under this law, if the employer refused to extend the contract, a permanent contract would not be possible. If the contract term had expired, employers were able to legally dismiss workers without paying any compensation.

Although the old law required the labour contract, less than one-fifth of employers actually complied (Haiyan Wang et al 2009, 489). Instead, precarious arrangements were used to reduce

labour costs and to circumvent the compensation required when terminating the contract. Surveys show that in 2008 60 percent of the labour contracts were precarious contracts, the lengths of which were usually less than one year (Guo 2008).

The new law, sought to deal with these problems, particularly to regulate work and stabilize contracts for those workers entitled to permanent contracts. In the 2008 New Labour Contract Law a written labour contract is required. For those working without a written contract one has to be created within one month of the start of work (Clause 10). As with the earlier law, these written contracts can be fixed-term or non-fixed-term (permanent) and should specify the quantity of work (Clause 12).³ If an employer fails to create a written contract with an employee for more than one month or for less than one year, the employer must pay the labourer twice the amount of due remuneration for his or her labour. Permanent (non-fixed-term) contracts are possible based on negotiations between the employer and the employee, and should be created when:

- (1) An employee has been working for this employer for 10 years;
- (2) If, when an employer creates the contract system for the first time, or when a state-owned enterprise that restructures and recreates labour contracts, the employee has been continuously working for the employer for 10 years and is 10 years or more younger than the legal retirement age;
- (3) If this is the second time of creating a fixed-term contract, and the employee is not compliant with the Clause 39, Clause 40 Item 1 and 2;
- (4) If the employer has not created any written contract with the employee for one year, a permanent contract will be presumed.

If the employer violates the Law and fails to make a permanent contract with an employee who should receive one, the employer must pay double the wage to the employee since the time when the permanent contract should have been made (Clause 82).

Labour dispatching

Even before the introduction of the new Labour Contract Law, labour contracting through labour dispatching agencies was widespread. Usually short-term in nature, dispatching contracts are a growing and significant form of flexible and precarious workforce (Shangyuan Zheng 2008). Geographically concentrated mainly in the east (Wu and Chen 2007), there were 680 dispatching agencies in Beijing alone at the end of 2004. By the end of August, 2005, there were 85 in Fujian, hiring 139,800 workers, of which 37.63 percent used to be unemployed, 31.92 percent were from rural areas, and 30.5 percent were from towns (Wu and Chen 2007).

The 1995 Labour Law said nothing about such labour dispatching practices and agencies. The 2008 Labour Contract Law Section 2 deals explicitly with 'Labour Dispatching' and requires that setting up a labour dispatching company must comply with PRC Company Law and the registered capital must not be less than 500,000 yuan (Clause 57). The agencies are similar to temp and manpower agencies in the US and Europe and they operate by putting workers under contract with the dispatching agency, which in turn contracts with enterprises for the use of the workers (Haiyan Wang et al 2009, 493). By the nature of such contracts dispatch workers are particularly vulnerable with often unclear and under-specified legal obligations of both the dispatching agency and the employer who actually uses them.

³ Non-fixed-term contract refers to a contract that is created without exact date of expiration (Clause 14).

Most labour dispatching agencies supply workers for service, manufacturing and construction sectors, although they have also become very important in IT, banking and other hi-tech, high-value industries (Wu and Chen, 2007). In the telecommunication industry, in 2007, the three state-owned telecoms (China Telecom, China Mobile and China Unicom) had 480,000 dispatched workers, about 40.5 percent out of the total 1.18 million workers. In the railway system (also state-owned), there were 320,000 dispatched workers in 2007, about 13.3 percent out of the total 2.4 million. The numbers of dispatched workers in the construction sector are more difficult to determine, but in 2007 this number exceeded 10 million, while in coal mining about 80 percent of workers were dispatched workers (Wu and Chen, 2007). Labour dispatching is also popular in the private sector and in foreign invested enterprises, but the numbers employed in this way are more difficult to ascertain (Zheng 2007).

Dispatching is not only about allocating surplus labour for flexible, manual jobs. New graduates are the most popular and dominant group in the technical industries for dispatch, while peasant workers are also popular in manufacturing, although about 30.6 percent male and 46.7 percent female 'peasant workers' were also high school or college graduates (Zheng and Huang 2007). Also, a significant proportion of dispatched workers are workers who were 'fired' from the same firms for which they are now working as firms reacted to the fixing of labour contracts by rapidly flexibilizing their workforce. Indeed, despite provisions in the law to prevent it, many of these 'fired' workers are hired by labour dispatching agencies that were established by their former employers for this very purpose.

The new law intends to clarify the business nature of labour dispatching, restrict the applied sectors, and delimit the responsibility of the dispatching agency and the employer which uses the labour. Under the law, the dispatching company is the legal 'employer' and must comply with all responsibilities that fall under the law to an employer. The contract between the labour dispatching company and the employee must indicate the name of the employer that actually uses the labour, the period of the dispatch, and the position description and expected conditions of work (Clause 58).

The dispatching company must create the fixed-term contract for at least two years and must arrange for at least a monthly payment of wages. If there is no work for the dispatched employee, the dispatching company must pay as monthly wage the minimum wage that applies in the locality to which the worker is dispatched. The labour dispatching company must also create a labour dispatching agreement with the company which uses the employees, and this should specify the positions, number of workers, periods of dispatch, wages, amounts and methods of the payment for social insurance, and the responsibility for any violation of the agreement (Clause 59).

The company which uses dispatched workers has the flexibility to set the periods of dispatch according to its needs, but it cannot divide these periods of work into a number of short periods. In addition, any company that uses dispatched workers has the following obligations. The company must:

- (1) implement national labour standards and meet the required working conditions and protections;
- (2) inform the dispatched worker of their job requirements and wage;
- (3) pay overtime wages and bonuses, offering all welfare benefits for which the position is eligible;
- (4) conduct the necessary training for dispatched workers; and,

- (5) in the case of continuous periods of dispatch work, wages must be adjusted according to wage increases for other workers in the factory.

Dispatch workers must receive a copy of the written agreement between their dispatching company and the company which uses them. The dispatching company must not expropriate any portion of the wage that the worker receives from the company which uses the labourer, and the dispatching company and the company which uses the labourer must not charge the dispatch worker any additional fees (Clause 60). If the labour dispatching company dispatches a worker to another region, the worker's wage and working condition must be compliant with the local standard of the region in which the worker works (Clause 61). But, in redeploying or relocating workers, the company cannot sub-contract the workers to other companies (Clause 62).

The dispatched worker has the right to equivalent wages as other workers in the same position. If the company has no other workers in the same position, the company must pay according to the local wage for similar positions (Clause 63). In order to protect these legal rights, the dispatched worker has the right to join or create a trade union in the dispatching company or in the company in which he or she works (Clause 64). The dispatched worker also has the right to break a contract with the dispatching company provided they meet the requirements of Clause 36 and Clause 38 which specify the conditions under which this is possible such as non-payment of the contracted wage or inadequate payment of social insurance (Clause 65). In turn, a company which uses dispatched workers may also return the worker(s) to the dispatching company and the dispatching company may dismiss the contract with the worker, but only under the regulations of the Law and in ways that do not infringe on worker rights specified in the law (Clause 38 and Clause 40 Item 1 and 2). To ensure that these rights are not avoided by the use of company dispatching firms, employers cannot employ workers from dispatching companies that it or its own parent or offspring companies create (Clause 67).

Collective bargaining and the role of trade union

Officially, there is only one trade union in China: the All-China Federation of Trade Union (ACFTU), a semi-government organization that functions as the bridge between the Chinese Communist Party and the proletariat. Although the history of ACFTU dates back before 1949, its power has been limited in recent years. It has been especially ineffective in export factories in coastal provinces, where it has little presence or influence. Pressure from foreign buyers for trade union presence in factories has also been limited. Most international companies sourcing from China have Freedom of Association principles in their codes and these generally refer to plural trade unionism. Since the state sanctions only the ACFTU to operate, and since its trade union officials have often also been the heads of the enterprise or officials in local government, business support for unionization has been limited at best (CLB 2009).

As a result, many of the provisions of the 1995 Labour Law relating to worker rights and trade unions were rights on paper only. In the context of such 'on paper only' rights, workers had the right to join and organize a trade union and the trade union had the legal right to represent and protect the worker rights and to do independently (Clause 7). The trade union had the right to represent any worker that had been unfairly or unlawfully dismissed, and to correct any employer violations of the law or the contract. It also had the responsibility to represent worker appeals in arbitration or legal suits (Clause 30).

Employees were able to enter into a collective agreement contract with an employer dealing with issues such as wages, working time, holidays, security, and insurance and welfare. A draft of such

a collective agreement contract had to be submitted to a general meeting of employee representatives or discussed by all the employees. Such collective agreement contracts were to be made between the union (representing the employees) and the employer. If there was no union in the enterprise, the collective agreement contract was to be entered into by elected representatives of the employees and the employer (Clause 33).

With agreement from the trade unions and the employees, employers were allowed to extend working time if it was necessary to meet production deadlines. This was usually by less than one hour per day. For special reasons, and provided that the health of employees was not threatened, the working time could be extended by up to three hours per day, but in total this had not to exceed 36 hours per month (Clause 41).

Within the enterprise, a Committee for Reconciling Labour Disputes could be established. The committee comprised representatives of the employees, employer and the trade union. The director of the committee was the representative of the employees (Clause 80).

Some enterprises did follow the 1995 law in whole or in part, but many did not. Thus, one primary goal of the 2008 new Labour Contract Law was to enshrine many of these earlier protections, but to do so in ways that gave to workers and trade unions more power to act and more access to local administrations and the courts to seek redress for grievances. In particular, the new law had the explicit intention of changing the role of the ACFTU and granting it a larger role in enforcement and compliance by giving it greater level of independence and more powers to act (Haiyan Wang et al 2009; CLB 2009).

In the new LCL employers are responsible for ensuring that they comply with all aspects of the law, they must actively work to improve their own labour regulations, they must share these with their workers and trade unions, and they are responsible for the protection of workers' rights and responsibilities in the factory (Clause 4). Any change in enterprise regulations relating to wages, working time, holidays, welfare insurance, training, and rules and processes relating to management and production that directly affect workers must be discussed in the Employees' Representative Meeting or at a general meeting of all workers. Specific details must be developed in discussion with the trade union or Employees' Representatives. During the decision-making process, the trade union or any employee has the right to challenge inappropriate behavior and practices, and seek revision through negotiation. A tripartite dispute resolution committee comprising the county or regional labour administration, the trade union, and the enterprise representatives must be empowered to deal with specific problems (Clause 5). The trade union is also empowered to help and direct workers and the production company to create and enforce labour contracts, and create a negotiation mechanism with the company to ensure that worker rights are protected (Clause 6).

If an enterprise needs to lay off 20 or more employees or to lay off less than 20 employees where those workers constitute more than 10 percent of the total workforce after the enterprise has been (i) restructured under the Bankruptcy Law; (ii) encounters severe business difficulties; (iii) finds that after major production, technological upgrading, or management restructuring or after contracts have been adjusted, layoffs are still needed; or (iv) if the overall economic environment changes significantly, the company must inform the trade union or all the employees. Layoffs may only occur after discussion with the trade union or the employees, and after reporting to the local Labour Department (Clause 41).

If an employer wants to unilaterally end a labour contract, he or she must provide the reasons to the trade union. If the employer violates the law or the labour contract, the trade union has the right to contest the action and the employer must consider the opinions it receives from the union and inform it of its final decision (Clause 43).

Collective agreements must be made between the trade union and the employer. If a trade union does not exist in the enterprise, the contract must be made between the employer and representatives elected by the employees with assistance from the regional or national branch of the trade union (Clause 51). Employees may make special collective agreements with employers dealing with issues such as work security, female worker protection, and wage adjustment (Clause 52). Trade unions may also enter into sectoral-level or regional-level agreements below the county level in industries such as construction, mining and food service (Clause 53). Such collective agreement contracts must be reported to the local Labour Department. If there is no objection from the local Labour Department within 15 days, the contract becomes activated (Clause 54). Such collective agreements are legally binding on both the employer and workers. Sectoral and regional collective agreements are binding on all the employers and workers in that sector or region. In these cases, wage and working conditions cannot be lower than the locally prevailing minimums. Wages and working conditions set in any individual labour contract cannot be lower than those set in the collective contract (Clause 55).

If the employer violates the collective contract and worker rights are affected, the trade union may demand redress from the employer. If the practice of the collective contract is disputed and is not solved through negotiation, the union may appeal to the government or sue the employer (Clause 56).

Dispatched workers also have the right to join or create a trade union, but – to ensure that their rights are protected under this dual contract arrangement -- they also have the right to do this in the dispatching company and in the company in which he or she works (Clause 64).

In the law, the trade union is explicitly empowered to protect the rights of the employees, and supervise the practices of labour contracts and collective agreements. It has the right to press the employer to redress illegal actions or breaches of contract, and it must provide assistance to workers who are appealing or suing their employers (Clause 78).

Some consequences of the New Labour Contract Law for workers in global factories

The New Labour Contract Law has had both positive and negative consequences for workers and employers, and these often vary by sector. Moreover, the publication and enactment of the new law was coincident with the 2008 global economic crisis and the subsequent downturn in orders and exports. Disentangling the combined effects of these two simultaneous processes is not easy.

Private sector workers

The new law generated a great deal of opposition from employers across the country. As early as March 2006, when the National People's Congress (NPC) published the draft of the new law, there were strong objections from employers, both domestic and foreign. As we mentioned earlier, the American Chamber of Commerce and EU Chamber of Commerce voiced its opposition immediately upon publication of the draft and lobbied heavily in the NPC (Cooney et al 2007; Wang et al. 2009). In fact, as many NGOs have pointed out, it is not the new law itself that was feared

since many of the regulations existed in the old law or in other local regulations. Employers were more concerned by the fact that the enactment of the new law might signal that the government would actually implement the regulations more vigorously (IHLO 2008; CLB 2009).

The new law has indeed encouraged workers to fight for their rights and this in turn has resulted in a rapid increase in the number and strength of labour disputes. In 2007, China's labour dispute arbitration committees accepted 350,000 cases, an increase of 10.3 percent from 2006 (CLB 2008, 14). The same survey revealed that the average number of workers in disputes had risen to 28.6 in publicly-owned enterprises and 51.3 in privately-owned enterprises. During the first quarter of 2008 alone, the labour courts in Dongguan, Shenzhen and Guangzhou (the three industrial cities in the Pearl River Delta) accepted more than 10,000 cases, double the number over the same period the year before (Haiyan Wang et al 2009, 492). Comparable increases in the number of complaints were also observed in Shanghai and Nanjing in Yangtze River Delta, and in inner provinces such as Shanxi (Haiyan Wang et al 2009; CLB 2009). The waves of taxi drivers' strikes in 2008 and of auto workers' strikes in 2009 and 2010 were directly inspired by the new law (CLB 2009; The Economist 2010). While the new law does not say anything about the right to strike and the strike is still officially forbidden by the Law of Assemblies, Processions and Demonstrations, this restriction has been loosened by the government.

Private company reactions to this new labour regime have been far-reaching, swift, and 'creative' (Haiyan Wang et al. 2009). There have been four main types of response: (i) layoffs; (ii) reversed dispatching; (iii) tricking the contract; and (iv) relocating factories to other provinces or countries with lower costs (see Zhu and Pickles 2011).

(i) Layoffs

Layoffs are one of the most common ways enterprises used to circumvent the new law. During the few months before the new law came to effect, mass layoffs were reported in Guangdong, Zhejiang, Henan, and many other provinces (IHLO 2008; Haiyan Wang et al 2009). Wal-Mart did lay-off more than 100 employees who worked in the procurement offices during the fall of 2007, about 40 in Shanghai and 60 in Shenzhen. Although the company claimed this was a 'natural' adjustment of its global outsourcing strategy facing the crisis, many questioned if this was the primary reason, since the layoffs were primarily aimed at long-service employees who would soon have been covered by permanent contracts (Haiyan Wang et al 2009, 488). Often, although not in Walmart's case, workers were offered a new fixed-term contract as a way for employers to counter the effect of the Clause 14 of the new law. For instance, Huawei Technologies Co Ltd, one of the largest private high-tech companies in China, laid off about 7,000 employees including the founder himself on October 17, 2007, three months after the publication of notice of the new law. Most of these workers had worked for the company for eight years or more. Many then received a new three-year contract, while about 500 were laid off at the cost to the company of about one billion yuan in redundancy compensation payments (US\$146 million) (Xinhua 2007b; Haiyan Wang et al 2009, 493). Similar layoffs were widely reported in Guangdong, Zhejiang, Henan, and many other provinces (Haiyan Wang et al 2009).

(ii) Labour dispatching

Labour dispatching is another common way firms have used to get around aspects of the new law (Shangyuan Zheng 2008). Labour dispatching refers to the use of labour brokers or agencies to hire workers. It had been a common practice before the publication of the new law, when it was used for at least three main reasons. First, labour dispatching loosened the restriction on firing workers. According to the surveys conducted by the Shanghai Trade Union, many firms fired their

contracted workers and then hired them back through the labour agencies. Dispatch workers receive lower wages, which in turn reduces the levels of social insurance payment charged to the employer (which in turn means reduced future pensions for the individual workers). Second, although the new law formally gives many of the same rights to both directly hired and dispatched workers, dispatched workers who are hired by a separate firm do not have – in practice – the same rights and benefits (Wu and Chen 2007). In most cases, these dispatched workers are deprived of any bonus, medical insurance, days off, and receive a much lower salary, even though they may do the same jobs as the formal workers. They are also usually dispatched on short-term contracts that can be renewed if workers are needed (Wu and Chen 2007; Zheng 2008). Third, since only 500,000 yuan is required for firm registration, many firms do not have the ability to fulfil their responsibilities for training and are reluctant to bargain for workers. In the case of labour disputes, even when workers win their cases, many firms simply declare bankruptcy at little financial loss (Wu and Chen 2007; Zheng 2008). The 500,000 yuan registration fee is not a sufficiently large barrier to this practice usually is not sufficient to cover the compensation costs for dispatched workers. Since many such companies might have more than 1,000 workers, the firm's legal liability for individual worker compensation after bankruptcy is effectively limited to only 500 yuan (Shangyuan Zheng 2008). Although the law precludes the possibility of firms setting up their own labour agency, the process (known as 'reverse dispatch') is common (Haiyan Wang et al 2009). Ironically, it is state-owned enterprises that have most often used dispatched workers.

(iii) Tricking the contract

Besides the above, a number of other 'creative' tricks have been applied to labour contracts. One of the most important intentions of the new law is to implement the written contract. To facilitate this, many local governments prepared a sample contract in 2007 and published it online for employers to download (IHLO 2008). The quality of these drafted contracts was uncertain, with many of the downloaded versions seeming to give employers more power than the new law itself actually does. Many employers simply revised the sample contract to their own advantage (IHLO 2007; IHLO 2008). Implementation of contracts has also been a problem. In some cases, workers were not allowed to read the full contract, and in other cases, they were asked to sign a contract in English which most of them could not read (IHLO 2008). In some cases, employers prolonged actual work hours without paying the legally defined overtime, increased the penalty for violating job rules, and increased the prices for food and accommodation in workers' dormitories (IHLO 2008; CLB 2009, 19). Some strategies were even harsher, with some firms placing their senior workers in entry-level positions with heavy workloads until they eventually requested voluntarily resignation (Haiyan Wang et al 2009, 494).

(iv) Relocation

Relocation is another important strategy employers (especially foreign employers) have used to 'manage' the consequences of the new Labour Contract Law. When the new law was first published, it was widely reported that many foreign investors might leave China and move their factories to countries such as Vietnam, Cambodia and Thailand (IHLO 2008). In fact, the prospect of foreign capital fleeing to other locations was used as one of the major objections to the law (Cooney et al 2007). Others argued that companies would not relocate such production lines outside China because they had already made recent and substantial capital investments, re-capitalization cycles were relatively far in the future, and the investment environment in China was arguably still the best in the world (IHLO 2008). Thus, instead, many firms, both foreign and domestic, adopted a more 'rational' spatial strategy. Some relocated all or part of their production processes to inland provinces. Foxconn, for example, one of the major electronic suppliers in the world, opened its new factories in Shanxi, Henan and Hunan, where the minimum wage was

reported as 60% lower than was in Guangdong (IHLO 2008). As a result, although the company publically claimed a wage increase by 30 percent in its Shenzhen factories, by relocating to inland provinces, its average wage had only increased 10 percent by the end of 2010 (Yanbiao Sun 2011). Others adopted the so-called 'China plus one' strategy, outsourcing labour-intensive activities to other Asian countries, while maintaining the bulk of their production in China (HSBC 2008; Zhu and Pickles 2011).⁴

Public sector workers

Most studies on Chinese labour law and its effects focus on the private sector, while relatively little attention has been given to effects of the new law on public sector workers, which in 2009 still accounted for 64.2 million workers, constituting 20.6 percent of urban employment (NBSC 2010). If the story of the new law in the private sector is one largely of re-regulation of overly liberalized private firms, the story in the public sector is quite different, functioning as it has as a tool for the reform and marketization of public sector labour markets. The public sector includes state-owned enterprises and public institutions (*shiye danwei*, including public schools, hospitals and various civil services), the story is different and more complicated than in private sector enterprises.

State-owned enterprises (SOEs)

The flexibilization of the SOEs was initiated as early as the 1980s. Hong Yung Lee (2000) argues that the legitimacy of the Party State after 1979 rested on the one hand on economic prosperity generated by efficiency in SOEs, and on the other hand on the state's social responsibility in maintaining socialist welfare among SOE workers. Thus, the continuation of SOE reforms was always a careful balancing act between these two potentially contradictory goals. In reforms since 1994, a large number of SOEs were privatized or claimed bankruptcy, particularly in the northeastern provinces. These reforms generated large-scale lay-offs for thousands of unemployed workers (*xiagang gongren*), leading to widespread social unrest (CLB 2009). In 1998, which was the peak of SOE reforms, according to government statistics 17.24 million workers were laid off (Yongshun Cai 2002, 327). During the central planning period, these workers received many state benefits including fixed wages, housing, education and health care. With marketization, these benefits were largely removed.

With large-scale lay-offs, those who retained their jobs became privileged workers after 2000. The effects of the new Labour Contract Law on the conditions of work for these workers are ambiguous. On the one hand, the existing conditions of work and employment are – for these workers – sufficiently good that in some cases the new legislation actually reduces their accumulated privileges. Compared with those who worked in the private sector, workers in the public sector received more benefits and were usually paid much higher wages. On the other hand, the old law did not legally or effectively guarantee job security, and therefore when labour disputes did happen such workers did not have specific protections for their privileges and benefits. Formalization of rights came with flexibilization of contracts.

Reactions from employers have also been very complex. As with many private firms facing cut-throat competition, managers in SOEs are also often struggling to cut their labour costs. As a result, in order to deal with entrenched labour power among SOE workers, many enterprises have resorted to labour dispatching agencies (either internally or externally) or to outsourcing parts of their production to private firms. Such dispatched workers, known as 'out-of-system' (*bianzhi wai*, as opposed to *bianzhi nei*, in-system) workers, are usually paid much less than their 'in-system'

⁴ For more details about different relocation strategies, please see (Shengjun Zhu and Pickles 2010).

colleagues (Xiaoqiang Wu 2010).⁵ This hierarchical system has effectively ameliorated the resistance from in-system workers but created inequality within the enterprise. Such inequalities are increasingly sharpened as children of in-system workers who have been guaranteed positions after their parents retire enter the labour market. Where they assume the privileges of their parents, the differences between them and contract or dispatched workers (some of whom may be long-term and skilled) are heightened. Where their assumption of rights is blocked in favour of contracts under the new law, guaranteed workers and their children feel their jobs and job prospects have been down-graded. There are two major risks in such a system. First, with unconditional protection, in-system workers are likely to become less productive or more resistant to organizational and workplace changes, with direct consequences for productivity and profitability. But since the SOEs which survived the reforms are monopolies (Cao et al 1997), these SOEs have been able to reap monopoly rents and share them with the in-system workers. Second, such inequalities among workers in the same enterprises create hostilities between in-system and out-system workers (Cui 2002). Tensions between these two groups continue to increase. To date very little research has been carried out on the kinds of conflicts or conflict resolutions that are resulting.

Public institutions

Working conditions in public institutions are different from both governmental organizations and state owned enterprises. Public institutions include a wide range of institutions such as public schools, hospitals, research institutions, sport associations and civil services of all sorts. As of 2006, there were 1.3 million such institutions with about 30 million employees (Zhang 2007). Historically, all of these institutions were funded by the government and workers enjoyed the same benefits as government officials. Since 1979, the state has encouraged the creation of public institutions as a way to extend civil service and to break the rigid boundaries between Soviet-style governmental blocks. On the other hand, the state reformed the structure of many public institutions and encouraged them to operate on more market-based principles. As a result, many now operate just like enterprises with little support from the central budget (Lanming Wang 2011). Despite its importance in Chinese society, little attention has been paid to reforms in the sector and even less to the kinds of labour issues it faces.

Although initiated in 1992 during the 14th Congress of Party Members, reforms in public institutions varied greatly among provinces and sectors, and the resulting confusion generated criticisms from both the government and the public (Xinhua Online 2011). Eventually in 2004, the central government finalized guidelines for reform (Chongqing Evening News 2011): (i) those with government functions (such as public legal aids) will be integrated into the government; (ii) those who had been working in the market (such as tobacco and alcohol bureaus) will be turned into enterprises; (iii) those in between (such as public schools and hospitals) will be retained as public institutions. In general, workers in public institutions need to either be regard as government officials with privileged benefits or fall under the jurisdiction of the Labour Contract Law.

To date, the liberalization of public institutions has thus focused primarily on those organizations that were already operating in the market, while public institutions of education, health care, etc., have not been seen to be areas for privatization and competition (Zhang 2007). However, public sector reform is viewed as part of a process of progressive rationalization and the Labour Contract Law is one of the steps towards further liberalization. While those in the first category have welcomed their reclassification as government officials, huge debates have emerged in the second

⁵ The history of such binary labour system in SOEs and public institutions dates back to the Maoist era (Shuming Wu 2004).

and third categories. Especially in universities, reforms imply the potential loss of teachers' pensions and significant reductions in job security resulting, for example, in the case of Guangdong, which is an experimental province for reform, in vigorous protests against the reforms by professors (News Express 2009).

Trade unions

The All-China Federation of Trade Unions is the only trade union that is legally recognized by the government. Founded as a result of years of workers' movements before 1949, the ACFTU has since played the role as the intermediary between the Chinese Communist Party and the workers, who are the 'masters' of the country. In 2003 the number of union members was reported to be 124 million and by the end of 2010 it had risen to 239 million, covering 50.9 percent of the total employers and accounting for 74.4 percent of the total number of workers (CLB 2009, 53; Jiaoping Wanget al 2011). Some have suggested that this dramatic increase in union membership was an outcome of a series of strategic shifts in the ACFTU after the publication of the new Labour Contract Law in 2007 through which the union advocated a more independent role for local unions and mobilized a large group of experienced union officials to organize workers (CLB 2009; Haiyan Wang et al 2009). The shifts were of three main types: (i) the professionalization of union officials; (ii) the encouragement of direct intervention; and (iii) the promotion of collective agreements.

Professionalization

The ACFTU convened a series of conferences directly after the announcement of the new Labour Contract Law (CLB 2009; Haiyan Wang et al 2009). One of main purposes of the conferences was to demonstrate the newly endowed power given to the trade union as a key actor in the trilateral arrangement with local governments and enterprises (Clause 5). During the conferences, a campaign called 'Unionize the Fortune 500' was launched as the ACFTU attempted to increase its limited presence in private and foreign-invested firms in major SEZs (CLB 2009). Unionization rates in the 483 Fortune-500 firms invested in China were less than 50 percent, and significantly lower than the average for non-Fortune 500 firms (CLB 2009, 54).

In October 2008, the 15th National Congress of Trade Unions of China passed a draft amendment directed at professionalization. It decreed that union officials should not be paid by the private firms in which they serve, but should be paid by the trade union. They would still work in the company and would be protected from pay cuts, job transfers, and retaliatory measures while acting on trade union business (CLB 2009). However, although the new law enables these changes to be put into effect, local unions often lack the actual power to implement such programs. The law requires that two percent of total wages be collected to fund the local union, but many firms used the money to create puppet organizations, such as 'employee entertainment clubs', to evade regulation (CLB 2009). In practice, trade unions lack the administrative ability to claim the money from enterprises, and even where trade unions have been able to claim these funds, they are only allowed to use them for educating union officials and workers. Thus, while 'professionalization' is the most obvious way to enhance the power of local unions, such professionalization has very little effect when it meets resistance from the companies. As a result, in many cases professionalization has come to mean hiring someone with a university degree and/or some experience in trade union activities, or hiring former union officials from SOEs who had been laid-off during the reform period (CLB 2009).

Direct intervention

The ACFTU has always had some role in industrial relations and workplace disputes. These included interventions in disputes involving foreign-invested fast food companies, such as McDonald, KFC and Pizza Hut in March 2007 (Huaping Wang and Lifang Sun 2007), and in the

Shanxi brick kiln scandal in June 2007 (Xinhua 2007a). Some have suggested that the ACFTU became relatively more combative after the publication of the new Labour Contract Law, but in practice it can still only give advice to workers, recommend resolutions of problems to companies, and appeal to local governments. It has no power to either organize protests or disrupt production (CLB 2009). However, some have argued that it did act quickly on its newly empowered capacity to engage in direct intervention in dealing with 'coerced resignations, large-scale layoffs, and reverse dispatch', particularly as these expanded after the publication of the new law (Haiyan Wang et al 2009). One such example is that of Huawei. Huawei is China's largest maker of telecommunications network equipment. In late October, the company announced plans for layoffs and asked employees who had worked for eight consecutive years to hand in 'voluntary resignation'. They would then have to compete for their positions, with those who were re-hired being required to sign new labour contracts, while those who were not re-hired would receive compensation. The ACFTU sent a delegation to the company to investigate potential violations of the new law. Under this pressure, Huawei eventually held a Workers' Congress in January 2008, which resulted in an agreement by Huawei to suspend its 'voluntary resignation' scheme although full details of the agreement reached were not released (Xinhua 2007b).

Promotion of collective agreement contracts

As decreed in both the old and new labour laws, the collective agreement contract was proposed as a way to protect workers' rights over issues that cannot be explicitly defined in their individual contracts. Compared with the old law, the new law grants legal powers to the ACFTU as the central actor in negotiating collective agreements and contracts. The result has been that ACFTU attempts to introduce collective bargaining and agreements as a way to deal with difficult labour relations, while increasing the presence of the union in companies. By the end of 2009 there were 1.24 million collective agreements, covering 2.11 million companies and 161.96 million workers (People's Daily Online 2010).

If the company union is unable to negotiate with the employer, unions at the higher level intervene. One of the best examples is the collective agreement between the national ACFTU and Wal-Mart agreed in the summer of 2008, through which all 108 Wal-Mart stores in China signed collective agreements (CLB 2009, 64). The content of the agreement includes parameters for wage increases, minimum wage levels, overtime and night work pay, and the timing and methods of wage and benefits payment (People's Daily Online 2008). Since that victory, a large number of collective agreements have been signed across the country. In particular, since 2008, collective agreements have emerged as an important tool to push for wage increases in manufacturing (CLB 2011).

However, such bilateralism between the ACFTU and a company is not unproblematic. If employees in the company are not themselves engaged in negotiations, the legitimacy of the collective agreement and the extent to which it represents the best interests of the workers remain in question (CLB 2009). As a result, even the ACFTU itself has admitted that the dramatic increase in the number of collective agreements does not necessarily mean that the contracts are particularly meaningful for workers (CLB 2009). The challenge is compounded by the fact that the subordination of the trade union to the party and the government means that the ACFTU is always asked to 'cooperate' with economic needs of companies and localities. Indeed, during the heyday of the crisis in 2008, the ACFTU was asked by the government to help by suspending ongoing negotiations on collective agreements (Zhe Wu 2008).

Conclusion

The new Labour Contract Law has transformed the labour regime in China in at least three ways. First, its announcement alone signalled a shift in the Chinese government's view of low-cost sourcing and low-value export production as the basis for the next round of economic growth in the country. Predatory China-price sourcing was, it suggested, reaching its limit. Second, its implementation seems to have provided some tools and mechanisms to stabilize worker contracts, normalize labour dispute resolution mechanisms, and empower workers to push for more realistic 'market' wages, employment contract stability and fairness, and some part of the social dividend from successful firms. Third, as Mayer and Pickles (2011) have argued,

Over the longer term, the new labour law may have important consequences not only for workers in China, but also for workers elsewhere in the world (Global Labour Strategies 2008). Not only will the labour law increase the average cost of labour in China, it may also stabilize working conditions for millions of low-wage temporary contract workers in factories throughout the country while allowing wages in other regions and countries to rise. The Labour Contract Law also changes the ways in which multinational companies must deal with worker organizations, and already seems to have led to sourcing shifts as buyers manage risk by complementing orders from China with orders from other low-cost regional producers such as Indonesia, Vietnam, and Cambodia.⁶

On the other hand, the new Labour Contract Law has down-graded employment conditions for many workers in SOEs, increasing the precarity of their employment. For public sector workers the effects of the new law are mixed, foretelling as they seem to do a future process of public sector reform, rationalization, and possible privatization particularly if the use of dispatched worker contracting continues to increase.

The new Labour Contract Law is certainly fraught with difficulties; implementation remains a challenge, many companies continue to flaunt its provisions, and sub-contracting relations in extended production networks make oversight of compliance difficult for global buyers, NGOs, trade unions, and government labour departments. However, the growth in the number, size, and scope of labour disputes since 2008 does suggest that the new labour law has signalled to workers and business alike that the state is intent on fostering a new development strategy and path.

⁶ Author interviews 2007, 2008, and 2009.

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