

## Where is the trade union reform and labour legislation in China heading to?

An interview with two labour and trade union activists

A wave of workers' resistance swept China in 2010, with suicides by some Foxconn workers, and a large workers' strike at Honda drawing immense social attention, local and global alike. This has compelled the Chinese government to come up with some new policy initiatives to contain the labour unrest, including trade union reform and collective bargaining legislation. Given these labour reforms a few questions arise:

- Where is this labour reform heading to?
- What are the crucial factors that can make workers benefit from this reform?
- Can the party-led state trade unions be transformed to serve workers' interest?

In an interview conducted on 10<sup>th</sup> March 2011, Monina Wong, the Director of the International Trade Union Confederation/Global Union Federation Hong Liaison Office<sup>1</sup> (IHLO) and Mr. Parry Leung, the Chairperson of Students and Scholars Against Corporate Misbehavior<sup>2</sup> (SACOM), shared their viewpoint on these issues.

**Elaine Sio-ieng Hui [E]: What kinds of labour issues have been raised by the series of workers' suicides in Foxconn in 2010?**

**Parry Leung [P]:** Although it hardly violates any laws, Foxconn, a supplier to many global electronic brands, has a highly oppressive production regime under which workers have no means at all to voice out their discontent. They felt so desperate that they resorted to suicide as a silent demonstration of their defiance. My observation is that no matter how much internal migrant workers from the rural areas have been exploited in urban factories, in general they still have room, however little it is, to show their resistance, for example, by means of strikes, road blockades and so forth. But in Foxconn this is not possible. It does not only strictly control the production process in factories, but also the private life of workers. For instance, all workers must stay in the dormitory provided by the company, but those coming from the same home province or working in the same production line are not allowed to share a dormitory room; this is a tactic to prevent the building up of rapport and support among workers. Another example of Foxconn's infringements on workers' private lives is that all calls from the dormitory to the police hotline in the city will be automatically diverted to the security station in the dormitory; Foxconn has formed a small kingdom of its own which is basically not subjected to outside interference.

**E: The Honda workers' strike in 2010, which lasted for 17 days and involved over 1800 workers to demand a wage increase, is seen as starting on a new stage of labour resistance in China. What are its implications for labour relations in China?**

**Monina Wong [M]:** This strike ended with a 32.4% wage increase for the Honda workers, who have demonstrated a high level of consciousness concerning their positions in production and are aware of the serious impact of their strike on the overall production of the enterprise. They have also manifested a clear consciousness regarding the proper function of trade unions; they were exasperated when they found that the enterprise trade union was on the side of the management, instead of supporting the strikers. In the past decades, we used to treat Chinese migrant workers as exploited objects that needed outside help to protect them. But now we see that they are active agents who have the labour consciousness needed for advancing their interests with collective means. And so far, the Honda workers' strike is the most effective and powerful strike launched by migrant workers that is capable of upsetting the regional production of a transnational company.

The physical confrontation between trade union officials (who leaned towards management) and workers during the strike has triggered immense social discussion on the proper role of the Chinese trade unions. After the strike, the official party-led All China Federation of Trade Unions (ACFTU) and the government tried to alleviate labour discontent by speeding up the pace of trade union reform and by introducing collective bargaining legislation. It is good that these two issues have become the agenda of the ACFTU. However, at present most trade union education, if there is any, is solely conducted by the ACFTU while other relatively independent agents (e.g. international trade unions, labour NGOs) have no role to play in the process. The degree of democracy and accountability available to members inside trade unions and the ACFTU at the moment is still at a low level. Therefore, we need relatively independent trade union education among trade union officers so as to ensure the effective and genuine implementation of trade union reform and the collective bargaining mechanism.

**E: Recently the Chinese government and the ACFTU were promoting legislation on collective bargaining. In your opinion, what are the driving forces for that?**

**M:** In 2004, the government attempted to build up a workplace collective bargaining mechanism by means of ministerial regulations issued by the Labour and Social Security Bureau, but it was not very effective as not many enterprises followed the instructions. In 2005, the ACFTU started to unionize the Fortune 500 corporations in China. Subsequently, trade unions were established in Wal-Mart and many other foreign enterprises, but many people know that they are paper unions only and that the collective contracts they signed with the enterprises remain a formality.

After the world economic crisis broke out in 2008, many enterprises in the Pearl River Delta have been shut down. The central government and many local governments realized that the country's economy could no longer depend entirely on export-oriented industries and that it had to develop a consumption-based economy. It is in this context that the ACFTU and the government have again picked up momentum to push forward collective bargaining legislation, which they hope will lead to better wages, and thus to higher consumption by workers. It is also hoped that such measures can help reduce labour unrest and maintain political stability.

**P:** The legislation on collective bargaining is related to the waves of labour resistance occurring in the country, especially in South China, in the past decades. The government is aware of the increasingly intense labour discontent, which it has been trying to alleviate with an individualized legal approach; this explains why the Labour Contract Law and the Labour Dispute Mediation and Arbitration Law focusing on individual legal rights were passed in 2008. However, after the breaking out of the world economic crisis in 2008, it is evident that this individualized legal approach no longer works. On the one hand, the number of labour disputes increased dramatically at the time, and the fact that so many workers went for arbitration led to the overburdening of courts; workers had to wait, on average, for 9 months to have their claims dealt with. On the other hand, many of the labour disputes are beyond the scope of existing laws, and thus could not be effectively settled by the court. Since the individualized legal approach cannot properly handle workers' grievances, many workers resort to collective means, such as strikes and road blockades, to defend their interests. In order to pre-empt labour unrest and prevent it from erupting into social rebellion, the government is trying to absorb workers' discontent through the use of collective bargaining.

Although the proposed collective bargaining legislation has given some room for the collective organizations of workers, it remains constraining in some areas. For example, the proposed legislation only allows workers to negotiate certain items (such as wages, working hours, welfare etc.) with employers. Besides, collective bargaining can only be carried out by the trade unions, despite the fact that many trade union officers are appointed by the enterprises or by higher-level trade unions; workers are not allowed to elect their own representatives for

bargaining. The government is trying to eradicate factors that can cause social unrest through developing collective bargaining legislation; it tries to divert aggrieved workers from open resistance to the bargaining procedures. And, most importantly, it has delegated the party-led trade unions to take charge of the bargaining so as to ensure everything is within its control.

**E: What is the role of party-led trade unions in promoting the collective bargaining mechanism?**

**M:** A genuine collective bargaining system should include the process of consulting their members before trade unions negotiate with employers. However, in China, a top-down approach has been used by the ACFTU. It is a common practice for it to send invitations for collective negotiations to employers and to reach agreements without informing or consulting its members. Democratic participation is a process to educate workers about true unionism. But "negotiation" in China is usually end-oriented and the ends (e.g. the wage increment) should not contradict the conditions of the "larger context". Priority to the "larger context", according to the Party and the government's definition, results in "negotiations" led by the administration, not workers. In view of this, in order to build up a genuine collective bargaining system in China, trade unions should initiate a proper reform first, enabling democratic and grassroots participation, so that they could truly represent workers' interests. At the moment, there are many "fake" trade unions at the enterprise level; to tackle this problem, it is very crucial that workers' trade union consciousness be cultivated properly, so that they understand the importance of having their trade union representatives being able to represent their interests and accountable to them. A very critical foundation for achieving this is to make trade unions financially independent from the companies or the government. In the past, most enterprise trade union officials are paid by the enterprises, while the current trend is that the government is paying their salaries. Neither of these practices is ideal; they will either make the enterprise trade unions a management-union or a party-union.

<sup>1</sup> The IHLO is the Hong Kong Liaison Office of the international trade union movement, which has a mandate to support and represent the international trade union movement in Hong Kong and to monitor trade union and workers' rights and political and social developments in China. Readers can learn more about it from its website <http://www.ihlo.org/>

<sup>2</sup> SACOM aims at bringing concerned students, scholars, labor activists, and consumers together to monitor corporate behavior and to advocate for workers' rights. It teams up with labor NGOs to provide in-factory training to workers in South China. Readers can learn more about it from its website <http://sacom.hk/mission>

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