



Introduction

The international workshop on “Changing Labour Regulations in China: Practice and Challenges” was held in the Department of Applied Social Studies of the City University of Hong Kong on 6th and 7th January 2011. This international workshop was an academic activity funded by the Economic and Social Research Council in the United Kingdom and the research network ‘Rising Powers, Global Challenges & Social Change’ based in the University of Manchester.

Since 2008 the Labour Contract Law has been implemented by the Chinese government to strengthen workers’ rights and regulate the increasingly unstable labour relations in the country. However, this initiative did not help forestall a new slew of strikes while China is on its path of economic recovery from the global recession. Consequently, the Chinese government has recently been compelled to come up with new attempt to pacify the disgruntled workers by trying to strengthen the workplace collective bargaining mechanism.

The aforementioned workshop aimed to review the effectiveness of these laws and regulations in protecting workers’ rights, identify the possible obstacles to their effective implementations, and discuss what practical measures should be taken to further safeguard workers’ rights.

The major themes of this workshop include:

- Three years after the Labour Contract Law: implementations and problems
- Challenges and possibilities of collective bargaining and trade union reform in China
- Experiences of collective bargaining and union organizing in other countries or regions
- The strategies to safeguard workers’ rights in a changing socio-political context:

the role of different stakeholders

Host organizations:

Department of Applied Social Studies of the City University of Hong Kong

Asia Monitor Resource Center

Worker Employment

Funding agencies:

Economic and Social Research Council

Manchester University, UK, 'Rising Powers, Global Challenges & Social Change'

Agenda

2011年1月6日(周四) 6th January 2011 (Thursday)

□ **9:10-9:30 开幕致词** Opening address

主持人：陈敬慈博士(香港城市大学应用社会科学系)

Moderator: Dr. Chris Chan (Department of Applied Social Studies, City U)

致辞人 Speakers :

1、关锐焯教授(香港城市大学应用社会科学系系主任)

Prof. Alex Kwan (Head, Department of Applied Social Studies, City U)

2、Dr. Khalid Nadvi (英国曼彻斯特大学)

Dr. Khalid Nadvi (The University of Manchester)

3、梁宝霖先生(亚洲专讯资料研究中心)

Mr. Apo Leung (Asia Monitor Resource Centre)

□ **9:30-10:45 劳动合同法实施三周年:实践与困难(一)**

Three years after the Labour Contract Law: implementations and problems (I)

主持人：何荣忠教授(香港城市大学应用社会科学系)

Moderator: Dr. Ho Wing Chung (Department of Applied Social Studies, City U)

发言人 Speaker :

1、冯同庆教授(中国劳动关系学院)

Prof. Feng Tong Qing (China Industrial Relations Institute)

发言题目：中国大陆的劳动立法、劳动者组织模式与劳动者状况改善之路径——回溯、比较及其引出的策略思考

Topic: Review, compare and strategic thinking of legislation of Labour Law in China, the model of workers' organising and the ways to improve of workers' condition

2、叶静漪教授(北京大学法学院)

Prof. Ye Jing Yi (Peking University)

发言题目：法律实践中的《劳动合同法》——

《劳动合同法》实施情况的调研与思考

Topic: Studies and Review of the enforcement of “Labour Contract Law”

3、黄秀梅教授 (南京大学法学院)

Prof. Huang Xiu Mei (Nanjing University)

发言题目：《劳动合同法》实施三周年：实践与困难——

书面劳动合同规定在实施中面临的挑战

Topic: Three year of the implementation of “Labour Contract Law”—challenges of applying written contracts.

4、刘诚教授 (上海师范大学法政学院)

Prof. Liu Cheng (Shanghai Normal University)

发言题目：《劳动合同法》法律解释研究

Topic: Studies on legal interpretation of “Labour Contract Law”

评论 **Comments:**

李琪博士(首都经济贸易大学劳动经济学院)

Dr. Li Qi (Labor Economics College, Capital University of Economics and Business)

□ 11:00-12:30 劳动合同法实施三周年:实践与困难 (二)

Three years after the Labour Contract Law: implementations and problems (II)

主持人：何荣忠教授(香港城市大学应用社会学系)

Moderator: Dr. Ho Wing Chung (Department of Applied Social Studies, City U)

发言人 **Speakers :**

1、岳经伦教授 (中山大学行政管理研究中心)

Prof. Yue Jing Lun (Sun-Yat-Sen University)

发言题目：《劳动合同法》的实施：劳动监察的视角

Topic: Implementation of “ Labour Contract Law”: a perspective of labour inspectors

2、曾飞洋先生 (番禺打工族文书处理服务部)

Mr. Zeng Fei Yang (The Panyu Migrant Workers’ Documentation Centre)

发言题目：劳动合同法是纸老虎吗？-----劳动合同法实施三年的思考

Topic: Reviewing the three years implementation of Labour Contract Law: Is the Labour Contract Law effective?

3、景祥先生 (珠江工友服务中心)

Mr. Jing Xiang (Pearl River Workers' Service Centre)

发言题目：《劳动合同法》实施情况回顾

Topic: Review of implementation of “Labour Contract Law”

4、罗春丽小姐 (打工者中心)

Ms. Luo Chun Li (Dagongzhe Occupational Health and Safety Service Centre)

发言题目：《劳动合同法》三年的实施情况——

探讨劳动者权利维护的局限和困境

Topic: Three years implementation of Labour Contract Law—the limitation and problems encountered by workers

评论:

陈峰教授 (香港浸会大学政治及国际关系学系)

Prof. Chen Feng (Department of Government and International Studies, The Baptist University of Hong Kong)

□ 14:00-15:45 集体谈判及工会改革的挑战与可能 (一)

Challenges and possibilities of collective bargaining and trade union reform in China (I)

主持人：黄静文小姐(国际工会联合会香港联络处主任)

Ms. Monina Wong (ITUC/GUF Hong Kong Liaison Office, IHLO)

发言人：

1、关彬枫先生 (原中华全国总工会法律部)

Mr. Guan Bin Feng (former ACFTU Official)

发言题目：集体合同制度与政府理念及社会治理结构改革

Topic: Collective contract system, governance and structural reform of social administration

2、翟玉娟教授 (深圳大学劳动法和社会保障法研究所)

Prof. Zhai Yu Juan (Shenzhen University)

发言题目：《深圳经济特区集体协商条例》的新进展

Topic: The latest development of “Regulations of the Shenzhen Special Economic Zone on Collective Negotiation in Labor Relations (draft)”

3、 仵昂先生 (手牵手工人工活动室)

Mr. Wu Ang (Hand-in-hand Consultation Service Centre)

发言题目：集体谈判及工会改革的挑战与可能

Topic: The possibility of collective bargaining and reform of ACFTU

评论:

段毅律师 (广东劳维律师事务所)

Mr. Duan Yi (Lawyer, Guangdong Laowei Law Firm)

□ **16:00-17:30集体谈判及工会改革的挑战与可能（二）**

Challenges and possibilities of collective bargaining and trade union reform in China

(II)

主持人：黄静文小姐(国际工会联合会香港联络处主任)

Ms. Monina Wong (ITUC/GUF Hong Kong Liaison Office, IHLO)

发言人：

1、 赵炜教授 (北京师范大学哲学与社会学学院)

Prof. Zhao Wei (Beijing Normal University)

发言题目：工人内部的分化及集体谈判制度的影响——

基于对三家国有企业的分析

Topic: Internal dynamics of workers and its impact on collective bargaining system—an analysis on three State own enterprises

2、 徐小洪教授 (浙江省总工会干部学校经济学)

Prof. Xu Xiao Hong (Zhejiang Trade Union Cadre College, Hangzhou)

发言题目：集体谈判及工会改革的挑战与可能

Topic: Possibilities and challenges of collective bargaining and reform of ACFTU

3、 薛红博士 (华东师范大学)

Dr. Xue Hong (East China Normal University)

发言题目：在当今中国组织工人所面临的挑战

Topic: The challenges encountered by workers' organising in contemporary China

4、齐力先生 (中国工人网)

Mr. Qi Li (China Labour Research Net)

发言题目：工会改革的可能性与挑战

Topic: Possibilities and reform of ACFTU

评论 Comment:

宋玥女士 (首都经济贸易大学, 香港城市大学)

Ms. Song Yue (School of Labour Economics, Capital University of Economics and Business, Beijing, City University of Hong Kong)

2011年1月7日(周五) 7th January 4, 2011 (Friday)

□ **9:30-11:00 港台与外地的集体谈判经验 (香港、韩国、台湾、日本)**

**Labour rights, collective bargaining and union organizing in
other countries or regions(I): East Asia**

主持人：梁宝霖先生 (亚洲专讯资料研究中心)

Mr. Apo Leung (Asia Monitor Resource Centre)

发言人：

1、石井知章教授 (日本明治大学)

Prof. Tomoaki Ishii (Meiji University, Japan)

发言题目：战后日本的劳动基本权利和国际劳工组织 (ILO)

Topic: The labour standard and ILO in Japan during post war period

2、裴圭植博士 (Bae, Kiu Sik) (韩国劳动研究院研究员)

Dr. Bae Kiu Sik (Korea Labour Institute)

发言题目：韩国集体谈判的发展及其对于中国劳资关系变革的启示

Topic: The development of collective bargaining in Korea and its insights to labour relation in China

3、邱毓斌博士 (台湾高雄市NGO受雇者工会研究员)

Dr. Chiu Yu Bin (Taiwan Trade Union Researcher)

发言题目：自主工运的兴起与非营利组织：台湾的经验

Topic: The development of independent unions and NGOs in Taiwan

4、邓燕娥女士(香港职工会联盟总干事)

Ms. Elizabeth Tang (Hong Kong Confederation of Trade Unions)

发言题目：香港的集体谈判经验

Topic: The collective bargaining experiences in Hong Kong

□ 11:15-12:45 港台与外地的集体谈判经验 (印度及巴西)

Labour rights, collective bargaining and union organizing in other countries/region (II): India and Brazil

主持人：梁宝霖先生 (亚洲专讯资料研究中心)

Moderator: Mr. Apo Leung (Asia Monitor Resource Centre)

发言人 Speaker：

1、 Prof. Keshab Das (Gujarat Institute of Development Research, India)

发言题目：工会、集体谈判和劳工权利：印度的难题

Topic: Union, collective bargaining and labour rights: difficult problems in India

2、 Prof. Moacir de Miranda Oliveira Junior 及 Prof. Gilmar Masiero

(巴西圣保罗大学, University of Sao Paulo, Brazil)、 Prof. Mario Henrique Ogasavara (University of Fortaleza, Brazil)

发言题目：巴西的劳动权利、集体谈判和工会组织

Topic: Labour rights, collective bargaining and union organizing in Brazil

3、 Mr. Surendra Pratap Updhyay (Asia Monitor Resource Centre
亚洲专讯资料研究中心)

发言题目：印度的集体谈判——最近的趋势

Topic: New development of collective bargaining in India

4、 Dr. Khalid Nadvi (The University of Manchester 英国曼彻斯特大学)

□ 14:30-16:30 新形势下改善劳动条件的策略: 各方的角色

The strategies to improve workers' rights in a changing socio-political context: the role of different stakeholders

主持人：陈敬慈博士(香港城市大学应用社会科学系)

Dr. Chris Chan (Department of Applied Social Studies, City U)

发言人：

1、梁柏能先生(大学师生监察无良企业行动)

Mr. Parry Leung (Students and Scholars Against Corporate Misbehavior, SACOM)

发言题目：大学生反对血汗工厂运动--SACOM的中国经验

Topic: Experience of SACOM in mobilizing university students to anti sweatshop campaign

2、刘晓红小姐(一砖一瓦文化发展中心, 北京)

Miss Liu Xiao Hong (Yi Zhuan Yi Wa Culture Development Centre , Beijing)

发言题目：维护建筑工人权益的策略：各方的角色

Topic: Strategies of different stakeholders in defending rights of construction workers

3、陈明钰先生(青岛小陈热线)

Mr. Chen Ming Yu (Chen's hotline, Qingdao)

发言题目：在维权中参与调解 - 论非政府组织在劳动争议调解中的角色

Topic: The role of NGOs as mediator for labour dispute

Topic: Strategies of different stakeholders in improving working conditions in current situation

4、罗春丽小姐(打工者中心)

Ms. Luo Chun Li (Dagongzhe Occupational Health and Safety Service Centre)

5、段毅律师(广东劳维律师事务所)

Mr. Duan Yi (Lawyer, Guangdong Laowei Law Firm)

6、蔡泳诗小姐(亚洲专讯资料研究中心)

Ms. Sally Choi (Asia Monitor Resource Centre)

7、赵炜教授(北京师范大学哲学与社会学学院)

Prof. Zhao Wei (Beijing Normal University)

Strategies to Safeguard Workers' Rights in a Changing Socio-political Context: the Role of Different Stakeholders

The theme of the meeting in the afternoon of January 7th was “Strategies to Safeguard Workers’ Rights in a Changing Socio-political Context: the Role of Different Stakeholders”. The meeting was divided into 2 parts. In the first part of the meeting, 3 NGO workers from Hong Kong and the mainland China shared on their experiences and strategies in safeguarding workers’ rights. In the second part of the meeting, participants from various sectors (lawyers, scholars, NGOs) shared their views on this issue. Discussion was open to the floor for both parts of the meeting.

Convener: Mr. Chan King Chi

Speakers:

1. Mr. Leung Pak Lang (Students and Scholars against Corporate Misbehavior)
2. Ms. Liu Xiaohong (Yizhuanyiwa Cultural Development Centre, Beijing)
3. Mr. Chen Mingyu (Xiaochen Hotline, Qingdao)
4. Ms. Luo Chunli (Dagongzhe Centre)
5. Mr. Duan Yi (Lawyer, Guangdong Laowei Law Firm)
6. Ms. Choi Wing Sze (Asia Monitor Resource Centre)
7. Professor Zhao Wei (College of Philosophy and Sociology, Beijing Normal University)

Leung Pak Lang, Chairman of SACOM: Our organization was formed in 2005 and our main objective is to fight against sweatshops. In 2005, a group of university students and teachers in Hong Kong wanted to monitor corporate activity in mainland China using Hong Kong as the base. They wanted to expose big companies that were violating labour laws and regulations of China and to launch actions that critique capital involved in unlawful activities. The oppression and unjust treatment suffered by workers can largely be traced to the unlawful activities of company owners and insufficient monitoring by the government. There’s nothing much we could do about the government. We mainly target the company owners. There are big the bosses behind many factories. They are the buyers from the US and Europe. Since American and European buyers are very concerned about their brand image, we make use of it

to address labour problems. Students have been visiting factories since 2005. After their visits, they would publicise the problems they see in the factories. We have been working with media in the mainland since 2008 to expose companies that are engaged in unlawful activities. We also organize training in factories. When we negotiate with problematic brand name enterprises, we put pressure on them to open up their factories and allow NGOs and scholars to conduct training in the factories.

Here's briefly what we have done so far.

Our first target was Disney. One of its contract manufacturers had many cases of workers suffering from industrial accidents in which their fingers were fractured or crushed. We wrote a report on this problem and published it globally. We held a press conference as a way to exert pressure on Disney. Even though many toy factories are owned by citizens of Hong Kong or Taiwanese, it's the enterprises that own the brand names that have the power to make changes in these factories. In other words, it's the Americans. It was actually an action that targeted American multinational companies.

We have also targeted some brand name computers. For example, we conducted a research on contract manufacturers of HP and Dell and demanded the two companies to improve the conditions of the workers. Sometimes we target local companies too. For example, once we targeted Giordano and Bossini the products of which are produced in Shenzhen. We found out that their contract manufacturers in Shenzhen and Dongguan had been engaging in activities that violated the labour laws. So we blocked their exclusive shops in Hong Kong for a few hours to pressure them to improve workers' rights and welfare.

We also work with some NGOs in the mainland. There's an NGO in the mainland called Gandan Xiangzhao. They discovered that some companies owned by Hong Kong investors discriminated against Hepatitis B carriers. We held a demonstration with them outside the headquarter of the Hong Kong firm which was a listed company.

Some of you might have heard of Zhang Yin, the richest woman in China who complained openly that the enactment of the Labour Contract Law was unfair. We did a study of her factory in Dongguan and found many cases of industrial injuries. Actually, in these cases the factory fined the injured workers and also workers in the same production team. Zhang Yin turned blood into gold for herself. We worked with mainland media to draw the attention of the people in the mainland to this case. It has

aroused very strong reactions from the public and has gained support from some media and university students in the mainland. After this Zhang Yin never made her comments publicly on social affairs and politics anymore. Because of this case, we also had a meeting with Guangdong Federation of Trade Unions. They criticized Zhang Yin for violating the labour law but said that her factories could not be described as sweatshops.

We are concerned about construction workers too. We know that many construction workers do not have a contract. Once we exposed the problems in 9 construction sites of New World Realty in the mainland. They responded very quickly to our protest. They invited university students from Hong Kong and from the mainland to visit their construction sites and claimed that they were a socially responsible enterprise. What we want to achieve most as a whole is to improve, on a structural level, the overall conditions of workers of multinational companies. Can we raise the level of wages as a whole? Can we force the enterprise to give up the zero inventories strategy when they make orders? We have made many criticisms but they have only made a few improvements. Sometimes there are conflicts between workers and companies. When it's an industrial dispute between a few workers and a company, we can put pressure on the brand company to pressurise the contract manufacturer to settle the dispute with the workers. In the case of Disney, the factory was forced to pay a few ten thousand *yuan* to the injured workers.

When we put pressure on the enterprise that owned a brand, it's not only to improve the conditions of the workers. We also want to help NGOs in the mainland to gain access to factories so that training on labour laws and regulations can be conducted. We also want to conduct this kind of education ourselves.

What we didn't expect was that mainland students found our methods effective even in the mainland. After the case with Zhang Yin in 2008, university students in the mainland—Beijing, Wuhan and some southern provinces as well—have adopted our strategies and have undertaken their own campaigns against sweatshops in the mainland. For example, a concern group set up in 2008 to target Coca Cola discovered the issue of dispatch workers in Coca Cola and held press conferences to exert pressure on the company. Some dispatch workers of Coca Cola in the mainland have now become permanent workers.

We were encouraged by the outcome of the work of university students in the mainland. In 2009, some university students set up a group to monitor Disney. They

are also concerned about the Disneyland to be built in Shanghai. They have conducted a study and found that many mainland contract manufacturers of Disney had been violating labour laws. Their work has been reported on CCTV.

Liu Xiaohong, head of Yizhuanyiwa: Yizhuanyiwa Cultural Development Centre in Beijing is mainly concerned with the conditions of construction workers. Let me first introduce briefly about the situation of the construction industry. China is not only a global factory, it is also a global construction site. In 2009, the officials of the Ministry of Housing and Urban Rural Development claimed that China was the largest construction market in the world. The volume of construction work in China took up more than half of the total volume of work in the world. The real estate industry contributes to 10% of the growth of China's GDP.

According to the Second National Economic Census released in 2009, by the end of 2008 the construction industry employed 39.011 million persons all over the country. The real estate boom over the last few years has resulted in the continuing growth of employment in the construction industry. Even though the industry is excessively profitable, construction workers have not shared in the fruits of economic growth. Instead their rights and welfare as workers have continued to be infringed upon. First, because of the subcontracting system, the employment relationship is obscured. For the workers, the contractors are their employers. Few workers realize that their real bosses are the construction companies.

Second, in the construction industry, the employers often refuse to sign labour contract with workers. Third, incidents of wage arrears are common. Sometimes, the contractors pay the workers only 200 to 500 *yuan* a month as living allowance. A while ago CCTV conducted a survey in Wuhan and found that the workers received only living allowance and meal coupons every month instead of their full wage.

Fourth, long working hours of 10 to 12 hours every day and grueling and intensive labour. Fifth, lack of social security. In the construction industry, it is often difficult to implement work-related injury insurance for the workers. The employers sometimes provide some kind of business insurance in the place of work-related injury insurance.

Then there are the problems of frequent industrial accidents and occupational illnesses. Pneumoconiosis is significantly high among construction workers. In 2009, the media reported that a group of workers from Hunan contracted pneumoconiosis after working as explosives and drill operators. The story of Zhang Haichao who had

to open his chest to prove that he had contracted pneumoconiosis also drew concern for the illness in the larger society. Finally the absence of trade unions in the construction industry also makes it difficult for workers to maintain their right to collective bargaining.

Apart from the problem of infringement of their labour rights, construction workers sometimes go home only once a year. They are therefore faced with problems of being separated from their families, monotony of their daily life, and sexual repression, etc.

The problem of the construction industry is related with the subcontracting system. In theory, when a developer gets a piece of land from the government, it will procure service and goods from the market through open tendering procedures. Construction companies that meet the requirements will bid for the contract and employ workers to do the work. But in reality many construction companies hire subcontractors who hire their own subcontractors, resulting in building projects “multi-layers” or completely contracted out. In the end you see subcontractors everywhere. Very often the construction companies have no workers of their own. They have only managers and designers. The workers are in contact only with the subcontractors and think that the latter are their bosses. This form of subcontracting system is advantageous to capitalists and not workers.

First, it is the subcontractors and not the construction companies who manage the workers. The subcontractors recruit, organize and manage the workers who have little contact with the construction companies. When there are any industrial disputes, the subcontractors become the scapegoat. Apart from this, the construction companies also make use of the familiarity between the subcontractors and their workers to weaken the resistance of the workers who are sensitive to the feelings of the subcontractors and trust them as well.

There are a few channels that may help to safeguard the rights of construction workers. They are: concerned government departments, trade unions, NGOs and the media.

The Labour Bureau, the Labour Protection Supervision Brigade and the Commission of Housing and Urban-Rural Development are the few government departments that construction workers have access to. However the Labour Bureau glosses over the disputes most of the time. It only deals with the problem of wages arrear that comes

up usually at the end of the year. It only deals with the problem of wages and never touches the problem of labour contract. The subcontracting system is tacitly acknowledged. The workers usually want to solve their problems with the help of the Labour Bureau though they have little trust in it. They are often worried that the Labour Bureau would not settle their problems fairly. The Labour Protection Supervision Brigades are also not doing their job. To supervise and monitor labour security, they should visit construction sites which they rarely do. Even when they receive complaints from workers, they often deal with the complaints half-heartedly. The Commission of Housing and Urban-Rural Development has the biggest power over the construction companies since its work is to regulate the construction market and to oversee the subcontracting system and the qualification of the subcontractors. However, labour disputes are not in its jurisdiction and workers rarely turn to it for help.

Another channel is the trade union. The construction workers know very little about trade unions, and the trade union is never seen at construction sites. In 2009 a construction industry trade union was set up under the auspices of the Beijing Federation of Trade Unions. A worker told us a story about how he sought help from the Rights and Welfare Department of the District First Level Trade Union when he encountered the problem of wage arrears. He found that the trade union was simply a megaphone. They simply sent his complaint to the Labour Bureau. An organization once tried to set up a trade union at construction labour exporting townships, i.e. where village folks of workers are found. Even though the workers were able to set up a trade union at Xingtai at Hebei and got their trade union membership, when they arrived at the place where they worked, they hardly got any support from the trade union there because each place has its own policies and there is no connection yet between different places in these policies.

Finally there is the media. A labour dispute is usually settled more quickly when the mainstream media shows an interest in it. The case of the explosive and drill operators in Shenzhen is an example. The rise of internet and new media provides another channel to deal with labour disputes. For example, a video, "A Day in the Life of a Welder" that we produced was uploaded to "A Day in the Life of a Chinese" of Web QQ. After being uploaded for only one day, the video got 110,000 hits. Many who responded were migrant workers or welders. We were moved by their response. Web and new media has a role to play in influencing public opinion and in monitoring the industry. The question is the duration of the impact.

NGOs have a role to play in legal support, legal education and policy advocacy. NGOs provide legal training to workers before they leave their villages to help them gain some basic knowledge about the conditions of work in the cities. By providing legal consultation and group activities in cities, NGOs encourage workers to make use of the internet to deal with their problems legally. In training activities such as collective bargaining simulation activities, workers learn the skills to safeguard their rights. To set examples for business practice, NGOs also assist workers in exemplary legal cases such as the first case concerning the Labour Contract Law. Some NGOs also document cases for the purpose of policy advocacy. However, the impact has been slow because NGOs lack social resources.

I would like to explain more about the first case concerning the Labour Contract Law. The case was reported on Beijing News and Caixin Online. What happened was He Zhengwen, who was from Sichuan, and his brother had been working in Beijing for 5 years without a contract. They had very strong legal awareness and had demanded a labour contract from their employer for numerous times. Yet the head of the company replied: "It's always been like this in this industry. We can't sign a labour contract with you." In 2009 when they had worked for half a year, it was time for payment. The subcontractor paid them RMB 100 a day instead of RMB 120 a day which was promised verbally. The two brothers complained to the Labour Bureau which only mediated without solving the problem. They decided to sue the employer who, according to the Labour Contract Law, had to compensate a worker by paying him/her double pay if it had not signed any labour contract with the worker. The brothers also demanded payment for overtime work, i.e. work that they did after 8 hours of daily work and work during weekends. After a year of lawsuit and a trial in court, the two brothers got their overtime pay and the compensation for not having a labour contract.

To improve the rights and welfare of construction workers in the long run, we need to mobilize the power of many parties. First of all, the Labour Bureau should enforce the law. The construction company should be made to sign labour contracts with workers and to pay workers on a monthly basis. Penalties for companies that infringe the law should be increased. Officials of the Labour Bureau should visit construction sites regularly to monitor the working conditions, to find out if the law had been violated, and to rectify wrongful practice if there were any. The bureau should also deal with workers' complaints promptly and with effect.

The Commission on Housing and Urban-Rural Development should strengthen its monitoring role. It should keep updated information about the credibility of

construction companies and the conditions of their workers. They should keep files on the credibility of the companies and make a black list of companies. If the unlawful act of a company is of a serious nature, it should be ordered to leave the construction market. The commission should also monitor subcontracting activities and to ban unlawful subcontracting activities.

The trade union should protect the welfare of workers conscientiously. The trade union should play its role by strengthening trade union activities at construction sites and safeguarding the rights of workers vigorously and promptly. NGOs should be given more space and recognition so that they may contribute to settling labour disputes through workers' education and training.

In terms of law, by learning from the experience of other countries, we hope that our laws regulating the construction industry may be improved. For example, the extent of subcontracting should be limited and the penalty for unlawful subcontracting activities should be increased. For the development of the construction industry, collective bargaining and collective contract should be implemented so that the conditions of the workers may be improved.

Mr. Chen Mingyu, head of Qingdao Xiaochen Hotline: I went to work at Qingdao in the 90s. In 1994, the Labour Law was promulgated by the government. I was very excited and thought that I was going to be a permanent worker very soon. At that time I was a temporary worker but the work I did was similar to that of a permanent worker. After I read the law I went to the personnel department. I told them: "I am a worker. You are an employer. Let us sign a contract." But they only gave me a glance saying: "You don't have a registered residence here." I went to the Public Security Bureau to enquire how to get the registered residence. They told me I had to have a university degree to have the registered residence.

Later at work I noticed that the rights of my co-workers were often violated. I was always worried that it would happen to me one day. I started to study law on my own in 1996. I studied and worked at the same time. Many things spurred me. First, other workers were already asking for my advice. I made use of what I learnt too. After I finished my study in 1999, I started to work in a law firm. I realised that there was a big need for legal advice but the law firm could not possibly provide free legal aid to all. In 2000, I started Xiaochen Hotline which provided free legal advice to workers only. Workers appreciated this kind of advice service and I was very happy about it. Later I worked in a newspaper as a temporary reporter. I was again being treated

unfairly. The boss refused to give me a contract.

In 2004 I set up the Qingdao Xiaochen Hotline Service Centre. It was registered at the Civil Affairs Bureau. Our main objective was to provide an exchange platform for and legal service to migrants workers. The day after the centre was set up, I signed a labour contract with myself. This had always been my wish. In 2006 I set up another organization at the southern part of the city to serve the migrant population there. The government provided an office for us. We provided legal aid, visited victims of industrial accidents and conducted activities to prevent occupational hazards. We have three work stations in the industrial zone which organize training for workers. The focus of our work is to select, train and support active workers and to help them to unite with or support other workers.

Why did we set up stations at the industrial zone? Before 2007, workers that we worked with left their workplace after the Chinese New Year every year and new workers would arrive. It was the same year after year. “The camps are built of iron, but the soldiers flow away like water.” Every year we were faced with a new group of workers and we became bored with the training by the end of the year. We believed that some workers must stay, so we began to select workers with development potential for more training. For example, when there’s a worker who has awareness and is willing to serve others, we would provide the worker with specialized knowledge such as skills for collective bargaining. Other workers are only provided with general legal knowledge. In other words, active workers are provided with a higher level of legal education. They also receive training on communication and team work after which they may realise their potential at the workplace. In the year before last year, we had over 30 stations. It was too many and we were overburdened. Every station was a little partner for us. We had to give it support to launch a series of activities. Last year we cut down on the number of stations and now only 14 are left. In every station, there are 4 to 5 or 6 to 8 active workers who take part in organising activities. We provide the venue for activities for active workers and provide them with knowledge for their work. They then bring their knowledge back to the factories and organise activities for other workers.

So long as we work hard and with mindfulness, the path in front of us would be very exciting. Our paths would meet one day.

Mr. Chan King Chi: I know a bit more about SACOM and Yizhuanyiwa, but not so much about Xiaochen. I think each of the 3 organisations has its own characteristics.

SACOM makes use of the role of scholars and students to fight media wars. Through media exposure, SACOM puts pressure on the companies and to some extent on the government. Now we see that it has a big influence on students in the mainland. Comparatively speaking, Yizhuanyiwa has done better in the area of training, such as training activities at construction sites and visits to workers' dormitories. During such visits, they encourage workers to come out and the library is used for workers' training. Recently Yizhuanyiwa is planning to open a second-hand shop. The shop will contact student bodies who may then collect clothes from the public and sell them to construction workers at a very cheap price. In other words, the shop will be run as a social enterprise. Yizhuanyiwa's training is not carried out only at the construction sites, but also at townships from where the migrant workers come. They have also encouraged migrant workers to organize trade unions at these townships. The stations that Xiaochen mentioned are a special feature of the organization. The stations are bases for operation inside the companies. As active workers are getting trained, now there are volunteers in all the major companies. This kind of workers' groups is similar to the workers' groups in companies in South Korea. Another point is that the organization is on very good terms with the Communist Youth League. Xiaochen is the secretary for the migrant workers branch of Qingdao City Communist Youth League. They have adopted different ways to carry out their work. Now let's open to the floor for questions about the way the 3 organisations operate.

Prof. Keshab Das, India: Economic development is now the main emphasis for mainland China. How does the government look at activities that safeguard workers' rights? In the subcontracting system in the construction industry, are construction workers informal workers? There are many strategies to deal with this issue. What are your strategies?

Elizabeth Tang, Chief Executive, Hong Kong Confederation of Trade Unions: Xiaohong concluded her speech saying that collective bargaining was one way to address the issue. You didn't mention cooperation with the trade unions. What sort of collective bargaining do you have in mind? My second question is for Chen Mingyu. Like you I think workers' training is most important. Workers' education is the first step and is essential for any changes. When you talked about training, it seemed very easy. I am a trade unionist and I know it's not easy at all. I want to know more about how you get workers interested in training. In my experience, workers in general are not interested in training. How do you get them interested? How do you raise some concrete issues and make them feel that after they have learnt it, they can go back and do something?

Guan Binfeng, worked formerly at the Legal Department of All-China

Federation of Trade Unions: I was very moved and excited about this meeting. As a person with a conscience, I am glad about this meeting. The conditions of our migrant workers and workers at the grassroot level are too harsh. As a person concerned with social progress, I believe that workers at the lowest grassroot level are China's future. They are the mainstream of our society. However, presently it's the elites—elite intellectuals, the rich and the powerful, government officials, Confucian entrepreneurs—who are the mainstream. Now they are the ones who have the voice and it's rare to hear the voice of workers. I think as human beings we should have two kinds of power or strength: first, the power of truth. That is, we should have the power to pursue and to explore truth. Second, the charisma of personality. As scholars we should make use of learned thoughts and thoughtful learning to influence government officials and the ruling people in the hope that they would make more effort in making policies for equality.

Response:

Liu Xiaohong: With regard to collective bargaining, it's more challenging in the construction industry than in other industries. That has a lot to do with the subcontracting system. A very important direction for us is to work for the enforcement of the employment relationship and the laws of our country. We should ensure that the employment relationship between construction companies and workers be established. Our biggest challenge now is the subcontracting system. We pay a lot of attention to training. We would conduct workers' awareness training at their home towns. Workers' mobility at the work sites is very high. The employment relationship is not stable. It is relatively difficult to build workers' organizations and trade unions at towns and cities where they work. So what we do is to make use of networks of the village folks of workers to conduct workers' awareness training. Then we conduct consciousness and knowledge training at cities where they work. With regard to bargaining, when construction workers are faced with the problem of wage arrears, it normally involves a dozen persons or more and they would bargain with the company as a group. What they lack is bargaining skills, such as how to present their demands to the company and how they bargain during negotiations. That's the kind of training we provide at cities where workers work. As for the cooperation with trade unions, we are rather passive because most grassroot NGOs lack resources in this respect.

Xiaochen: I think the problem is how to get workers interested. For workers, the

simpler it is the better. Things should not be too complicated. Legal terms are difficult. Someone who has no professional training would find it hard to understand legal terms. We have rewritten some cases. We made up jokes or stories. Young people born after 1985 or 1990 are very independent. They are not willing to listen to things that they feel is a hassle. How do we design our activities? We call our activities interest groups, so they have to be fun. You have to bring the workers in before you could serve them. If they would not even come through the door, how could you tell them about laws? So how do they get in? Well, we set up interest groups for hiking, fishing, etc. In other words, we have to meet their needs first. Mutual trust is built between us in this process. They know that we are not there after all to do multi-level marketing. In the beginning when our colleagues went to the construction sites to publicise our activities, they were asked what products they were trying to sell. We differentiate the needs of workers and group them into different categories. There are active workers for each category of activities. We may organize a hiking trip for workers. During the trip, workers get tired and sit down and chat, and they usually chat about problems they face at work. In our hotline service, there are seasonal variations in the issues that are brought to our attention. For example, in the end of the year, wage arrear is often the problem. In the beginning of the year, it's work hunting. When it's time to harvest wheat, the older workers will go home to harvest. These are some of the rules. It's okay to have fun together, such as singing. In the course of having fun, we always get some messages through. For example we would say: "Now it's the time when workers face the problem of wage arrear, so do pay attention." Or: "Do you have the labour contract with you or is it in the hands of your boss? If it were still in the hands of your boss, take it back as soon as possible." We would keep reminding the workers. The active workers would also remind their colleagues in the factories. Among all the cases that we have taken up so far, except for industrial accidents which are cases that involve only individual workers, all other cases are collective by nature. Even when it is only an individual who seeks help from us, it is often a big group of people whose rights have been infringed. Capitalists do not reap profits by exploiting only a few persons. What I am saying is we keep an eye on the needs of workers and on the larger social scenario, and communicate with workers promptly. We also have activities that concern workers' everyday life, such as helping female workers to find boyfriends.

Liu Xiaohong: In recent years the government basically makes use of law to solve workers' problems. Apart from helping workers to deal with labour disputes, we are also involved in consciousness-raising work. There's not much interaction between our organization and the government. We also want to be more diverse in terms of

forms of organizing, such as second-hand shop and other cultural activities and advocacy. The problems in the construction industry are rather big. The conditions of the construction workers are similar to that of factory workers in the 90s. For example, they get their wage only working after a year. The employment relationship is obscure. A very important task now is to address the question of employment relationship. Problems of other rights can be addressed in the long run. Apart from workers' education, we also work on popularizing legal knowledge and assisting workers in exemplary cases concerning the Labour Contract Law with the goal of setting examples for business practice.

Chan King Chi: Let's end our Q & A session for now. There would be time later for more questions. Now let's have 4 speakers from other areas. Whoever wants to speak first may do so. There's no particular order. Please try to limit your speech to 5 minutes so we could have a discussion together.

Choi Wing Sze, AMRC: AMRC is an organization concerned with Asian labour movement. Just now our friends from 3 NGOs shared about their different roles. I'd like to add one more point. Our friends mentioned about the role of the government, laws, trade unions and NGOs. But I think the participation of workers themselves is very important. Our partners in Indonesia and India are encouraging factory trade unions to organize informal workers. For example, in Cambodia, the trade union also organizes workers that sell beer. Since the workers are salespersons for beer, they do not have an employer. In Indonesia, the Federation of Trade Unions is also organising farm workers. Companies in agribusiness use very violent ways to take away the land of farmers who are then forced to leave the villages and become cheap labour for plantation companies. When it is harvest time, the families of the workers have to help out with the work without receiving any wages. It is very difficult for these workers to bargain with the big companies to fight for their rights. Our strategy is to encourage the establishment of trade union federations or trade unions in related industries. In the mainland, we have some networks too. There are many industrial accidents in the mainland—every province has cases of industrial accidents. Our main role is to provide platforms for different NGOs to get involved, or enable workers' organizations to support each other. What we do is to help organizations to get in touch with each other. Finally, in the context of capital globalization, the exchange between workers from different countries is also very important.

Chan King Chi: What you are talking about is to enable small NGOs to build alliances among themselves and to support linkage between workers in China and

workers from other countries.

Luo Chunli, Dagongzhe Centre: Dagongzhe Centre is a grassroots NGO concerned with workers' rights. From the reports and discussions in these two days and from my understanding of workers' situation, the problems I see include: First, faced with powerful capitalist and enterprises, workers are at a disadvantaged position. Even though workers are more conscious now about safeguarding their legal rights, under the present Labour Law, individuals are constrained and face obstructions when they try to defend their rights. Apart from this, because of the working conditions in the factories, workers have little understanding about the outside world. They have very little knowledge of collective bargaining and have not seen any successful cases of collective bargaining. They are very indifferent about the collective bargaining legislation that is going on now. In this moment, what can NGOs like us do? Our advantage is we have contact with many frontline workers and workers' groups. There is trust between us and the workers. We can discuss and examine the situation together with workers who are fighting for their rights. For example, what are the difficulties now for individuals fighting for their rights? What is the way out? Apart from this, in communities where factories are located, we can provide support to workers in cases of collective bargaining by sharing with them the experience of other workers. Fourth, with regard to the current legislative effort, we may present workers' opinions and demands to the government or to scholars who are concerned with workers' conditions. Finally, workers are rather powerless now. NGOs should find ways and strategies to empower workers around us.

Chan King Chi: The main point Luo Chunli wanted to raise was how we may publicise successful experience in the community. She also suggested that NGO might workers to voice out their opinions which are often ignored in the legislation process. This is a very good suggestion.

Duan Yi, Guangdong Laowei Law Firm: I am a lawyer in profession. For the last ten years we have been providing service to workers. In fact we only represent workers. We have 4 departments: the labour litigation department, the collective contract department and the workers training department which was set up last year. Litigation, training and collective contract are our strength. Until last year, we have been working with NGOs and have conducted a lot of training for workers on collective bargaining. In our training, workers also learn about how to unite together. To gain victory in this aspect, it is not necessary to rely on the trade unions. The workers themselves can conduct collective bargaining. It's very clear in the strike at

Honda. The workers can be organized. They can move away from the current framework. That's what we can do.

There's a good news that I want to share with you. In the meeting of the Committee of Lawyers Association held in the year before last, there were no presentation at all about collective bargaining though I made an introduction on this subject. Last year, there were 12 presentations on this subject. If each of us contributes a little, we can build a pagoda by gathering sand and create a river by bringing water together.

Chan King Chi: Even though they are lawyers, they are not ordinary lawyers. They conduct training, run web pages and promote collective bargaining. We can have more discussion later on what this kind of law firms can do or can't do in mainland China.

Professor Zhao Wei, Beijing Normal University: What can we do as teachers? SACOM has done a lot among university students. I started to work in Beijing Normal University in 2007. The first thing I did was working with students, thanks to Fan Lulu who was the former president of Peasants' Children at Beijing Normal University. I was influenced by her enthusiasm. She was already concerned about migrant workers. As her teacher I had to give her guidance. I helped her to apply for a research on this subject. She carried out a rather large-scale survey. In 2008 during the time of the global financial crisis, she organized a group of students to conduct the survey at the Pearl Delta. Students went to the home villages of the migrants. They came up with a very thick research report. *Nanfang Zhoumo* (Nanfang Daily) reported on their initiative too. I also mobilized students to send the research report to all the government departments. There was some response to this initiative.

Students do not know much about workers. We have to help them understand. Many students of Beijing Normal University come from migrant workers' families. I have no idea why they do not want to understand their families, but when they begin to learn more about workers and to start building relations with workers and farmers, they realize there's a working class society that we have to understand. Some students want to leave the country. I told them: "You would have more opportunities if you study labour rather than other subjects. If you study western sociological theory, no one will take you in. If you study Chinese labour and if you did well, you'd have a future." This is how I urge them.

Professor Huang at Nanjing University has been doing particularly well. They open the minds of students from the perspective of legal aid.

I also want to talk about the connection between teachers, students and NGOs. I work very closely with Xiaohong. There's been a lot of discussion surrounding the construction industry, but we simply could not solve the problems. For example the subcontracting system or workers getting their wages only at the end of the year. Are there any new ways to address these issues? If you have a look at the industry chain from the top to the bottom, you would see that the construction industry is a chain where government officials and businessmen are most closely connected. If the problems at the top could not be solved, the problem of workers getting paid at the end of the year, the problem of subcontracting as well as the problem of trade unions can never be solved.

The problem that we know now is mainly the problem of the quality of construction which is affected to a large extent by the subcontracting system. Having paid so much to buy a flat, consumers are definitely very concerned about the quality of the building. That's why I think we can appeal to the society at large to raise their concern for this problem. We have done very little in this area. The students are very enthusiastic. For example, Fang Chaoqun leaves Beijing Normal University everyday at 4 am to go to the workers' dormitory. It takes more than 3 hours to go and to return from the dormitory. Now we are working on the interview transcription. There are nearly 200,000 words. We have a lot to do.

Chan King Chi: Professor Zhao talked about how he, as a teacher, has been encouraging and urging students to get involved. Many students in mainland China are concerned about the labour issue. Among social groups in Beijing, Peasants' Children is the one that started to become concerned quite early on. What they have been doing is also very concrete. They are the first social group that helps migrant workers to demand for their wages. Professor Zhao also mentioned that NGOs needed a lot of resources and universities could not support the work of NGOs. She also mentioned that students and teachers could influence policy making and present the opinions of NGOs and workers to the government.

Discussion:

Mo Gan: I am from China Labour Bulletin. I have taken part in many seminars over the last year. I was wondering how we may make better use of seminars. I have two wishes: First, I wish that scholars contribute more. We can advocate and bring about changes though we cannot expect everyone to fight for their rights or to become

activists. I think there are two kinds of scholars. I study legal studies. In the field of legal studies, there are Cai Dingjian and He Weifang who are both scholars and public intellectuals. They have been trying to unite theory and reality. From what I observe, most of the scholars in legal studies in Hong Kong and who come from the mainland are absent from the public arena. They are engaged in their scholarly study just like monks in the monasteries. This is not something about right and wrong. You can stick to your academic studies strictly but you can join in signature campaigns on issues you think are appropriate. You can liaise with the media and speak up more often. You can mobilize your students to conduct survey and research, just like what Professor Zhao has been doing. I mean you can immerse yourself in academic studies but you can bring your scholarship into reality.

Secondly, I hope that people from all fields work together. We have many different organizations here. There are scholars, people concerned with public welfare, workers and rights activists. We lack support from media and from scholars who have a say in the public arena. Academics rarely leave their ivory towers. They do not seem to have the motivation to speak in the public. I think that the media lack the perspective of public welfare when they are reporting. I think that we who sit here should discuss how we may overcome this difficulty.

I want to tell you an example of failure. Last year Guangdong's Regulations on the Democratic Management of Enterprises was shelved. There had been only distant and small scale discussions. Stakeholders were not watching the process closely. Few workers knew about it. As advocates of the law, aren't we responsible for this? We should have joined forces and should have talked to the media more about what we thought. These are my two wishes.

Meng Quan: Concerning the responsibility of scholars, I want to add two more points. Scholars enjoy certain privileges and resources. The problem lies in whether you take advantage of them or not. For example, can we advocate developing academic disciplines that are of help to workers and build a network of scholars? For example, in the mainland, there's no academic networks among scholars who study employment relationship, labour sociology, labour law studies and labour politics that advocate building a discipline on labour science, especially a labour science that advantages workers. Such a network is urgently needed. We have to make use of the influence of university teachers and students. If we would unite in one voice, I believe we are powerful enough to bring about major changes. That's why this is a very important question.

There's another point I'd like to make. Apart from "building carts behind closed doors", i.e. to produce academic works that workers do not understand, can we think about the workers and produce some materials that is simple but insightful from the perspective of the workers? We scholars have done a lot of research. What is lacking is work which is simple and which does not bring much money. Instead of bringing money, we may even lose money for doing this kind of work. For example, Workers Publishing House wants to publish a book series on employment relationship and labour sociology. This kind of publication would really unite scholarship with thoughts that can truly guide practice.

Summary of the Workshop, by [Wang Ting \(PhD candidate\)](#)

On January 6th and 7th, 2011, AMRC, Worker Empowerment and the Department of Applied Social Studies of City University of Hong Kong held an international workshop on the "Changing Labor Regulations in China - Practice and Challenges". It is part of the UK Economic and Social Research Council (ESRC) sponsored research network—'Rising Powers, Global Challenges & Social Change' with similar events in the UK, India and Brazil. This workshop congregated 100 scholars, researchers, graduate students and practitioners from the Mainland China, Hong Kong, Taiwan, Korea, Japan, India, Brazil and the UK to present their findings and share their work experience, with purposes to review the implementation of the Chinese Labor Contract Law launched in 2008.



In general, the participants considered that the Chinese Labor Contract Law after its three years' implementation does not work effectively for protecting labor rights, and conflicts in labor relations continue to deteriorate year by year. They commented and concluded that inside and outside the current social and political institutions, different stake-holders should cooperate with each other to promote the implementation of labor rights, especially collective bargaining, which in fact will lead to the sustainable development of the whole society.

Participants also discussed about the challenges and possibilities of legislation of collective bargaining and trade union reform in China, drawing experience of collective bargaining and union organizing in Taiwan, Japan, Korea, Hong Kong, Brazil and India. The workshop was ended with a round table discussion on the strategies to improve workers' rights in a changing social-political context.

Dr. Chris Chan from the City University wrote a commentary for this meeting on MingPao. He first highlights that 2011 marks the beginning of China's twelfth five-year plan. One of the priorities of the plan is to expand national domestic

demands and to increase the labour share of the country's gross national product.

However, the situation goes that along with China's miracle economic growth, the ratio of wage in GDP has continued to decline from 57% in 1983 to 37% in 2005, and the state's strategy of merely adjusting the minimum wage has proved to be unsuccessful in meeting the needs of current labor relations. Just see to the national wide labor strikes from May to July last year in China, it is obvious that the improvement of industrial relations still has a long way to go.

He also points out a typical phenomenon in current labor strikes that more and more workers tend to adopt collective ways of protesting, which arose attention in the Guangdong Province and the Shenzhen Special Economic Zone which have the most concentrated labor strikes. The local governments there have tried to speed up the legislative process of the "Democratic Management Regulations of Guangdong Province" and "Regulation of Collective Bargaining in Shenzhen Special Economic Zone". But the legislative has been put off due to opposition from business chambers from Hong Kong and overseas.

At last he argues that the biggest obstacle of further implementation of collective bargaining might lie in workers' self- organization and their right to strike, which is not protected legally.