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***Industrial relations and conflict resolution
in China***

- Nordic experiences in a Chinese context

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Industrial relations and conflict resolution in China

Nordic experiences in a Chinese context

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Acknowledgement

In October 2013 I was lucky enough to have a research visit in China, funded by the Sino Danish Centre for Education and Research. Here I had the opportunities to make preliminary studies of working conditions and labour market regulations in China. In this regard, I obtained the privilege to work with Zhaoyang Sun and Meng Quan, Chinese Academy of Social Science, Beijing. This study was a continuation of a pilot project I did together with some colleagues in December 2011 on quality of working life in Scandinavian companies, located in the Shanghai area (see Hvid et al 2012).

This paper is a result of my research stay in Beijing. The paper is marked by the fact that I am a newcomer when it comes to industrial relations in China. I have however obtained knowledge and insights in the industrial relations of China through a skilful guidance by Zhaoyang Sun and Meng Quan. Through our discussions it has been very clear, that there are great possibilities for mutual learning between China and the Nordic countries of Europe, when it comes to labour market regulation. The paper is based on texts readings and my conversations with Zhaoyang Sun and Meng Quan.

We see this paper as the first step in a further cooperation in research about working conditions and labour market regulation, and we hope that the paper itself can be of help to other newcomers in this field.

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Introduction

China is undergoing rapid economic and social development. China has in a few decades moved from a poor agricultural country to a middle income country where the non-agricultural industries in the cities dominate the economy. This calls for the development of new regulatory mechanisms that can handle the new social realities. Without a frame for regulation of interests and conflicts, the social stability and social cohesion will be threatened.

Perhaps the most prominent conflict area in a modern society, where a large proportion of citizens are employed in the non-agricultural sector, is the conflict between workers and employers about wages, employment and working conditions. This is a conflict area which is heavily regulated in all developed economies, but in very different ways. In many cases, the national regulations of the labour market relations did find their basic form in the decades when non-agricultural industries were given a prominent role in the economy. This prime model has been maintained ever since, but gradually expanded (see Esping-Andersen 1990).

China is precisely now in a period of time where the regulation of the relationship between workers and employers are finding its (permanent?) form. It is because of that extremely interesting to follow what will happen. It is quite conceivable that China will find a format that differs from the jet known forms of regulation of the relationship between the social parties in the developed economies.

This paper is the first step in a hopefully more in-depth study of possibilities for getting inspiration from experience gained in the Nordic countries in Europe in the development of industrial relations in China.

In this paper we will briefly highlight some challenges and dilemmas regulation of industrial relations are facing in China, and briefly mention some areas where China might benefit from the Nordic experience. We are well aware that experiences from the Nordic countries cannot just be copied to a social and political context that is totally different. However, experiences from other contexts sometimes can inspire and create new ideas for solutions.

We also hope that the paper can be the beginning of a more comprehensive exchange of experience in this field between China and the Nordic countries. In the end of the paper four areas are identified, where we there a fruitful inspiration from the Nordic countries in China can be obtained.

The creation of the Chinese labour market

Before 1990 there was no regulation of conflicts on the labour market. The main argument for the lack of regulation of the labour market in China was, that there was no labour market as in the capitalist society. Companies in urban areas were state owned. Workers had secured life-long employment in the enterprises, and were covered by basic social security and pension schemes, and had access to health services. In the official self-understanding workers and managers jointly contributed to the development of the communist society under the leadership of the Communist Party. It has probably not been as harmonious always, but there was no regulatory system to handle

the conflicts that may arise in relation to wages, employment and working conditions. Strikes were, according to the constitution from 1982 illegal. And they still are.

The first steps in the establishment of a labour market were the abolition of lifetime employment in state enterprises in the early 1990ths. Lifelong employment was replaced by labour contracts (individual contracts and collective contracts), which regulated wages and employment.

In the next two decades there has been a tremendous growth in the number of jobs outside the state-owned enterprises, starting in private owned Chinese companies and joint venture companies, and gradually also companies fully owned by foreign companies. That development has changed the Chinese labour market fundamentally.

However, the Chinese labour market is still strictly divided in an urban labour market and rural employment. Each and everyone have a household registration book where it is stated whether the person belongs to the urban or the rural population. Peoples, belonging to the rural population, can however apply for a status as migrant worker in the cities if he or she can find a job. With the status as migrant worker a person from rural areas can be registered as permanent residence in the city, but not with the same rights as those with a household registration in the city.

The Chinese labour market in 2013 in round figures

Labours in agriculture	400 million.
Workers and employees in the city	340 million

Among the labours in the city, 140 million are migrant workers. 50 million are occupied in state owned companies. An increasing number of workers are agency workers (labour dispatch). In state owned enterprises 10-20 million dispatched workers are occupied. They do not have the same privileges as the ordinary workers in these companies.

54% of the population belongs to the 'agricultural population', and 46% to the 'non-agricultural population'. There has been a heavy displacement of rural population to urban population. In 1950 the urban population only amounted for 10% of the population. In 1980 the share of the urban population was approximately 20%. And now it is about 46% (Tang Jung et al. 2010). There are however still huge potentials for rising the proportion of non-agricultural workers. When China reach a productivity level in the agriculture similar to what is known in the economic developed countries, the agricultural sector will only occupy 40 million, or 10% of the present number of occupied in agriculture. 360 million extra must be occupied in the non-agricultural sector. The urban employment must rise with more than 100% (Tang Jung et al. 2010 p. 57).

The expansion of labour laws

After the creation of the Chinese labour market in the beginning of the 1990th, the Chinese government introduced gradually more and more comprehensive labour market legislation. In the first years of the new century there were a steady rise in labour disputes at the labour market. Those made the government introduce a comprehensive packets of labour laws in 2008. These laws were

heavily discussed. Both Chinese and foreign employers found that these laws were too excessive. However, now business has learned to live with these laws.

Three new labour laws were introduced in 2008 (Cook 2009):

- The Employment Promotion Law
- The Labour Contract Law
- The Labour Dispute Mediation and Arbitration Law

All the three laws are creating a legal framework that must be filled out by local governments.

The *Labour Promotion Law* makes requirements for local governments' commitment to creating jobs, and thereby avoids high unemployment. Furthermore, the vocational training is regulated through this law. Also the job agencies are legally regulated through this law. The law is in line with what in North Europe is called 'active labour market policy'.

The *Labour Contract Law* strengthen the right of workers concerning period of employment, working hours and wages. It closes some of the 'loopholes' employers have used to get around the law. And finally, perhaps most importantly, the law will apply to all workers, including work in the informal sector and dispatch workers.

The *Labour Dispute Mediation and Arbitration Law* strengthened the already established system of consultation, mediation, arbitration and litigation: Decisions must be taken faster. Workers' burden of proof was relieved. Several more actors are involved in the mediation and arbitration.

The main reason for introducing these laws was that the level of conflict at the labour market was increasing dramatically up to 2008. And actually, the number of conflicts did fall in the first year after the law was implemented. However, the critical point of this legislation is obviously the enforcement. Firstly, the law must be implemented by local governments, and it is made with different enthusiasm and ambition. Secondly, the law must be complied in the many enterprises.

Labour disputes and strikes

This section is mainly based on Cai and Wang (2012) analyses. They have analysed data from labour market institutions and two different surveys: one among manufacturing enterprises, and one among private enterprises.

There have been a dramatic increase in labour disputes such as complaints and strikes in the first decade of the 21 century. In 1999 169.000 labour disputes were reported. In 2008 the number had increased to 931.000. In 2009, after the implementation of the new labour laws, the number of conflicts was falling slightly to 870.000. In 2008 there were labour disputes in 15-20% of all enterprises. About 30% of the state owned companies have had labour disputes, and about 25% of the foreign funded enterprises reported labour disputes.

It seems as if the labour laws from 2008 had an effect on the number of labour disputes. However, in 2010 the most developed eastern regions of China were hit by a new wave of strikes (even though strikes are illegal according to the constitution).

The reasons for the labour disputes are significant different for 'urban local workers' and 'migrant workers' (Cai and Wang 2012, p. 19). For both groups wages is the most important factor. About 45% of the disputes are concerning wages. For the 'Urban local workers' 18% of the disputes is related to ending labour contracts. Almost no 'Migrant workers' have been involved in these conflicts, probably because they are badly covered by labour contracts. We have the same picture when it comes to working hours: 17% of the disputes involving 'Urban local workers' are concerning working hours, while working hours isn't an issue for the conflicts involving 'Migrant workers'. The reason could be that migrant workers are willing to work long hours to gain more money. Concerning safety we have the opposite picture. About 15% of the conflicts involving 'Migrant workers' are about safety at work, while only 7% of the conflicts involving 'Urban local workers' are about safety.

According to Cai and Wang (2012) the reason for the increasing number of strikes is not on-going deprivation of labour conditions. It seems that a more plausible explanation is that changing labour market conditions are in favour of the workers, which gives them a better position in conflicts with the employers: There is a shortage of labour in the eastern regions of China. However, this is mainly for skilled labour, because, which we have mentioned earlier, there is still a very large reserve of unskilled labour in the rural arrears.

Cai and Wang (2012) can demonstrate, that labour disputes are concentrated in regions with shortage of labour and conflicts are more frequent among skilled labour than among low-skilled.

A plausible reason for the waves of strikes in the eastern regions in 2010 and 2011 is, that the established system for regulation of labour conflicts still is quite inefficient, which we will further elaborate below. Apparently strikes are significantly more effective for the workers than the established system for conflict resolution in the pursuit of their interests.

Labour market disputes are not the only indication of changing labour market conditions. The turnover rate has risen and is very high in many companies. Especially among migrant workers the turnover rate can be very high.

It thus seems that the conflicts at the labour market are linked to the fact that China, in the most developed regions, are reaching what could be called a 'normal labour market situation', where there isn't a dramatic surplus of labours that are qualified to urban employment. Wages and working conditions can no longer stay at a level far below what the productivity of the workers justify. This 'normality' will continuously foster a lot of conflicts on the labour market if there are no efficient mechanisms to regulate these conflicts.

Systems to regulate conflicts on the labour market

The established system to regulate conflicts at the labour market consists mainly of three entities: The Trade Union, which is highly regulated by the state, collective consultation at enterprise level, and tripartite consultation at local, regional and national level.

The trade union

All-China Federation of Trade Unions (ACFTU) has 220 million members. ACFTU is divided into a number of industry specific unions. ACFTU is working at local, regional and national level, and the trade union is present at enterprise level. Compared with Western countries the unionisation in China seems to be quite high. There are, however, fundamental differences in structures, procedures and tasks between the Chinese and the Western trade unions.

The workers do not join a union on their own initiative. It's the company, i.e. management of the companies, which determines whether workers must be members of a union. If the company let the workers join the union, the workers individually pay 1% of their salary to the unions. The company must pay 2% of the total wage costs to the unions.

Union representatives at company level are appointed by management. It is most often managers, who are appointed as union representatives. The communist party have the control over who is appointed as union representatives at local and regional level as well as top level.

It is defined by law that the primary task for the trade union is to contribute to economic development. In addition, the trade unions must defend workers' rights and interests. Clark, Chang-Hee and Qi (2004) have examined how unions operate at the enterprise level. They find that the primary tasks of the unions were to encourage workers to increase productivity, enforce labour discipline and conduct extensive propaganda on behalf of management. Trade unions are not allowed to participate in collective actions. On the contrary, the trade union has as an obligation to prevent collective conflicts. If they occur, the union must try to get the conflict ended.

Protecting the rights and interests of employees' is at best interpreted as monitoring managerial practice to ensure that it conforms to all the relevant laws and regulations, and implementing the social and welfare policy at the enterprise – visiting sick workers, dealing with personal problems, distributing benefit, organizing picnics and arranging celebrations (Clark, Chang-Hee and Qi 2004 p. 242).

Trade unions at enterprise level are not subordinated management. They are an integrated part of management. Trade unions have functions that in many western countries are handled in the HR department of the enterprise.

The trade unions are supposed to balance between labour interests, economic interests of the enterprise, and state interests related to labour market (Feng Chen 2003). The many labour conflicts, where the trade unions are not involving, are a major current challenge for the unions. It is necessary for unions to get a better feeling for what is happening among the workers. And actually,

in some enterprises the unions seems to make a difference in terms of wages and working conditions.

To address some of the weaknesses in the current union representation at enterprise level, it has been decided in Shenzhen that workers from now on can elect their union representatives at enterprise level. Shenzhen is a city in the southern region Guangdong with a population of about 10 million people. There are many foreign investments in the city.

Collective consultation at enterprise level

Since the early 1990s, the relationship between workers and employers is regulated by contracts. The individual worker has an individual contract with his employer, and many enterprises have settled collective contracts. To create a forum for discussion these contracts, it is stated in the labour laws, that the companies can establish committees for collective consultation, with equal representation of the union and management.

It has been important for trade unions that the collective consultation was widespread and that collective contracts were signed in many enterprises. And the trade unions have succeeded: Many enterprises have established committees for collective consultation, and many enterprises have signed collective contracts. However, it is very doubtful whether these collective consultations make a big difference. Clark, Chang-Hee and Qi (2004) have followed the work of the collective consultation committees in a number of enterprises and they did find that

- There is no genuine negotiation of the collective contracts, which actually isn't that surprising while both parties are part of the management.
- Generally collective contracts follow the minimum requirements laid down in the law, and do not go beyond that.
- If the contract is extended beyond the minimum requirements of the law, it is most often an extension which is quite cheap for the employer: regular medical examination of specific personnel, an annual picnic, etc.
- There is no public debate about the collective contracts in the enterprise.

However, the collective consultation and the collective contracts can have a positive effect on the enforcement of the labour laws. Trade union representatives at enterprise level are not only linked to management of the enterprise, but also to the local and regional trade union, which in turn is closely linked to the party and government. The unions are therefore a channel for the party and government to influence business, and especially labour conditions.

When it comes to the prevention of conflicts, the form of representation and the methods with which collective consultation takes place does not have any significant effect.

The tripartite consultation

In 2001 and 2002 a tripartite consultation system was established. A national Tripartite Consultative Committee was established, and later an instruction was sent out to the provincial governments to

establish their own Tripartite Consultation Committees. The tripartite committees have mainly two obligations:

- a. Monitor the labour market at provincial and national level, and propose initiatives to improve labour market conditions: job creation, vocational training, employment service, all related to The Employment Promotion Law. Or, put it another way: it is an advisory committee targeting the 'active labour market policies' at the provincial and national level in China.
- b. Contribute to resolving conflicts that arise at the enterprise level.

It seems as if the established tripartite system works badly (Clarke and Chang-Hee Lee 2004). The reason seems to be that the representation of the parties is weak. The employers are represented by two different organizations: one that is closely linked to the communist party and one which more independently represents private employers. The unions represent the management at enterprise level and at the same time the union representatives at provincial level is strongly linked to the communist parties. The committees therefore cannot act in accordance with the basic idea of tripartite systems, saying that different interests and perspectives should meet to find a compromise. The different perspectives and interests are not represented in the committees.

Why the existing system to regulate conflict on the labour market is dysfunctional – a short summary

- Union representatives at enterprise level are part of management, and there are no channels through which the interests and aspirations of the workers can be expressed.
- Trade unions have most often very little insight in what happens among the workers.
- There is no real negotiation at enterprise level, either of the individual contracts or of the collective contracts. The collective contracts are often designed in such a way that they just meet the minimum standards of the law.
- It is an obligation for the union to counter collective actions among the workers, which encourage workers to exclude unions from their collective actions.
- The collective consultation at company level is without real representation of the workers.
- The Tripartite consultation does not represent the parties, and it is working ineffectively.
- Strikes and other collective actions outside the established system of regulation of conflicts are often much more effective seen from the workers point of view than the established system. The established system for conflict regulation works slowly, and can at the best require compliance with the law.

The established system of industrial relations in China does contribute to the enforcement of the labour laws. However, the system is not efficient when it comes to conflict regulation at the labour market. That is widely accepted, and changes in the system can be expected in the coming years. The experiment in Shenzhen, where workers can elect their trade union representatives at enterprise level, is perhaps a move in a new direction.

The dilemma of conflict regulation on the labour market

The many open conflicts at the labour market are threatening the social stability of China. The modern history of South Korea shows how serious these conflicts can be for social stability and cohesion. In a number of years, when South Korea was at the same level of economic development as China is today, the country experienced serious social unrest, which finally led to a regime change. The South Korean experience is an argument for the development of a system of conflict regulation at the labour market that gives workers a say, and involving them in the formal conflict regulation.

On the other hand acceptance of workers independent associations and representation can also be a threat to social stability. The establishment of the independent trade union in Poland in the 1980s led to social unrest, which was a catalyst for the collapse of the communist regimes in Eastern Europe.

Therefore we have a real dilemma, when it comes to the development of the conflict regulation system at the Chinese labour market: The development of a system, that do not give workers a say independently can lead to serious social unrest (with South Korea as an example). Giving workers the right to form their independent associations can on the other hand lead to social unrest (with Poland as an example).

What seems to be possible right now is therefore to find a middle where centralized control is maintained, and where workers have an opportunity to express their wishes and interests; actively promote their interests in a regulatory system where different interests can meet and conflicts can be resolved.

China can perhaps gain inspiration from the Nordic countries in Europe in its development of conflict regulation at the labour market.

In the Nordic countries there are independent associations of workers and employers. Most labour market regulation is created through agreements between the two parties at the labour market with some support from the state. This system has led to a relative low level of strikes and other open conflicts at the labour market.

The Nordic system has created what has been called 'centralised decentralisation' (Due and Madsen 2008). Through agreements at the central level a frame for local agreements is created.

Possible inspirations from the Nordic countries

Systems and procedures developed in a Nordic context cannot simply be copied and implemented in a Chinese context. It is however possible to get inspiration from each other, which the last decades of globalization has demonstrated when it comes to e.g. management and organizational development.

We will emphasise four areas where we think China can gain inspiration from the Nordic countries:

1. *Humanise working life*, to reduce the rate of turnover, and involve workers in the production process. The labour market relations in the Nordic countries have influenced the quality of

working like: compared with other European countries, workers in the Nordic countries have more autonomy in daily work, their opportunities for learning through daily activities are higher, and they find their work more meaningful compared with workers in other European countries. That creates commitment, reduce the turnover rate, and involve workers in incremental innovations of the work processes.

2. *Mobilising the workers at shop floor level to participate in the labour market regulation.* In the Nordic countries there are long traditions for shop steward representation and safety representatives in each and every work unit. They create the mutual connection between top and bottom in the labour market regulation system. Training programs for the shop stewards and safety representatives is developed.
3. *Collective consultation and collective agreements at enterprise level.* Agreements and consultations at enterprise level determine to a wide extent wages and working conditions. However, the framing and the procedures of enterprise based agreements and consultations are developed at top level – for the whole industry or for the whole labour market.
4. *Expanding the scope of the trade unions activities.* In the Nordic countries the trade unions are also active involved in health and safety at work and in training. These areas are not as confrontational as the issues of pay and working hours. By incorporating these areas in the activities of the trade unions, experience of cooperation between workers and management are obtained.

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