

The Changes of Chinese Labor Policy and Labor Legislation in the Context of Market Transition

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Abstract

This article examines the changes to and relations between labor policy and labor legislation in the context of China's market transition with a focus on the 1994 Labor Law and the 2007 Labor Contract Law. The initial impetus to labor policy change came from the unemployment crisis at the end of the 1970s and the early 1980s. Since then, the state has relaxed its control over labor mobility and job allocation. The last two decades of the last century witnessed the most important changes in China's labor policy, that is, the replacement of lifelong employment with contract-based employment and the replacement of government job assignment with the labor market. Such changes indicate the paradigmatic shifts of China's labor policy in the reform era. Under the new labor policy paradigm, the role of law has been strengthened in governing labor relations and other labor-related affairs. Within the policy context of promoting economic growth while maintaining social stability, both policy and law are coordinated and complementary in stabilizing labor relations and protecting labor rights. Given the socioeconomic circumstances and the underdevelopment of the rule of law in China, policy is still important during the period of market transition.

Introduction

Since the initiation of the market-oriented economic reform and the transition from the planned economy in the late 1970s, China's labor policy has been undergoing great changes. Of the greatest importance is the replacement of lifelong employment with contract-based employment, which marks the paradigmatic shift in China's labor policy.¹ Correspondingly, China's labor relations and labor regime have been reorganized, and this has had important socioeconomic and ideological implications in China.² As Korzec states, "reform of the labor system is at the core of the transformations in communist and postcommunist states."³ This article examines the changes of labor policy in the context of China's market transition with a focus on the 1994 Labor Law and its implementation. It argues that a paradigm shift has taken place in China's labor policy in the economic reform era, as indicated by the replacement of lifelong employment with contract-based employment and the replacement of government job assignment with the labor market. Under the new labor policy paradigm, although the state still dominates the making of labor policy, it has reduced the administrative intervention in labor relations and has come to rely on the law to regulate labor relations. As a result, more and more labor policies have been codified into law. Nevertheless, policy is still important in China's market transition due to the underdevelopment of labor legislation. Both

policy and law are coordinated and complementary in implementing the directives of the Party-State. However, inconsistencies between labor policy and labor law are not uncommon.

The first part of this article briefly outlines the trajectory of the changes of China's labor policy in the post-Mao era. The second part explores the relation between labor policy and labor legislation in China and examines the forces behind the formulating of the 1994 Labor Law. The implementation of the Labor Law and its limitations will be analyzed in the third part. The fourth part of this article outlines the most updated development of Chinese labor policy and legislation.

The Evolution of Labor Policy in Post-Mao China: A Brief Overview

After the Chinese Communist Party (CCP) came to power in 1949, the new government set out to abolish all labor laws and policies implemented by the ousted Nationalist government and to formulate new labor policies in accordance with socialist principles. The key goals of socialist labor policy were to turn wageworkers into the masters of the means of production and to set them free from unemployment and capitalist exploitation. Therefore, a universal lifelong employment policy was adopted in urban China that guaranteed urban workers job security. Comprehensive welfare packages were provided for workers through work units (*danwei*)⁴ in accordance with the Ordinance of Labor Insurance (*laodong baoxian tiaoli*), which was first enacted in 1951.

Although lifelong employment and an egalitarian remuneration system were regarded as the key to socialism in Mao's era, they led to overstaffing, lack of work incentives, and low productivity in State Owned Enterprises (SOEs). By 1984, the CCP Central Committee believed that the old system had "depleted the autonomy of SOEs, brought about a situation where SOEs eat from the 'big pot' of the state and workers eat from the 'big pot' of SOEs, therefore, the enthusiasm, activism, and creativity of both SOEs and workers have been stifled."⁵

The initial attempts to change Mao's labor policies originated from the massive unemployment facing the post-Mao Chinese government at the end of the 1970s and the early 1980s. By 1979, there were 5.67 million urban registered unemployed or 5.4% of the country's urban labor force.⁶ High unemployment stemmed from population growth, a stagnant economy, and, more importantly, the return of a huge number of young people who were sent to villages during the Cultural Revolution. The post-Mao Chinese government increased capital investment, built new factories, and forced enterprises to accommodate surplus urban laborers beyond their needs. This situation led to the phenomenon of "five people doing the job of three," and instituted "*dingti*" (occupational inheritance),⁷ under which a retired worker could let his or her child take up his or her job. However, such measures led to overstaffing, a lower-quality enterprise labor force, and the worsening of economic performance.⁸

Eventually, the post-Mao leadership decided to reduce the administrative stranglehold of the state over labor allocation and to allow the urban population to create job opportunities themselves. At the National Conference on Labor and Employment in 1980, a new labor policy framework named “three-in-one” (*sanjiehe*) was introduced. It allowed job placement through the introduction of labor bureaus, through workers’ voluntary organizations, and through self-employment.⁹ The government now admitted its limited capacity to provide jobs for all of the urban labor force, and the new labor policy framework allowed urban people to engage in self-employed businesses, i.e., private business (*getihu*). In addition, the government endeavoured to foster the growth of the labor market by setting up job retraining centers, establishing “labor service companies” (*laodong fuwu gongsi*) and public employment agencies, providing employment information and advice, and offering help to the unemployed to become self-employed by through such measures as providing suitable business venues and tax breaks in the first year of their business operation.¹⁰

The reforms of SOEs also fostered the reform of labor policy. Prior to economic reform, the Chinese economy was dominated by SOEs, which accounted for more than seventy percent of industrial output and absorbed eighty percent of the urban labor force. By the mid-1980s, however, many SOEs were losing money and survived on state subsidies. They were facing increasing competition from non-state enterprises, especially from the newly emerging township and village enterprises (TVEs) and foreign-funded enterprises. In order to make SOEs more competitive in a market-orientated economy, the government tried to reform the rigid employment and wage system practiced in SOEs. Bonuses and awards were given to enhance workers’ productivity, and wages were linked to performance. The most significant innovation was the experiment of the labor contract system, piloted in a few cities on an experimental basis in 1980 and extended in 1983.¹¹

The most significant break with the old employment system was, undoubtedly, the introduction of labor contracts, and this fundamentally changed the relationship between workers and the state. The turning point was 1986, when the State Council issued four sets of provisional regulations on labor and employment reforms,¹² which set out to encourage multiple systems of employment, to allow open recruitment of workers, to introduce labor contracts for all new workers entering SOEs, to permit dismissal of recalcitrant workers, and to bring in a system of unemployment insurance.

From 1986 onward, all new SOE recruits had to sign labor contracts with their respective SOEs. Renewal of contracts was subject to the mutual agreement of both parties and was not automatic. In 1988, the Enterprise Insolvency Law (For Trial Implementation) provided that SOEs could be restructured under a reorganization plan that had to be approved by creditors and representatives of SOEs. Alternatively, they could be liquidated. From the early 1990s, reforms aimed to transform SOEs into modern enterprises compatible with the requirements of a market economy. Social welfare programs

such as pensions, housing, healthcare, and schooling were gradually separated from the commercial activities of SOEs. In other words, SOEs were no longer to provide generous packages of welfare and benefits to their employees.

Along with the SOE reforms and the development of the market economy, Chinese labor policies changed greatly. First, lifelong employment was replaced by contract-based employment, signalling the end of the “iron rice bowl.” Labor power was recognized as a commodity that belonged to the worker. The restrictions on labor mobility were gradually eliminated. Second, job assignment by the government was replaced by the labor market. More and more people looked for their jobs through the employment agencies, and self-employment became important. Third, remuneration was linked to worker’s performance. The state controlled the total amount of wages and salaries and the system of guaranteed minimum wages and salaries, but the employers had the right to determine the levels of wages and salaries. Fourth, labor law began to play an increasing role in regulating labor relations. More and more labor policies took the form of labor legislation. Five, the *danwei* system practiced in SOEs was dismantled, which meant that workers had to make their own contributions to their welfare and benefits.

Diversification of Labor Relations and the Making of the Labor Law

As mentioned above, one aspect of the changes of labor policy in China in the market transition is the increasing role of labor law in regulating labor relations and other labor-related affairs. Policy and law are the key governing instruments, but their relationship is complicated and blurred, and it is hard to draw a clear line between them in China. For a long time, policies prevailed and almost no law existed in all policy areas in China. In the era of economic reform, more policy decisions have been formulated in the forms of regulation and law. However, policy decisions in some areas, for example, agriculture and social welfare, seldom take the form of law. Meanwhile, many policy documents are considered “laws” and have the force of law. According to the Chinese legislative system, law is a broad concept and has five varieties, which, in descending order of legal effectiveness, are 1) the Constitution of the People’s Republic of China, 2) national laws enacted by the National People’s Congress and its Standing Committee, 3) administrative regulations issued by the State Council, 4) local decrees issued by Local People’s Congresses, and 5) administrative and local rules issued by an administrative agency under the State Council or by a local government.¹³ In its purest form, legal documents promulgated by the National People’s Congress (NPC) and its Standing Committee, China’s legislature, are always treated as law. Normally, policies, which can function as the guidelines for laws, are made by the Party and the government agencies. Logically, policy comes first, then law follows. Policies that have been implemented successfully can be codified into law. A law is used to confirm policy decisions, and a major law usually addresses a broad range of policy issues. To a great extent, law in China is just to codify the existing

policies. In lawmaking practice, the drafters tend to exclude the controversial policies.

Since the Chinese government played an active, interventionist role in labor and unilaterally determined almost all aspects of labor relations—especially those in SOEs—through government policies and administrative regulations, under a planned economy, labor law had been virtually nonexistent in China. Before 1994, when the first Labor Law was enacted, China lacked a codified legal framework for its labor policy.

Since the initiation of economic reform in the late 1970s, many labor policies have taken the form of labor regulations in order to meet the need of economic reforms, in particular, to assure foreign investors and to make SOEs more competitive in a market economy. In the 1980s, in order to push labor and employment system reform, more and more labor regulations were issued by the State Council concerning employment, wages, social insurance and welfare, labor protection, work safety and hygiene, special protection for female and juvenile workers, democratic management of workers, and settlement of labor disputes. Between 1979 and 1994 more than 160 labor regulations and rules were issued.¹⁴

Though labor regulations issued by the State Council and relevant government agencies are treated as part of labor legislation in the Chinese official legal structure and legal literature, we tend to consider labor regulations as “policy” rather than “law” or “legislation.” The main reasons are as follows. First, most labor regulations were issued as the directives of the Party-State and were of a policy nature rather than of a legal character, and their subject matters were predominately of an “administrative nature.” Second, most of the regulations were full of propagandistic language, and lacked clarity and detailed provisions to guarantee their enforcement. They were basically enforced by governmental agencies and enterprises rather than by the court. Third, though many regulations were issued, it was very difficult to distinguish authoritative regulations from other documents such as administrative orders, decrees, rules, and notices, and it was hard to see any clear hierarchy in legal status among different regulations.¹⁵ Fourth, many concerns and measures in labor regulations were later codified into law when the conditions for lawmaking matured.¹⁶

In fact, during the whole decade of the 1980s, the Chinese government was reluctant to make a national labor law¹⁷ and preferred labor regulations as the main labor policy instrument. As a result, the labor policy regime in the 1980s was characterized by the prevalence of regulations over law. There were several reasons for this. First, China’s labor system was undergoing great transformation in this stage of economic reform, and the rapidly changing situation was not suitable for lawmaking. Second, administrative regulations were more flexible than laws, leaving much room for local governments and other policy actors, especially enterprises, to maneuver. Third, such a policy practice allowed the central government the flexibility to adjust policies quickly in response to quickly changing socioeconomic situations.

Though we treat labor regulations as labor policy rather than labor legislation, the proliferation of labor regulations in the 1980s made Chinese labor policy more rule-governed in terms of coverage, contents, and enforcement to varying degrees,¹⁸ which paved the way for labor legislation. However, due to the weak legal effectiveness of administrative regulations, many labor policies were not thoroughly implemented. Many enterprises were reluctant to abide by administrative regulations concerning labor protection and infringed on the legitimate rights and interests of workers. By the 1990s, the increasing diversification and complication of labor relations and the growing labor unrest that resulted from the market-oriented labor reforms made it imperative for the Chinese government to enact labor laws to regulate the increasingly complicated labor relations. It is in this context that many labor policies were legalized and codified.

The early 1990s saw the increasing diversification of labor relations in China with the rapid growth of the non-state economy and the deepening reforms in SOEs. One indication was the decline in the number of workers in SOEs and urban collective-owned enterprises (COEs) along with the rapid increase in the number of workers hired by TVEs and private enterprises. By the end of 1994, while workers in SOEs and urban COEs numbered 141.01 million, workers in TVEs reached 120.18 million, and workers in private enterprises jumped to 6.483 million.¹⁹ This development meant more and more Chinese workers were beyond the direct control of the Party-State and under the influence of market forces, which posed a great challenge to the old labor regime which was mainly based on administrative fiat to regulate labor relations.

The early 1990s also witnessed increasing labor disputes, even wildcat strikes, stoppages, and some mass worker protests. Workers' protests usually took the form of demonstrations, sit-ins, petitions to government departments, and "laying siege to party and government offices." In 1993, 12,358 cases were brought before the labor arbitration tribunals, 51.6 percent more than in 1992 while the number of affected staff was 34,794, 99.8 percent higher than the number in the previous year. The trend was expected to continue.

In the first quarter of 1994, according to data collected from twenty provinces, such cases shot up to 3,104, 66.4 percent higher than the corresponding period in the previous year.²⁰ Labor experts privately estimated that hundreds or thousands more disputes may have flared up without reaching arbitration. The state and collective enterprises accounted for more than half of the arbitrated disputes. In summer 1993, a leading official from the Ministry of Labor (MOL) disclosed that, according to the incomplete statistics of seventeen provinces and cities, from January to May 1993, there were 194 strikes and slowdowns in China involving 32,000 workers.²¹ In April 1994, an official report disclosed that labor disputes increased by fifty percent from 1992.²² In mid-1994, incidents of industrial unrest were said to be occurring once or twice a week in the provinces of Hubei, Hunan, Heilongjiang, and Liaoning.

The affected areas were places with depressed industries, such as coal mining and textiles.²³

The booming non-state economy, especially the foreign-funded enterprises including joint ventures and completely foreign-owned enterprises, and private firms in the early 1990s also experienced a variety of labor problems. Although both central and local governments issued administrative regulations on the protection of the legal rights of workers in the non-state sectors, many enterprises chose to ignore them. In many cases, the contracts that enterprises signed with their workers stipulated only the factories' restraints on the workers. Many enterprises implemented their own "factory rules" and offered no contract to the workers. Labor abuses were rampant in both foreign-funded enterprises and private enterprises, of which the most common one was long working hours. A survey conducted in Beijing in 1993 showed that twelve percent of hired workers in private enterprises worked ten to twelve hours a day, five percent worked twelve to fourteen hours a day, and another three percent worked more than fourteen hours a day. Other surveys disclosed that more than eighty-five percent of hired workers worked more than eight hours a day, usually twelve hours.²⁴ Other problems included delaying or deducting payment of wages, the lack of necessary safety equipment and minimum labor protection, appalling working conditions, and high industrial accident rates. A special labor problem in private enterprises was child labor.

Labor abuses and unrest received extensive press coverage in the early 1990s. Many journalists revealed that laborers in the non-state sector, especially the migrant laborers, were always treated in a humiliating manner, which deprived them of dignity, security, justice, and fair compensation. The unfortunate situation of migrant workers was described as "slave-like." Violation of labor rights was common in joint ventures: nearly ninety percent of foreign-funded firms violated labor rights one way or another. Both Chinese and overseas observers contended that the totally unregulated *laissez-faire* capitalist conditions of the early stages of capitalism were prevalent and that "sweatshops" were revived in China.²⁵ The plight of laborers was drummed into the national consciousness by media stories.²⁶ Labor abuses, especially in the non-state sector, caused increasing militant actions of the workers and invited wide criticism from international human rights groups and labor groups. There was a widespread sense that the country had some serious labor problems that would endanger social stability. Facing these pressures, the state was forced to take some active measures to pacify disgruntled workers, and the Labor Law was seen as an important and urgent issue on the legislative agenda.

The political dynamics behind the Labor Law came from Deng Xiaoping's south tour speech in early 1992 and the 14th National Congress of the Chinese Communist Party in fall 1992, which accepted the market economy system as the ultimate objective of the economic reform. Deng's southern tour speech and the Party's Congress dramatically changed the political conservatism in post-1989 China. The Third Plenary Session of the 14th Central Committee of the CCP held in November 1993 further outlined the basic framework of the socialist

market economic structure. In its articulation of the need to create an integrated, open, competitive, and orderly market system, it put forward for the first time the concept of developing a capital market and a labor market. To provide legal norms of conduct for all players in a socialist market economy, the Plenum called on the legislature to map out a well-conceived legislative plan and speed up the law-making process.²⁷ This beneficial political atmosphere thus opened a window for more market-oriented policies and legislation, including the Labor Law.²⁸ With the active involvement of the Ministry of Labor (MOL) and the All-China Federation of Trade Unions (ACFTU), China's official trade union, the Labor Law was enacted in July 1994.²⁹

The Main Contents and Features of the Labor Law

The Labor Law covers such matters as workers' rights, labor contracts, collective contracts, hiring and firing, wages and salaries, working hours and overtime, rest and vacations, the settlement of labor disputes, the role of trade unions, labor administration, and social insurance. In order to "establish and safeguard a labor system suited to the socialist market economy" (Article 1, the Labor Law), the Labor Law legalized the labor contract, collective bargaining and collective contract, social insurance, the minimum wage, labor dispute resolution, and factory inspection. The Law also established the labor standards in China, including the eight-hour workday and forty-four hour workweek (shortened to forty hours in March 1995 by the State Council), limits on overtime work, and occupational safety and workplace hygiene.

More importantly, the Law represented the state's attempt to create a united labor regime across different types of ownership or firms in the context of market transition.³⁰ In the past, laborers in enterprises with different ownership had been subject to different labor policies and regulations. Such a differentiated labor policy framework had led to the stratification among Chinese workers. Laborers in SOEs were under better protection by the state compared with those in COEs and non-state sectors. The Labor Law intended to end the existing segmented labor policy regime and treated all workers equally based on the labor contracts, no matter what kind of enterprises they worked in.

In view of the worsening labor relations resulting from the economic reforms, the Law gave priority to labor protection³¹ and paid special attention to the protection of female and juvenile workers. The Law severely restricted employers' power to dismiss workers. Nevertheless, the Labor Law reduced substantially the job security of Chinese workers as it legally abolished the lifelong employment system and allowed employers to dismiss workers for economic reasons. In addition, the Law failed to place effective limits on the use of short-term labor contracts by employment units.

Furthermore, the Law also indicated that the Chinese authorities are trying to follow international labor standards. Based on the relevant international labor conventions and the practices in other countries, the Law, for the first time, stipulated the standard of working hours in China: no more than eight

hours a day and no more than forty-four hours a week. Such a standard was, of course, not realistic given the level of economic and social development in China in the 1990s. In fact, profit-seeking employers often ignored it, while the poorly-paid workers were willing to work overtime for more income. (Long working hours had been a notorious labor abuse in China since the implementation of the Labor Law.) Other labor standards, such as the minimum wage, annual leave, and the prohibition of child labor were also codified in the Labor Law.

The Law set up a tripartite framework of labor relations. Although the participants in labor relations (trade unions, employers, and the state) existed in China, they were neither independent of one another nor were the independent participants imagined by labor relations theory. With the emergence of a market economy, the role of trade unions in representing workers' interests began to be highlighted. Although we cannot say the Law gave the participants independence in labor relations, to some extent, the independence of the trade union and employing unit and their equal rights in labor relations were stressed in the Law. They were reflected in the Law through the provisions for collective contract and the arbitration of labor disputes.

The Labor Law represented an entirely new rhetoric by employing such market terms as contract employment, hiring and firing, freedom to choose career, bankruptcy, unemployment, minimum wage, collective contract, and so on. However, "collective bargaining" (*jiti tanpan*) had to be euphemistically called "collective consultation" (*jiti xieshang*), and the right to strike was denied, which reflected the policymakers' refusal to recognize conflicting management and worker interests in China. Remnants of the old ideology still existed. For example, the Law intentionally used "employing unit" (*yongren danwei*, which literally means the organization that hires and makes use of laborers) instead of "employer," and "laborer" instead of "employee." This kind of terminology indicated that Chinese lawmakers were reluctant to recognize the wage-labor relationship in China's market transition.³²

To sum up, the Labor Law was China's first attempt to establish a relatively sound basis for the development of labor relations suitable for a market economy without democratization. As Josephs pointed out, the Labor Law revealed "a delicate and precarious balance which the government attempts to maintain between preservation of certain features of the older command economy and the market-driven forces."³³

The Implementation of the Labor Law and Its Limitations

The new labor regime, established by the Labor Law and supplementary legislations, is built on three key pillars: the individual labor contract system, collective negotiation, and the labor dispute resolution mechanism.³⁴ In accordance with the Labor Law, a worker must sign a written individual labor contract with his or her employer. A written labor contract should include specifics about the length of the contract, job description and work location, salary, working conditions and labor protection, and legal liabilities of violating the

contract. The labor contract is binding for both the employer and the employee. The Labor Law allows for collective agreements through collective negotiation between employees (represented by the trade union) and management on matters such as remuneration, hours, rest, holidays, occupational safety and hygiene, and insurance and welfare. In order to resolve contract disputes, labor dispute mediation committees and arbitration committees at both the enterprise and local labor administrative levels should be established. If arbitration fails, the cases may go to local people's court. In designing such a labor regime, the Chinese policymakers sought to use both contract and law to regulate labor relations in the context of market transition. In the view of the labor policymakers, the two-tier contract system constructs an important institutional arrangement for labor and capital to interact automatically in the context of contract and labor laws.

However, the years since the implementation of the Labor Law have demonstrated that the labor regime established by the Labor Law is not readily enforceable and is not being fully implemented. First, the individual labor contract system has not been implemented strictly. Many employers, especially those in non-state sectors, are reluctant to sign labor contracts with their employees. Although more than ninety-nine percent of workers in urban state-owned enterprises, collective enterprises, and foreign-funded firms signed employment contracts,³⁵ most migrant workers, who are the bulk of the industrial working class in China today, have not. Sixty percent of the total labor contracts of the nation are for less than three years; only twenty percent are non-fixed term contracts.³⁶ In addition, many contract workers are not entitled to social insurance benefits because their employers refuse to pay social insurance premiums. Some workers are even forced to sign a "life and death contract" with employers, which exempts bosses from any liability for industrial accidents that result in injury or death.

As a result, conflicts between labor and capital have been increasing. Official statistics show that the number of labor dispute cases increased from 19,098 in 1994 to 226,000 in 2003, and the number of workers involved increased from 77,794 to 800,000 during the same period.³⁷ In 2005 alone, the number of labor dispute cases accepted and heard by labor dispute arbitration committees at all levels of government reached 314,000 and involved 744,000 workers. Among these cases, the number of collective labor dispute cases hit 19,000 and involved 410,000 workers. Most disputes involved labor remuneration, economic compensation, and insurance and benefits.³⁸ On top of labor disputes, spontaneous strikes were not uncommon. Though no exact figures on strikes are available, it is well known that sporadic stoppage and strikes occurred widely in the coastal regions where millions of migrant workers live. From early March until May 2002, thousands of displaced workers in Daqing, Heilongjiang Province, and in Liaoyang, Liaoning Province, engaged in large-scale protests over unpaid benefits and the corruption of cadres. The protests spread to a number of cities and constituted probably the largest social protest movement since the 1989 prodemocracy movement.³⁹

Why has the labor contract system worked poorly? First, since the supply of labor far exceeds demand, labor is at a very disadvantageous position in relation to capital. If workers ask for the written labor contract, they could lose their jobs. So many workers are employed on the basis of oral agreements, which are not recognized by the Labor Law. When a dispute occurs, it is the obligation of the worker to collect evidence to verify the existence of a labor relation conflict with his or her employer.

Second, the provisions of labor contracts under the Labor Law are vague and lax, thus allowing employers more leverage. For example, the Law fails to stipulate the time limit for an employer to sign a labor contract with the newly recruited employee, and it does not require employers to pay economic compensation (severance payment) for workers who are dismissed on the day when their labor contracts expire. Such a legal loophole encourages employers to sign short-term fixed labor contracts, especially one-year fixed contracts or even three-month fixed contracts. Even “permanent” posts are based on a short-term contract. Such a practice allows employers to make use of workers who are in the prime of their lives and then dismiss them when they get older. As employers are not required to pay severance to workers when their contracts expire, workers’ job security is undermined. The Law allows employers to hire workers for a probationary period of up to six months but fails to specify the wages and benefits of probationary employees and fails to impose strict constraints on employers’ use of probation. As a result, many employees have been dismissed upon the end of their probation.

Third, factory inspection by the local governments is very weak. By the end of 2001, there were only 40,000 people responsible for labor inspection in China, where the total number of employees had reached 239 million.⁴⁰ In Shenzhen, a large city famous for its booming economy, there were only about 200 labor inspectors in 2001.⁴¹ Because local governments are obsessed with economic growth, they tend to stand up for capital and oppress labor. As Lambert and Chan put it, the structural relationship between foreign and domestic capital and the local state is the basis for reproducing a despotic production regime where workers have no say over wages and conditions.⁴²

Fourth, the Law fails to impose stringent punishment for violations of the labor contract. The main punishment for violations of labor contracts by employers is to require them to compensate laborers for losses. According to the Labor Law (Article 98), the employer who revokes labor contracts or purposely delays the conclusion of labor contracts is only ordered by labor administrative departments to make corrections and pay compensation for any losses that may have been sustained by laborers. Only when the employers force laborers to work against regulations and, as a result, cause major injuries and deaths, will they be held criminally responsible. The lenient provisions plus weak inspection by the government allow employers to ignore the Law.

The operation of the collective contract system is not inspiring either. Most collective contracts signed are at SOEs, where workers’ interests and rights are protected relatively well even without collective contracts. For enterprises in the

non-state sector, where collective contracts are badly needed, the implementation of the collective contract system has been hindered. In Guangdong, for example, the Provincial Trade Union Federation admitted that it was hard to push the collective contracts in foreign-funded enterprises and TVEs⁴³ due to the resistance of employers, the lack of unions in many enterprises, and the reluctance of local governments to get involved in the matter.⁴⁴ The collective contract system is basically “hollow” due to the weakness of workers’ organizations; it fails to provide both capital and labor with an institutionalized channel for conflict mediation and interest coordination.⁴⁵

The system of labor dispute resolution is also problematic. The past decade has witnessed increased labor disputes concerning underage workers as well as workers who have received delayed payment or have been denied pay, been overworked, been denied holidays, been unable to leave the factory site, and been forced to work in noisy and dangerous conditions. The existing procedures of labor dispute resolution established by the Labor Law are woefully ill-equipped to deal with the flood of labor disputes, and the process is prolonged by having three levels on which disputes were dealt: factory mediation, local government arbitration, and litigation. For example, a worker who wants to get back his pay arrears has to go through both arbitration procedures and litigation procedures if his employer refuses to accept the arbitration made by the local labor dispute arbitration committee. The whole process can last from several months to about two years and costs the concerned parties much money and time. Normally, a poorly-paid worker cannot survive such a long and complicated process. Many disgruntled workers have resorted to illegal and even violent means, such as street protest, murdering, kidnapping, and even committing suicide by jumping from a high place to dramatically show their desperation.⁴⁶

The most salient limitation of the Labor Law lies in its failure to provide legal protection for the migrant workers from rural China. Migrant workers emerged in China’s transition from a planned economy to a market economy, and according to the *Survey and Research Report on Migrant Workers in China* released by the State Council’s Research Office in April 2006, they constituted fifty-eight percent of the labor force in the secondary sector, and fifty-two percent in the tertiary sector in China.⁴⁷ They exceeded 100 million in number by 2003. Yet, they have been excluded from the government’s labor policy for a long time because of their ambiguous status between workers and peasants: They are workers by occupation but are not recognized as workers; they live in the cities but retain their peasant status. Targeting urban workers and the employing units recruiting them, the Labor Law acknowledges no concept of migrant worker.

Because the existing labor regime fails to provide effective protection for migrant workers, their labor rights are frequently violated. There are frequent media reports on long working hours, physical punishment and insults, occupational injuries, fires and other fatal accidents, unacceptable working conditions, ineffective grassroots trade unions, and local governments favoring

investors rather than protecting migrant workers. The above-mentioned research report released by the Research Office of the State Council indicated that the monthly wages of migrant workers were mainly within the 500–800 *yuan* range, with 3.58 percent of them earning less than 300 *yuan*, 29.26 percent earning 300–500 *yuan*, 39.26 percent earning 500–800 *yuan*, and 27.9 percent earning over 800 *yuan*.⁴⁸ These wages are much lower than those of urban workers. According to the figures released by the Ministry of Labor and Social Security (MLSS) and the State Bureau of Statistics, the average monthly wage for urban workers and staff was 1,750 *yuan* in 2006; for those working in SOEs, the figure was 1,842 *yuan*.⁴⁹ In addition, many migrant workers were not covered by labor contracts; only 53.7 percent of them had concluded contracts with their employers.⁵⁰ Because migrant workers have no ability to change their appalling working and living conditions in cities, many of them have begun to “vote with feet;” that is, they just leave the cities and stay in villages. As a result, a serious shortage of labor has occurred in the Pearl River Delta and other costal regions since 2003.⁵¹

New Developments of Labor Policy and Legislation Since 2003

Given the limitations of the existing labor policy regime and the plight of migrant workers, the Chinese government has made new efforts to stabilize labor relations and improve the living and working conditions of migrant workers since 2003. Two main factors have contributed to these efforts.

First, the new leaders Hu Jintao and Wen Jiabao, who took up their positions in 2002 and 2003, respectively, were more concerned with social justice and the plight of the underprivileged. Taking lessons from the SARS crisis in 2003 and the worsening developmental conditions, the new leadership sought to formulate a new set of ideas about Chinese development. Although economic growth is still the paramount objective, a new paradigm of development has been formulated that aims to strike a balance among economic growth, social development, and environmental protection. Under the new development paradigm many new governing principles, such as “putting people first,” and building “a harmonious society,” have been emphasized, bringing the issues of labor interests and rights to the policy agenda of the new leadership.

Second, the shortage of migrant workers in the coastal provinces has become a concern of investors and local governments. The labor shortage mainly occurred in those labor-intensive export-oriented processing factories where workers suffer low salaries, high working intensity, and appalling working conditions.

To address these issues and concerns, the Chinese government is using both labor policy and labor legislation. Under the macropolicy context of promoting economic growth while maintaining social stability, both policy and law are coordinated and complementary in implementing the directives of the Party-State. While stringent labor legislation is an effective answer to the infringement of workers’ rights and interests, it may bring harm to investment and, hence,

negatively impact economic growth. Given the segmented labor market based on the rural-urban dual society and the underdevelopment of the rule of law in China, labor policies and regulations are still very important and provide flexible instruments to stabilize labor relations, especially where migrant workers are concerned.

To improve the working and living conditions of migrant workers, the Chinese government tends to make use of policies and regulations. In 2003, for instance, the State Council released the “Notice on Doing a Better Job Concerning the Employment Management of and Services for Migrant Workers,” which proposed the policy principles of “fair treatment, rational guidance, satisfactory management, and improvement of services.” Its provisions covered six aspects of policy: a) abolition of the discriminatory policy regulations and irrational fees against migrant workers; b) elimination of the deductions of and delays in wage payment for migrant workers; c) resolution of the problems associated with free education for their children; d) provision of vocational training; e) improvement of living conditions and working environment in the urban areas; and f) strengthening and improvement of administrative controls on migrant workers.⁵²

In 2006, the State Council issued the first comprehensive policy document of the central government on migrant workers. The document declared that migrant workers are an important element within the manufacturing labor force and spelled out the central government’s broad policy objectives: a) to establish a unified labor market for the urban and rural sectors and an employment system based on fair competition; b) to promote a series of policies to protect migrant workers’ legitimate rights; and c) to set up a system of public services in both urban and rural sectors for migrant workers. In terms of concrete policies, the document reveals that the State Council would a) strictly regulate employers’ payment of wages to ensure full payment on schedule through the establishment of a monitoring system and a wage guarantee fund and strictly implement the minimum wage system; b) strictly implement the labor contract system through strengthening the guidance and supervision of employers in order to protect the occupational safety and public health rights of migrant workers, especially female and juvenile workers, to prohibit the employment of child labor; c) further abolish various discriminatory regulations and irrational restrictions against migrant workers; d) include migrant workers in the occupational injuries insurance system and provide them medical insurance for chronic illnesses as well as study and find appropriate ways to offer them retirement benefits; e) gradually broaden the coverage of urban public services for migrant workers according to the territorial administration principle in order to ensure their children’s right to free education, to improve the family planning administration and services, to improve their living conditions, and to improve their employment services and vocational training; f) protect their legitimate democratic political rights and land rights under the rural household responsibility system as well as strengthen the implementation of the laws protecting these rights; and

g) develop township/town enterprises and country economies, raise the capacity of small cities and towns to accumulate industries and absorb population, and expand the capacity of employment transfer at the local level.⁵³

On top of the above-mentioned policy principles for the protection of migrant workers, the Chinese government has also introduced some specific policy measures to improve the working and living conditions of migrant workers. Moreover, the policy principles adopted by the central government have set a good example for local governments to follow. In fact, as a response to the central government's policy advocacy, local governments at all levels have also issued some concrete labor policies and regulations concerning the signing of labor contract, wage payment, employment services, vocational training, and education for child migrants.

More importantly, many of the policy principles and measures for improving the situation of workers in general and migrant workers in particular have been eventually codified in the new Labor Contract Law of 2007. The formulation of the Labor Contract Law started in 2004 amid huge complaints about employers' mistreating workers. The MLSS and the ACFTU were the main promoters of the drafting work. Based on wide consultation, the NPC Standing Committee enacted the Labor Contract Law in June 2007 after four sessions of deliberation. The final version of the Law represents a compromise between the interests of both the employees and the employers.⁵⁴

The Labor Contract Law, which consists of eight chapters and ninety-eight articles, became effective January 1, 2008, and is considered to be the most significant change in China's labor policy since the implementation of the Labor Law in 1995. It aims to further standardize labor contracts in favor of employees and to facilitate its implementation. Specifically, the Law is intended to establish sound standards for labor contracts, the use of temporary workers, and severance payment. It makes mandatory the use of written contracts and strongly discourages short fixed-term contracts by requiring employers to give non-fixed contracts to workers who have already finished two fixed-term contracts for the same employer. In accordance with the Law, severance payment should be given to the worker if a fixed-term contract expires and the worker is willing to renew the contract. The Law also strengthens the role of workers' organizations, such as unions and workers' congresses in labor relations as it stipulates that employers must submit proposed workplace rules or changes concerning salary, work allotment, hours, insurance, safety, and holidays to the workers' congress for discussion. On the eve of the Law's passage, the Law was edited to stipulate that government officials guilty of abuse of office and dereliction of duty would face administrative penalties or criminal prosecution. This was a direct result of the exposure of forced labor in the brick kilns of North China's Shanxi Province.⁵⁵

The Labor Contract Law is expected to more effectively protect workers' interests and rights and regulate labor relations. Compared with the Labor Law, the Labor Contract Law is more specific and operation-oriented in terms of its provisions. Employers who violate the Law are subject to

stringent punishment. Officials in charge of labor policies and laws and their enforcement are under greater pressure to perform their duties under the Law. Meanwhile, trade unions are allowed to play a greater role in protecting workers. In addition, under the policy context of “building a harmonious society” and “putting people first,” local governments are under much more pressure from the central government to pacify the disgruntled workers and maintain social stability. The workers themselves have become better educated and more forceful in defense of their interests and rights by using the Labor Contract Law. Under these circumstances, it is reasonable to conclude that the Labor Contract Law will be more enforceable than the Labor Law.

Although the Labor Contract Law was formulated in the spirit of giving migrant workers top priority, it still fails to clearly define the legal status of migrant workers. Like the 1994 Labor Law, the Labor Contract Law does not define who “laborers” are, though its scope of applicability covers all laborers who have established labor relations with enterprises in China (Article 2). As no specific definition of “laborer” is available, whether migrant workers are laborers in the sense of labor law is still not clear. Nevertheless, this does not mean that the Labor Contract Law does not apply migrant workers. Although no special provisions targeting migrant workers have been included in the Law, the Law has not denied migrant workers’ status of “laborers” in general. Being one party of labor contracts, migrant workers’ rights and interests are under the protection of the Labor Contract Law in general. Therefore, a sound labor law framework and its strict enforcement are beneficial to migrant workers in general. However, migrant workers are not treated the same as urban workers in terms of wages, social security, and other employment-based benefits. In other words, migrant workers are laborers in a legal sense, but they can be treated differently by policies adopted by local governments. This way, the rigidity of law and the flexibility of policy are integrated perfectly to demonstrate the subtle relationship between labor legislation and policy.

This may be “strategic ambiguity” in China’s labor legislation and policy in the context of market transition. Given the huge rural-urban divide, regional disparities, and the segmented labor market in China, it is difficult to treat both urban workers and rural workers equally. Labor legislation should take this reality into consideration. Although concrete labor policies can treat urban workers and rural migrant workers differently, it is not appropriate for a national law to legally separate migrant workers from urban workers. Yet, with the help of such ambiguity, governments, especially local governments of the host cities, can make specific policies to treat migrant workers as a special labor group that is different from urban laborers. And employers can compromise the legitimate interests and rights of migrant workers without taking legal risks. As a result, rapid economic growth can be achieved through low-cost labor, a phenomenon that reflects the inconsistencies between labor law and labor policy in China.⁵⁶

Conclusion

This article has examined the changes of labor policy and labor legislation in the context of China's market transition with a focus on the 1994 Labor Law and the 2007 Labor Contract Law. The initial impetus of labor policy change came from the unemployment crisis at the end of the 1970s and the early 1980s. Since then, the state relaxed its control over labor mobility and job allocation. The last two decades of the last century witnessed the most important changes in China's labor policy, that is, the replacement of lifelong employment with contract-based employment and the replacement of government job assignment with the labor market. Such changes indicate the paradigmatic shifts of China's labor policy in the reform era. Under the new labor policy paradigm, the role of law has been strengthened in regulating labor relations and implementing labor policies. China's most important labor legislation is the Labor Law, which was promulgated in 1994 and became effective in 1995. The Law established the basic legal framework for China's labor regime in the era of market transition. However, its attempted implementation has shown that the labor contract system, the collective contract system, and the labor dispute resolution system—the three key pillars of the post-Mao labor regime—were neither readily enforceable nor fully implemented. More importantly, migrant workers, the new working class emerging from China's transition from a planned economy to market economy, have not received enough protection from the existing labor regime.

In view of these problems, new efforts have been made since 2003 to stabilize labor relations and improve the working conditions of workers. As a result, more labor policies have been made in the interest of migrant workers, and a new Labor Contract Law was formulated in 2007. Although these developments may help to strike a balance between labor protection and economic growth, the legacies of the old development paradigm, which focused on the growth of GDP at the cost of labor, are still influential.

NOTES

1. Kinglun Ngok, *Labor Policy in China: Marketization and Globalization Perspectives* (Beijing, 2007).

2. Gordon White, "The Politics of Economic Reform in Chinese Industry: The Introduction of the Labor Contract System," *China Quarterly* 111 (1987), 365–89.

3. Michael Korzec, *Labor and the Failure of Reform in China* (New York, 1992).

4. As a basic socioeconomic institution in Mao's China, *danwei* refers to SOEs, state agencies, government departments, and other organizations in the public sector. Among them, SOEs were typical. *Danwei* controls personnel, provides communal facilities, operates independent accounts and budgets, has an urban or industrial role, and is in the public sector. Functioning as a self-sufficient "mini welfare state", the *danwei* system was composed of three basic elements: job tenure (iron rice bowl), an egalitarian wage (big rice pot), and a welfare package.

5. CCPCC (Chinese Communist Party Central Committee), *The Decision on the Economic System Reform* (Beijing, 1984).

6. *Zhongguo laodong tongji nianjian 1997* (Beijing, 1997), 8.

7. “*Dingt*” refers to the practice of passing the job of the retired parent to his/her child so as to increase job opportunities for young people. Such a practice was very popular in the late 1970s and early 1980s, so it was very common for parents and their children to be employees of the same work unit. For the details, see Korzec, *Labor and the Failure of Reform in China*.

8. Lanrui Feng, *Six Questions Concerning Employment* (Beijing, 1982).

9. *Zhongguo Laodong Renshi Nianjian 1949–1987* (Beijing, 1988), 136.

10. Linda Wong and Kinglun Ngok, “Unemployment and Policy Responses in Mainland China,” *Issues & Studies* 33.1 (1997), 43–63.

11. White, “The Politics of Economic Reform in Chinese Industry.”

12. These are Provisional Regulations on the Implementation of the Labor Contract System in State-Owned Enterprises; Provisional Regulations on the Hiring of Workers in State-Owned Enterprises; Provisional Regulations on the Dismissal of Workers and Staff for Work Violations in State-Owned Enterprises; and Provisional Regulations on Unemployment Insurance for Workers and Staff in State-Owned Enterprises.

13. For details of the varieties of law and their hierarchy in China, see the Law on Legislation of the People’s Republic of China, adopted by the 3rd Session of the Ninth National People’s Congress on March 15, 2000.

14. Shouqi Yuan, *Labour Legislation in China* (Beijing, 1994), 338.

15. *Zhongguo Laodong Nianjian 1988–1989* (Beijing, 1989), 1577.

16. In Chinese lawmaking practices, a basic principle followed by lawmakers is to make a law according to the maturity of the legislative conditions for such a law (*tiaojian shifou chengshu*). Only when the legislative conditions for a law have matured can it be passed (*chengshu yige zhiding yige*). According to Chinese legal experts, the legislative conditions include mainly two aspects: objective conditions and subjective conditions. The objective conditions refer to, among other concerns, the need for a law, the situation of the problem that the law targets, and socioeconomic conditions for law enforcement. The subjective conditions are relevant to the recognition of the policy problem, attention of lawmaking organizations to the law, and consensus-building among the related government agencies. When the objective and subjective conditions are mature and the time is appropriate, a law will be enacted. For details, see Daohui Guo, *Legislative System in China* (Beijing, 1988). According to the Law on Legislation (Article 56, section 2), once the conditions for an administrative regulation that has been issued by the State Council to be enacted as a law have matured, the State Council shall, in a timely fashion, submit a request to the National People’s Congress and its Standing Committee for enactment of the relevant national law.

17. Efforts to make a national labor law were initiated in 1979 and the early 1980s. In March 1983, a draft law for deliberation was approved in principle by the State Council and submitted to the National People’s Congress (NPC) as a formal bill in July 1983. However, the NPC held that the conditions for the Labor Law were not ripe due to the ongoing economic reform, especially the reforms of labor system and the state-owned enterprises. As a result, the Labor Law could not get a place on the NPC Standing Committee agenda. For details, see Kinglun Ngok, “The Formulation Process of the Labor Law of the People’s Republic of China: A Garbage Can Model Analysis” (Ph.D. diss., City University of Hong Kong, 1998).

18. Mattias Burell, “The Rule-Governed State: China’s Labor Market Policy, 1978–1998” (Ph.D. diss., Uppsala University, Sweden, 2001).

19. *Zhongguo Tongji Nianjian 1995* (Beijing, 1995).

20. Tongqing Feng, “Chinese Workers and Employees in 1994–1995,” in *The Analysis and Forecast of Chinese Social Situation in 1994–1995*, ed., Liu Jiang et al. (Beijing, 1995), 294–308.

21. Tongqing Feng, *Speaking without Reservation* (Beijing, 1994).

22. *China Daily*, April 30, 1994.

23. *South China Morning Post*, May 17, 1994.

24. Kai Chang, ed., *Labor Relation, Laborer, and Labor Rights: Labor Issues in Contemporary China* (Beijing, 1995).

25. Anita Chan, “Revolution or Corporatism? Workers and Trade Unions in Post-Mao China,” *The Australian Journal of Chinese Affairs* 29 (1993), 31–61; D. Solinger, “The Chinese Work Unit and Transient Labor in the Transition from Socialism,” *Modern China* 21.2 (1995): 155–183.

26. The most shocking case of labor abuse in the early 1990s was the Zhili disaster. On November 19, 1993, a terrible fire took place in the Zhili Toy Factory, a Hong Kong-China joint venture based in the Shenzhen special economic zone. Officials claimed that eighty-seven

people died and fifty-one were injured in the blaze. One reason for the high death toll was that it was a so-called “three-in-one” factory with workplace, workers’ dormitories, and a warehouse all under one roof. In this “three-in-one” system, windows were barred and doors locked to combat theft, and exits were obstructed.

27. CCPCC, *The Decision on Some Issues on the Establishment of a Socialist Market Economic Structure* (Beijing, 1992).

28. John Kingdon, *Agendas, Alternatives and Public Policies* (New York, 1995).

29. Kinglun Ngok, “The Formulation Process of the Labor Law of the People’s Republic of China: A Garbage Can Model Analysis” (Ph.D. diss., City University of Hong Kong, 1998).

30. Kinglun Ngok, “The Development of the Labor Law of the People’s Republic of China: A Comparison of Three Versions,” *Chinese Law & Government* 33 (January-February 2000): 3–21.

31. The Labor Law accords workers’ equal opportunities for employment and the right to choose their occupations, the right to receive remuneration for their work, the right to have rest and vacations, the right to labor protection with regard to safety and sanitation, the right to receive vocational training to improve their skills, the right to have social insurance and welfare, and the right to demand the settlement of labor disputes and have other statutory labor rights.

32. Kinglun Ngok, “The Development of the Labor Law of the People’s Republic of China,” 20–21.

33. Hilary Josephs, “Labor Law in a ‘Socialist Market Economy: The Case of China,” *Columbia Journal of Transnational Law* 33 (1995): 559–81.

34. The labor contract system was first introduced in the mid-1980s and extended nationwide during the mid-1990s. It aims to regulate the labor-management relationships within the enterprise on the basis of contract. The collective negotiation system was piloted in the early 1990s and was implemented systematically in enterprises nationwide in China since the mid-1990s on the initiative of the All-China Federation of Trade Unions, the headquarters of Chinese official labor movement. The labor dispute resolution system was established in the late 1980s and improved in the mid-1990s. All these three mechanisms have been legalized by the Labor Law of 1994.

35. *Gongren Ribao*, December 29, 2004.

36. *Zhongguo Qingnianbao*, June 30, 2007.

37. Jian Qiao, and Ying Jiang, “An Analysis of the Labor Disputes and Labor-related Mass Incidents in the Process of Marketization,” in *The Analysis and Forecast of Chinese Social Situation in 2005*, ed. Xin Ru et al. (Beijing, 2005), 297–8.

38. MLSS, *The Situation of the Settlement of Labor Dispute Case in 2005* (Beijing, 2006).

39. Joseph Cheng and Kinglun Ngok, “The Potential for Civil Unrest in China,” in *Searching for Peace in Asia Pacific*, ed. Simmonds Heijmans and H. van de Veen (Boulder and London, 2004), 166–180.

40. The Information Office of the State Council, *The White Paper: The Situation of Labor and Social Security in China* (Beijing, 2002).

41. *Nanfang Zhoumo*, January 31, 2002.

42. Rob Lambert and Anita Chan, “Global Dance: Factory Regimes, Asian Labor Standards and Corporate Restructuring,” in *Globalization and Patterns of Labor Resistance*, ed. Jeremy Waddington (London, 1999), 72–104.

43. *Guangdong Nianjian 1999* (Guangzhou, 1999), 173

44. *Zhongguo Gongyun*, No.1 (2001), 19.

45. Meixia Shi, “The Trends of Labor Relations in the Context of China’s WTO Entrance,” in *Labor Relations and Labor Policy in the Context of Globalization*, ed. Kai Chang et al. (Beijing, 2003), 59–71.

46. Qiao and Jiang, “An Analysis of the Labor Disputes and Labor-related Mass Incidents in the Process of Marketization.”

47. Liqun Wei and Changfu Hang, *Survey and Research Report on Migrant Workers in China* (Beijing, 2006).

48. *Renmin Ribao*, March 28, 2006.

49. MLSS and the State Bureau of Statistics, *The Statistical Bulletin of the Development of Labor and Social Security Undertaking in 2006* (Beijing, 2007).

50. *Renmin Ribao*, March 28, 2006.

51. MLSS, *An Investigation Report on the Shortage of Peasant Workers* (Beijing, 2004).
52. The State Council, *The Notice on Doing a Better Job Concerning the Employment Management of and Services for Migrant Workers* (Beijing, 2003).
53. *Renmin Ribao*, March 28, 2006.
54. During the formulation of the Labor Contract Law, the most controversial issue concerned the guiding principle of the Law. Two competing groups formed. While one group argued that the Law should give top priority to the legal protection of labor, the other group fought for the equal treatment for both employers and employees in light of the spirit of contract. Meanwhile, business communities lobbied very actively as they worried that stricter contract requirements could raise costs and give them less flexibility to hire and fire employees. Some foreign chambers even warned that the strict regulations could force foreign companies to reconsider new investments or discontinue their activities in China because of possible cost increases. In order to pacify the foreign investors, the final version of the Law modified some controversial provisions in the draft laws. The debates around the Law were extensively covered by the Chinese media, and it is easy to find online information on the drafting of the Labor Contract Law.
55. Regarding the impacts of the exposure of forced labor in the brick kilns in Shanxi Province on the making of Labor Contract Law, please refer to "Comments Made by the Members of the Standing Committee of the National People's Congress on the Draft Labor Contract Law, June 24, 2007." http://www.npc.gov.cn/npc/xinwen/2007-07/03/content_368454.htm
56. Zhinian Ye and Jinsen Li, *A Discussion of the Legal Protection of Migrant Workers' Labor Rights*, http://www.law-lib.com/lw/lw_view.asp?no=7502&page=3 (accessed January 23, 2008).