

# Exploring the Improvement of Labor Standards in China

*A Case Study based on Fieldwork Conducted in Three  
Enterprises in Xiaoshan District of Hangzhou City in Zhejiang  
Province*

Kjersti Hetland



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# Abstract

China's rapid economic development during the last 30 years has been largely driven by the employment of cheap labor in labor-intensive industries. Millions of farmers have migrated to the bigger cities to work in the modern economy. Cheap labor has turned China into the biggest exporter and the second biggest economy in the world. However, it has also come at great costs. Chinese workers have been working for many hours under rough conditions and for a lousy pay. Now, signs are indicating that the workers no longer are willing to settle for anything. The number of labor disputes has risen at a rapid pace in recent years and factory managers on the east coast are reporting that they are having a harder time finding workers. Both the government as well as factory managers are now trying to find ways to maintain social stability as well as creating incentives to keep workers in the manufacturing industries. This thesis explores some determinants for improvement of labor standards in China, by focusing on the newly established labor laws, the role of the trade union and collective bargaining, CSR and decrease in surplus labor. It is a qualitative case study and the main analysis is based on fieldwork conducted within three enterprises in Xiaoshan in Zhejiang province. The data collected during my fieldwork consists of in-depth interviews with workers, trade union representatives and managers, participant observation, and primary literary sources.

All in all, the data collected suggests that the decrease in surplus labor, and the lack of skilled workers, gives some workers more bargaining power, however, this is not the case for all. I will argue that the weak position of the trade union makes it challenging to improve the situation for the workforce as a whole.



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I take full responsibility for any mistakes in this thesis.





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# 1 Introduction

- *Labor in China is no longer cheap.*

- Personal communication with the assistant manager at a factory in Xiaoshan.

Few areas in China can serve as a better proof of the overwhelming economic growth that China has experienced during the last 30 years of reform and opening up, than the Yangtze River delta. Nothing impressed me more during my first trip to China in 2005, than the view from the Jin Mao Tower, at the time the tallest skyscraper in Shanghai. The huge area with endless rows of high rising buildings on the east side of the tower had been non-existent only 15 years earlier. This incredibly fast development has impressed me again and again while traveling around on the east coast of China, and it impressed me again when I came to Xiaoshan, in 2011.

Xiaoshan, former a small city in its own right, but now a city district of Hangzhou in Zhejiang province, is located in the Yangtze River delta. In just two decades, Xiaoshan has been transformed from being a small city dominated by agriculture, to becoming an industrial hub. Where farmers just a few years ago were ploughing their land, rows of factories have been built and several highways have been constructed to facilitate for the local industry. Up to the beginning of the 1990s there was only one ferry that crossed the river over to Hangzhou, today there are nine bridges. One of China's biggest airports has also been built here, in addition to railroads with high-speed trains going 300 km per hour to Shanghai.

The economic success story of Xiaoshan has been largely due to the huge amount of migrant workers working in XiaoShan's many factories. They have been attracted by the envisioned possibilities found here; a higher income and a brighter future. But this is however not exclusive for Xiaoshan. Since the Chinese government started to loosen up on the household registration system in the 1980s, and made it easier for the rural population to travel to urban

areas to look for work, as many as 150 million people have migrated (CLB, 2012a). Most of the migrants have travelled to the east coast, the area in China where economic reforms were first initiated and which has been the main destination for foreign and governmental investments. But this constant flow of migrant workers has also made it possible for companies on the east coast to keep salaries low and pay little attention to labor standards. Non-payments, accidents in the workplace and long working hours have all been common problems (Brown and O'Rourke, 2003, Chan, 2001).

Cheap labor has been China's comparative advantage and one of the keys to China's impressive economic development during the last 30 years, but it has also come at great costs. The number of labor disputes has increased rapidly in recent years, and the Chinese government is now faced with a huge challenge of maintaining social stability among the Chinese workforce (Chang, 2009).

In my thesis I explore two interconnected research questions, namely; what are the determinants of labor standards in China and how can labor standards be improved?

The aim of this study is to contribute to the field of labor studies in China, by exploring which factors that motivate or push employers to improve labor standards within an enterprise. The analysis is mainly based on interviews with employers and employees done during my fieldwork, which I conducted in three enterprises in Xiaoshan district in the city of Hangzhou, and it is as such a qualitative study. Much of my Chinese material is primary literary sources which I got access to during my fieldwork. These written sources are not included in the bibliography because I have to keep the companies I studied anonymous. Secondary literature will also be used, mainly to provide a theoretical framework for the discussion.

Xiaoshan is one of the most economically developed areas in China, and my hypothesis was that labor standards are first likely to begin improving where economic development has come farthest. In Xiaoshan I talked to employers and employees to find out more about the situation there; whether or not labor standards have improved in recent years, and what the reasons for this are if this is at all the case. My focus is especially on four areas; labor laws, the role of trade unions, corporate social responsibility (CSR) and decrease in surplus labor.

Although the Chinese Communist Party (CCP) is still proclaiming that they are protectors of the proletariat, the government has not been diligent in protecting the workers from the pressure accompanying a more capitalist society. In the quest for attracting foreign investments and an increase in GDP, the Chinese government has often sided with the management of the companies rather than the workers and it has failed to sufficiently enforce regulations that could protect worker rights and welfare (Brown and O'Rourke, 2003).

The All-China Federation of Trade Unions (ACFTU), the only legal trade union organization in China (ITUC, 2010), has as a party-state organ also failed to stand up for and protect worker rights. The ACFTU was founded at a time when workers and employers at least in theory were seen as playing on the same team. With the reforms the employers have become more powerful and with this the role of the trade union has also become more vague. The ACFTU was never an organization that stood in opposition to the employers and it has failed to learn how to play this role in a time when the employers often are the ones oppressing the workers. Because the ACFTU is a part of the party-state apparatus, it also has to follow the party line. As long as the party line has been to increase GDP and attract foreign investment, its mandate to protect the rights of workers has been limited. With the increase in the number of labor disputes in recent years, the ACFTU's role to maintain social stability in the workplace has become even more important, but they have usually sided with the management rather than the workers when disputes erupt (Chen, 2003, Howell, 2003).

To join or form an independent union is still considered illegal. Establishment of independent unions and NGOs fighting for worker rights has also been suppressed by the Chinese government (Brown and O'Rourke, 2003).

Irrespective of the limited role of Chinese trade unions in improving labor standards, there are signs of other factors that could lead to improved labor standards in China.

First of all, the low labor standards and bad working conditions in China have evoked international pressure. With a more global economy, workers elsewhere in the world, especially in the West, fear that poor labor standards in China can have negative consequences for labor standards in their own countries. Customers in the West buying products produced in China have also begun to care more about how the workers are being

treated. Because of this, several foreign companies that manufacture their products in China have started to care more about their Corporate Social responsibility and as a consequence started to introduce codes of conduct, regulations that are supposed to guarantee that their products are produced under humane conditions (Brown and O'Rourke, 2003, Brown, 2010, Chan and Sui, 2007).

Secondly, in response to both domestic and international pressure, the Chinese government has in recent years introduced new labor laws. These laws attempt to meet worker needs, so as to maintain social stability; while at the same time maintain economic development and economic competitiveness. Since the introduction of the Labor Law in 1994, there has been a constant progress in labor legislation seeking to find a balance between, providing a worker safety net, promoting social and political stability, as well as address the often contrasting effects of the economic development (Brown, 2010). Except for freedom of association, and the right to strike, the newly introduced laws give Chinese workers rights that are nominally comparable to those enjoyed by workers in the West. But because of the lack of enforcement, the real effects of these laws have been questioned (Brown, 2010, Brown and O'Rourke, 2003).

Thirdly, there have in recent years been several newspaper reports in China saying that the steady flow of migrant workers coming to the east coast looking for work is decreasing. Factories have a harder time finding workers that are willing to work for low wages and this force them into increasing worker salaries and improving working conditions to attract new employees (Huang and Jiang, 2010). Also, partly in response to the many disputes, the local governments in almost all provinces have raised the minimum wage (CLB, 2012c). Liu Kaiming, the leader of the Chinese NGO, ICO, which is fighting for worker rights, argues that what we see today is the rise of a new generation of migrant workers; a generation that grew up under better conditions than their parents. This generation has not experienced hunger, and has higher demands and expectations than simply to fill their stomachs. This generation has more rights and they are also more aware of them and eager to use them. Many of the labor disputes we have seen in the last few years have been initiated by this new generation of migrant workers, he claims (Interview with Liu Kaiming, 18.11.2011).

In Xiaoshan I met employers who were complaining about this new generation of migrant workers, claiming they are more demanding in terms of wages and other benefits, but less

interested in working long hours and under rough conditions. This could indicate that Chinese workers today are less tolerant of bad working conditions and that the pressure to improve labor standards will become even greater.

There are many factors that one has to consider when talking about improvement of labor standards in China, and this thesis does not aim at covering all of them or finding one solution to the problem. The aim is rather to get a better understanding of what is already being done, and to explore if these efforts motivate or push employers to improve labor standards; whether or not the new labor laws, CSR demands from foreign customers, a decrease in surplus labor, pressure from trade unions, or last but not least, the workers themselves can actually bring a change to the better.

## **1.1 Outline of the Thesis**

Chapter two will introduce the methods used. I have chosen case study as a research strategy and fieldwork as my main method. How my fieldwork was conducted in practice will be explained in detail in this chapter. Chapter three will present the theoretical approach of my thesis. The theoretical approach is concerned with defining the concept of labor standards as well as introducing the labor standards debate. Furthermore it will focus on three determinants for the improvement of labor standards; worker participation, CSR and structural changes with an emphasis on decrease in surplus labor. Chapter four will take a closer look at the historical development of labor relations in China, from the Mao era and up till today. Here I will particularly focus on labor laws, the role of the official trade union, the adoption of CSR as well as the recent decrease in surplus labor, the rise of a new generation of migrant workers and lack of skilled workers. In chapter five I will present my findings from my fieldwork. In chapter six I will conclude, here I will emphasize that the lack of skilled workers provides some workers with more bargaining power, however due to the restrained independence of trade unions, this newly gained bargaining power is only limited to parts of the Chinese workforce.

## 2 Methods

My own motivation for writing about the improvement of labor standards in China can be traced back to 2009 when I myself was an employee at a Chinese enterprise in China. For me, as well as for my Chinese colleagues, the pay was low and the working hours, in periods, far too long. Through conversations with my Chinese colleagues I gained an insight into frustrations that I have had a hard time forgetting. My colleagues were very unhappy about their own situation, but they did not see a way of changing it. The problem was not only the manager, who almost forced them into working overtime without compensation. Neither was it the fact that when the workers tried to organize themselves, it was immediately reported to the management by spies who the manager had placed among them. The big problem was that they did not see an alternative. The manager always had people waiting in line to replace them, and quitting the job would not mean that they would find a better one. The problem, as I saw it, was not only linked to the enterprise, but rather it was a result of broader social and economic problems in the Chinese society.

This experience made me want to know more about what determines labor standards in China and whether there are places in China where the situation for workers has already started to improve. In order to explore these questions, I have in my thesis chosen to narrow it down and focus on a particular case; the improvement of labor standards in three enterprises in one of the most economically developed areas of China; Xiaoshan.

### 2.1 Using Case Study as a Research Strategy

*“All case study research starts from the same compelling feature: the desire to derive a (n) (up)-close or otherwise in-depth understanding of a single or small number of “cases”, set in the real-world contexts” (Bromley, 1986 in Yin, 2011:4).*

To answer the research questions I have chosen would be an almost impossible task if I was aiming at covering the entire Chinese society. There are huge economic, social, political and even cultural differences between provinces, cities and villages inside China. When studying



an issue that touches upon all these four areas, needless to say, the answers one finds will differ according to where one conducts one's study.

The findings are also very much dependent on time. The Chinese society changes at a rapid pace, and the data presented in this thesis, might differ if somebody else were to conduct research within the same enterprises, a year or even a few months later.

How then can the findings from one case study of labor relations in one small area of China, conducted for the duration of two months in 2011, give any reliable answers to how labor standards in China can improve?

The aim of a case study is not necessarily to find concrete answers, but rather to offer new variables and questions for further research. According to Robert K. Yin (2011), case studies are generalizable to theoretical propositions and not to populations or universes (Yin, 2011:4). The aim of this study is not to find the answer to how labor standards in China can be improved, but rather to use the case study to see how the situation in Xiaoshan corresponds to theories on how labor standards can be improved.

According to Robert K. Yin (2011), case study research assumes that examining the context and other complex conditions related to the case being studied is integral to understanding the case. A case study normally analyzes the interplay of variables in order to provide as complete an understanding of an event or situation as possible (Yin, 2011). In order to get a better understanding of labor relations in Xiaoshan, this thesis will also give an introduction not only to the debate on labor standards, but also to the former and current situation of labor relations in China.

Case study research allows you to make use of several methods (Yin, 2011), and this is also the case with my thesis. I will make use of both primary and secondary sources. Secondary literature, both Chinese and English, such as books, academic articles, newspaper articles and publications from both Chinese NGOs and international labor organizations, will be used to get a theoretical understanding of the issue. The main analysis will be based mostly on primary sources, written and oral, collected during my fieldwork. This material is collected by using several methods; semi-structured interviews, participant observations as well as primary literary sources, such as labor contracts, reports from foreign customers on working

conditions, information about the enterprises, all in Chinese. I will further explain in detail how I conducted my fieldwork.

## **2.2 Fieldwork**

Early in the process I knew that I wanted to do a qualitative study where fieldwork would be my main method. Although much is already written about labor standards in China, I knew from experience, that by staying in China and talking to people that are directly effected by the situation one studies, one can obtain in-debt information that can not be found elsewhere. Because things are changing so rapidly in China, published material also quickly becomes outdated, to get the best understanding of what is happening in China, I was of the impression that one has to go there by oneself.

I conducted a two months fieldwork in October-December in 2011. I stayed in Xiaoshan, a city district of Hangzhou in Zhejiang province. I also spent a few days in Shenzhen where I interviewed Liu Kaiming, the founder and leader of the Chinese NGO Institute of Contemporary Observation, which are working for labor rights.

The reason for choosing Xiaoshan was first of all that it is located in one of the most economically developed parts of China. And my hypothesis was that the improvement of labor standards would happen first where the development has come the furthest. The second reason was of a more pragmatic character. In Xiaoshan I knew people who were able to get me in touch with the management of different enterprises, and that could help me get access into factories.

During my stay in Xiaoshan I studied three enterprises, a privately owned Chinese company, another with owners in Hong Kong, and finally, a European-Chinese joint venture enterprise. During the first month I worked at the privately owned Chinese company from Monday until Wednesday and then at the European-Chinese joint venture company from Thursday until Friday. At the former, they treated me as an intern at the HR department. Because of this I was given access to documents regarding human resources, such as salaries, social insurance, working hours and so on. The HR department was also very helpful in answering my

questions regarding the current situation at the factory and recruitment of new employees. I also shared an office with the chairman of the trade union at the enterprise. During my whole stay at this enterprise I had several conversations with him and he was very open in telling me about the trade union's work both within the enterprise, but also in China in general. He was also helpful in providing me with documents about the trade union's work. At the factory I interviewed a total of 11 workers. It was the HR department that set up these interviews for me. They were a little hesitant at first, saying that there might be workers that would say negative things about the factory, but after agreeing on that I would not publish any names, neither the name of the factory or the workers I interviewed, they agreed to let me do it. I got my own office where I could conduct the interviews, and I think that was quite necessary to make the workers feel more relaxed. On my request, the HR department helped me find interviewees with different backgrounds. I interviewed 8 men and 3 women. Six of the workers were in their twenties, two were in their forties, two were in their fifties and one was over sixty. Four of the workers were migrant workers; four were from nearby villages in Zhejiang, whilst three were from Xiaoshan. Nine of the interviewees were factory workers, while two were office workers.

All of the interviews were done in Chinese. I have been a Chinese student since 2005 and I have lived in China for two and a half years, but when I first arrived in Xiaoshan it had been a while since I had practiced my Chinese. The language barrier was thus the biggest problem during my first interviews. What made the problem bigger was that some of the workers I interviewed were migrant workers, and they spoke a mandarin with an accent that made it harder to understand. The local workers were also difficult to understand, since the Xiaoshan dialect is very different from mandarin, which is the dialect that I have studied. But after a few interviews and after staying in Xiaoshan for a while, only communicating in Chinese, the language barrier thus became less of a problem.

The language barrier was something that had worried me before I went on my field work, but another thing that I also thought might be a problem was whether or not the workers would open up to me. Labor rights have been a sensitive topic in China and considering how powerful the management often is within Chinese companies, I was afraid that the workers would be afraid to speak their mind, especially when it came to criticizing the management. This however did not turn out to be such a big problem, although it varied from worker to worker. I found it the hardest to interview young male factory workers, as they were

generally only providing me with very short answers. I don't know if the reason for this was that they were afraid to answer these questions, if they were too shy or if it was just because they did not have an opinion about the things I asked them about. This was actually something that the assistant manager had warned me about beforehand, arguing that the uneducated factory workers would probably not understand or have an opinion about the things I was asking about. This way of thinking might be a common prejudice in the Chinese society, but when conducting my interviews I found it much more fruitful to talk to young (especially female) university graduates or reemployed retired workers who had long work experience.

When conducting my interviews I used an interview guide, but depending on the worker I was interviewing, I often added questions there and then. The interviews thus varied from lasting about twenty minutes to two hours. I did not use a recorder because I was afraid that it would make them more nervous, but I took notes during and wrote down everything I could remember when I was done.

In addition to the interviews with the workers, conversations with the chairman of the trade union and the HR department, I also had several conversations and three long interviews with the assistant manager. Since she had been working for many different companies, both Chinese and foreign, her knowledge was very useful to me. She was also very open and helpful in answering my questions and discussing my observations.

When studying the Chinese enterprise I also had other possibilities to observe the situation and to get in touch with the workers in a less formal way. I took the company bus to and from work and I ate in the canteen together with the workers every day. And I do believe that I because of this can say that I was not presented with a fake picture of the real situation, since the management was giving me free hands to find out what I needed to find out while I was there.

As mentioned I also stayed at a joint-venture enterprise two days each week during my whole stay in Xiaoshan. This was a joint-venture company that operated in the same industry as the first factory I stayed at. Although they did not have a factory, I found it interesting to compare the two. In the company I worked as an English teacher. My students were mostly young people my age and in class we discussed current events in Chinese society. This was

very interesting for me, because it gave me an impression about what young people in Xiaoshan cared about and what was important for them. In addition to teaching English I also conducted six long interviews with employees. These interviews were done in English. I also had a few conversations with the leader of the HR department. As with the Chinese factory, I also here got access to the documentation that I requested.

The last factory I stayed at was a Hong Kongne-owned textile factory. Here I only stayed for three days, but I was allowed to interview six workers and had a short interview with the manager.

The manager chose the six workers I interviewed. I interviewed three men and three women. Five of them came from Xiaoshan, whilst one came from Hebei. Five of the workers were over forty years old, and one was in his twenties.

The reason for me only staying there for three days was that I got the feeling of being in the way and that the management was not too happy about having me there. I had been invited to this factory through a friend of mine who knew the manager. This put me in an uncomfortable situation because I would have to behave in such a way that it would not result in any negative consequences for my friend.

I also got the feeling that the six workers whom I interviewed were chosen by the manager, since they had all been working for the company for several years and were overly enthusiastic about the conditions at the factory. I had also asked the manager if I could interview six factory workers, but two of them were working in the administration.

I did however get access to the documentation that they provide their foreign customers about working hours and working conditions, but no information about the workers' salaries. Although I wish I could have stayed there longer and talked to more workers, I still think that staying at this textile factory was very fruitful. I had heard at the other factory and from friends in Xiaoshan that the worst working conditions in Xiaoshan were to be found in the textile industry, to see one of these factories on my own was therefore very interesting.

## **2.3 Validity and Reliability**

I interviewed in total 23 workers. Because I sometimes had problems understanding them, one can question the validity of the data I have collected from these interviews. Here I would like to point out that the data I have used in my thesis have been information that I am sure that I have understood. Secondly, because all three companies have provided me with literary documentation, I have been able to compare this with the information I have gotten from the interviews. I have also gotten great help from friends in Xiaoshan who spoke both Chinese and Norwegian and who had great knowledge of Xiaoshan. With them I have been able to discuss my findings and get an explanation whenever there were things I did not understand.

All the informants have been informed that the information they have given me can or will be used in my thesis. They have also been informed about the topic and the purpose of the thesis. All my informants, besides Liu Kaiming, are anonymous in my thesis on request from the management of the three companies. This is also the reason why I do not provide any names or detailed information about the enterprises.

# 3 Theory

## 3.1 Defining Labor Standards

Labor standards, as defined by the International Labor Organization (ILO), “embrace numerous aspects of labour markets, ranging from minimum wages and equal pay to health and safety regulations. These standards can be classified into six main categories:

Respect for fundamental human rights;

Protection of wages;

Employment security;

Working conditions;

Labour market and social policies;

Industrial relations.”

(OECD, 2002)

The concept of labor standards trace its roots back to the early 19<sup>th</sup> century and was initially a response to the negative effects caused by the industrial revolution and the transformation from manual to factory based labor (Liu, et. al, 2003).

The early debate on labor standards culminated in the establishment of the ILO in 1919. The ILO was founded to create an international code on labor standards. The motives were originally humanistic and based on the same ethical grounds as human rights; some rights are universal for all human beings and these rights should also apply in the workplace (Banerjee, 2005, Liu et. al, 2003). By agreeing on one set of internationally recognized labor standards, countries could improve the welfare of their workers, and avoid “sweating”, without losing their competitiveness (Elliott and Freeman, 2003).

Since the establishment of the ILO in 1919 the debate has continued and labor standards have frequently been a topic in national and international assemblies. Today the ILO, with its 185 member states, is still the primary international organization in charge of developing labor standards. It is organized on the tripartite principle, which means that there are

representatives from the government, employers and workers from each member state, and they all have their own individual vote (ILO, 2012). China was one of ILO's founding members, but after the revolution The People's Republic of China did not take fully part in ILO's activities until 1983 (China.org, 2009). The officially recognized trade union ACFTU serves the role as the Chinese workers' representative.

The ILO continually draws up documents setting out basic principles and rights in different areas. They are either conventions, which are legally binding international treaties that may be ratified by member states, or recommendations, which serve as non-binding guidelines. In many cases, a convention lays down the basic principles to be implemented by ratifying countries, while a related recommendation supplements the convention by providing more detailed guidelines on how it could be applied. Recommendations can also be autonomous, i.e. not linked to any convention. The ILO has no international jurisdiction, enforcement of the principles and rules is left to the individual member states, which have ratified the conventions and incorporated them in national law (Pangsapa and Smith, 2011: 59).

It must be emphasized that there are considerable differences between nations with regard to their ambitions and capabilities to establish and enforce labor standards. Western Europe has been at the forefront of promoting labor standards from early 19<sup>th</sup> century and onwards. As a result of the negative effects of industrialization, England was the first country to establish legislation on the legal limit of working hours as well as minimum age of employment. Germany was a pioneer in establishing laws connecting social security to labor relations. Up to the 1970s, labor legislation in Western countries grew more comprehensive in parallel with the development of social welfare states. Although some countries, for example the Nordic countries, were more ambitious than others, this process did not create big differences in competitiveness among the industrialized countries, then dominating the world markets (Engerman, 2003).

However, from the 1980s, following the end of the Cold War, the gradual opening of world markets and the emergence of new industrial countries in the Third World, the process of developing a universal set of labor standards has become much more challenging. The former communist countries and the developing countries entered international competition with labor standards at a much lower level, at least in practice, than the established industrialized



world. In some cases these already poor standards even deteriorated as communism was replaced by an often brutal form of capitalism (Crane, Matten and Spence, 2008).

As a consequence of this, the global debate on labor standards has intensified in the last decades. A central point is to what extent there should be a universal set of standards that can be enforced, or whether one should accept different standards in different countries.

Considering the big difference in economic development between regions and individual countries, finding one set of labor standards that could be “harmonized” around the world is a highly controversial issue (Liu et. al, 2003), which I will examine more closely in the next chapter.

However, the difficulties have not prevented the international community from reaching agreement on some basic principles.

In 1998, four core labor standards were enshrined in the ILO Conventions, and reaffirmed in the ILO Declaration of Fundamental Principles at Work. The declaration states that these four core standards should be respected and promoted by all countries, regardless of their level of development. They can be viewed as human rights for workers that must be protected in all countries, under any circumstances (Elliott and Freeman, 2003, Liu. et. al, 2003).

The four core standards are:

1. Freedom of association and the rights to organize and bargain collectively over wages and working conditions (Conventions 87 and 98).
2. Elimination of all forms of forced and compulsory labor except corrective labor (Conventions 29 and 105).
3. Elimination of child labor (children aged 15 and below) (Conventions 138 and 182).
4. Rights to equal remuneration and elimination of discrimination in respect of employment and occupation (Conventions 100 and 111) (Elliott and Freeman, 2003, Liu et. al, 2003).

From principle to practice is a long way, and although these are considered as universal core labor standards, they still, to various degrees, attract controversy.

Firstly, abolition of forced labor has not been controversial (at least not in Western countries) since the US Civil War (1861-65), which put an end to slavery. Although the practice might

not yet have been fully eradicated in some places, no country will defend forced labor in principle (Elliott and Freeman, 2003).

Secondly, prohibition of discrimination is from a purely economic point of view seen as enabling larger parts of the population to be employed and further increase economic growth. Still, in many countries members of certain social groups, such as women or religious and ethnic minorities are often discriminated in practice. The problem is thus more of a socio-cultural than economic character (Elliott and Freeman, 2003).

Thirdly, child labor is a highly disputed issue in some countries. Child labor is often a consequence of poverty, since poor families are dependent on their children to earn enough to provide for the whole family. The elimination of child labor is therefore a labor standard which can be costly and socially challenging to achieve in some societies (Elliott and Freeman, 2003).

Finally, however, freedom of association and collective bargaining might be the core standard that encounters most disapproval and resistance. Many governments and companies see trade unions as a threat, because unions and collective bargaining increase workers' power relative to that of the state or the employer. Moreover, by giving workers a voice in the workplace, it can serve as tool to address and achieve other labor standards. Thus, it is not only considered a labor standard in itself, but also a determinant for improvement for the workers in many areas not explicitly covered by the core standards, although they are well within the wider ILO definition of labor standards cited in the beginning of the chapter. (Elliott and Freeman, 2003).

Typically, trade unions can address standards that are more directly linked to the cost of production, such as wages, work hours, social security, safety and environmental conditions. Because these labor standards can increase costs, they are often referred to as “cash standards”, and therefore highly disputed in many cases. The use of “cheap labor” is for many developing countries their comparative advantage, and governments and firms in these countries tend to fear that an aggressive promotion of cash standards can reduce their competitiveness (Elliott and Freeman, 2003).

Anita Chan maintains that when it comes to discussing labor standards in China, cash

standards are just as important for the worker welfare as core labor standards. She claims that cash standards are of the greatest concern for the workers themselves, and that violations of these are often the reason behind worker protests and unrest (Chan, 2001: 225-226). My own fieldwork confirms this, and in my thesis I have therefore chosen to focus mainly on cash standards, more specifically wages, working time and social insurances.

## 3.2 The Labor Standards Debate

*“The failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve conditions in their own countries.” ILO’s founders*

*“To build obstacles on the developing countries’ path out of poverty would be the crime of the century” The Economist, 1 October 1994 (Vidal and Raynauld, 1998)*

The scope and implementation of labor standards have been a concern for governments and social reformers around the world for more than two hundred years, but the range and urgency of these matters have increased in the last three decades. In this period developing countries have appeared on the global market, using cheap labor as one of its main comparative advantages (Liu et al, 2003).

Globalization has facilitated this practice. Barriers to the free flow of goods, services and capital have been lowered or taken away altogether. Big corporations can now easily operate across borders and in a short time move their operations to the locations that can offer the lowest production costs. Both developed and developing countries are pressured into keeping labor costs low and productivity high (Sherer and Smid, 2000).

The main reason for cheap labor being used strategically as the most significant comparative advantage by many developing countries is that they often have an abundance of unskilled labor, but little capital. To attract the capital needed for further development, the unskilled labor force is employed in great numbers in labor-intensive industries.

As a result of globalization more countries are competing for investments and jobs, and their often low labor productivity is more than compensated by low wages and low labor standards (Liu et. al, 2003, Pangsapa and Smith, 2011).

The enormous differences in wages and working conditions between developed and newly industrialized countries have caused alarm in the Western world, by trade unions, social activists and sometimes governments as well. They fear that the bad conditions for workers in the developing countries could lead to a so-called “race to the bottom”, where their own countries are forced to follow suit or face massive deindustrialization and unemployment. This could have serious social and political consequences (Liu et. al., 2003, Pangsapa and Smith, 2011).

To avoid this, labor standard advocates have increased pressure to implement internationally recognized labor standards. Trade unions and social activists in developed countries have actively lobbied their governments to press for multilateral agreements in this field, and to impose trade sanctions on those who violate labor standards (Liu et. al, 2003).

On the other hand, many governments in the developing countries, supported by neoliberal economists and multinational companies, have argued that the implementation of international labor standards is a protectionist weapon, promoted by the more advanced countries. They are afraid that harsh implementation of labor standards, particularly “cash standards”, can threaten their comparative advantage (Elliott and Freeman, 2003). A common argument is that overly ambitious standards can impede economic growth and thus prolong poverty for more people. And considering the starting point in many developing countries, even standards that are poor from a Western point of view can represent a substantial improvement for workers in these countries.

Opponents of strong and universal international labor standards also claim that the fears implicit in the “race-to-the-bottom” theory are exaggerated. This remains to be seen. It is a fact that workers have lost much of their relative economic position in Western countries over the last decades, and that massive deindustrialization has taken place. However, at least there might be a case for a more optimistic outlook.

According to Liu et al (2003) the lower labor standards in developing countries is not a conscious choice by the countries concerned, aimed at raising their export performance, but rather a product of their wider economic and social conditions. Following this argument, developing countries have adopted low labor standards primarily as a result of low labor

productivity. Thus, with an increase in labor productivity, economic performance and overall growth, working conditions and labor standards will gradually improve and we will probably see a convergence between new and old industrialized countries. The bottom will thus not be the end station (Liu et al, 2003:194).

On the other hand, Vidal and Raynauld (1998) claim that the improvement of labor standards does not have to be so costly that it threatens the comparative advantage of developing countries. The cost of labor standards are often measured in the number of jobs lost, however, these writers argue that if labor standards are carefully selected by governments and are adjusted to incomes, their cost in terms of job loss can be much lower than what might be claimed by labor standard opponents. The true challenge according to them lies in determining the nature and extent of government intervention that would be appropriate (Vidal and Raynauld, 1998:25). They furthermore maintain that labor standards such as a minimum wage can be beneficial, but that wage levels must be set in the context of country-specific circumstances (Vidal and Raynauld, 1998:26).

Considering the importance of adopting labor standards that are country specific, I will now move on to discuss the significance of worker participation in determining the apt level of labor standards.

### **3.3 Active Struggle and Worker Participation**

When it comes to the struggle for improved labor standards in the developing countries the actors involved are often social activists, trade unions, and consumers from the developed countries, as well as government officials, economic researchers, and international institutions. Workers from the developing countries are, however, remarkably seldom heard from. According to Elliott and Freeman (2003) one reason for this is that many developing countries, particularly those with less democratic governments, do not provide the legal protections necessary for freedom of association and collective bargaining (Elliott and Freeman, 2003:2-3).

Elliott and Freeman (2003) argue that if workers in poor countries had a greater opportunity to protect their own interests and voice their concerns, there would be less need for activists

from advanced countries to intervene on their behalf (Elliott and Freeman, 2003:2-3). In the advanced countries, workers and trade unions have traditionally been at the forefront of struggles to improve working conditions, either through collective bargaining or legal enactment and enforcement. For workers to be able to voice their concerns and preferences, so that decent labor standards are created and enforced, trade unions as well as collective bargaining are considered as essential tools.

A trade union can be defined as “an organization consisting predominantly of employees, the principal activities of which include the negotiation of rates of pay and conditions of employment for its members” (Trade Union Consensus).

Collective bargaining can be defined as “a process of negotiation between the representatives of an employer and of workers. The intention of these negotiations is to arrive at a collective agreement that will govern the employment relationship” (Hayter, 2011:1). Wages, working time and other working conditions are issues that are typically covered by collective agreements. Through collective bargaining work-related issues can be addressed in such a way that the interests of all parties concerned are accommodated (Hayter, 2011:1). In the so-called Nordic model, responsible participation on all levels by the trade unions is considered a central feature, and essential to maintain a climate of trust and cooperation in society.

The origins of trade unions and collective bargaining can, as with labor standards, be traced back to the industrial revolution. The transition from manual to mechanized factory-based production dramatically increased the intensity of production and transformed labor relations. At the same time, demographic changes and the steady flow of people from the countryside to industrial cities led to a rise in the numbers of people available to work in factories. Workers sought to protect themselves from the effects of new production methods and increased competitive pressures by forming organizations capable of representing their interests to employers and the government (Hayter, 2011:1).

Industrialization brought with it problems of child labor, long working hours, low wages and unsafe working conditions. Facing these problems the early trade unions demanded improvements in wages and working conditions. Since they had the power to withdraw all labor in support of their demands, employers could, if they would not fight them violently, bargain with them or face a strike and loss of production. With time, collective bargaining

became normal procedure in industrial relations in most Western countries. Although conflicts still existed, they were as a rule solved through negotiations or accepted means of industrial action (Hayter, 2011:2). However, in some Western countries, notably Great Britain and USA, the 1980s saw a return to a less harmonious climate in industrial relations.

### **3.3.1 Effects of Trade Unions and Collective Bargaining**

Freedom of association and the right to collective bargaining are regarded as core labor standards. They are seen as essential tools for workers to be able to balance bargaining power and negotiate improvements in their working condition. However, despite the fact that the forming of trade unions and collective bargaining enjoys recognition by the international community as fundamental rights, their social effects have repeatedly been called into question (Hayter, 2011:6).

The debate on the social effects of trade unions is as old as the concept in itself. Freeman and Medoff (1984) divides the views of trade unions' role into two main categories; the view of the trade union as a monopolistic institution that has monopolistic power to raise wages, and the view of the trade union as an institution that serves as a collective voice, representing organized workers within enterprises. These two views are also referred to as the two faces of the trade union; the monopoly face and the collective voice face (Freeman and Medoff, 1984: 391).

In the neoliberal discourse the monopoly face of the trade union is often emphasized. In this view trade unions have monopoly power in increasing wages above competitive level. These wage increases have negative economic effects in the way that they reduce the national output and distort the distribution of income. It leads to a decrease in employment and output, thereby harming economic efficiency and altering the distribution of income. When unionized enterprises are forced to increase wages, this leads to a decrease in employment, and the workers who lose their jobs are driven to non-unionized enterprises where the wages are lower. This leads to a difference in income between workers in unionized and non-unionized enterprises (Freeman and Medoff, 1984).

However, arguments against this view claim that trade unions rarely have monopoly over setting wages. The reason for this is that trade unions do not set wages, they bargain for an increase in wages with the management. Furthermore, the ability of the trade union to increase wages depends on the management's willingness to do so. Another argument against the monopolistic view is that trade unions are also concerned about maintaining employment, and therefore they would in most cases not bargain for wages that would jeopardize their member's jobs. Also, if the only mandate of the trade union was to increase wages, they would have a hard time surviving, seeing as non-unionized enterprises would be more competitive and the unionized enterprises would lose out in the competition (Freeman and Medoff, 1984).

Freeman and Medoff (1984) recognize that trade unions might in some case act as monopolistic powers that can threaten their members' employment, but they emphasize the beneficial effects trade unions and collective bargaining can bring to both the management and the workers. They argue that the most important aspect of trade unions is that they provide workers with a voice in decision-making at the enterprise that can be used to improve labor relations, worker participation and managerial performance. This view of the trade union they call "the collective voice face" (Freeman and Medoff, 1984).

In his highly acclaimed book "Exit, Voice and Loyalty" (1970), Albert O. Hirschman points out that societies normally possess two basic mechanisms for handling social and economic problems. The first is the classic market-mechanism of exit-and-entry, in which individuals respond to a divergence between desired and actual social conditions by exercising freedom of choice or mobility. In the labor market, exit basically means for an employee to leave his job, whilst entry means new hires by the firm. By leaving less desirable jobs for more desirable jobs, or by refusing bad jobs, individuals penalize the bad employer and reward the good, leading to an overall improvement in the efficiency of the economic system. As long as the exit-entry market mechanism is viewed as the only adjustment mechanism, institutions like unions are invariably seen as impediments to the optimal operation of the economy (Hirschman, 1970).

The second mode of mechanism is what Hirschman termed "voice". "Voice" refers to the use of direct communication to bring actual and desired conditions closer together. It basically entails that concerned parties discuss the problem in order to solve it. In the labor market, the



worker might go to the employer to voice his concern instead of just leaving his job (Hirschman, 1970). However, as it often might be risky for one individual to raise his concern to the management, workers are often in need of a collective voice to raise their concerns. In modern industrial economies, and particularly in large enterprises, a trade union is the vehicle for collective voice- that is, for providing workers as a group with a tool for communicating with the management (Freeman and Medoff, 1984).

In a nonunion setting, where exit-and-entry is the predominant form of adjustment, the signals and incentives to enterprises depend on the preferences of the workers who are perceived as attractive by the labor market. The enterprise can to a considerable extent ignore the preferences of workers who for various reasons are considered to be less attractive. In a unionized setting, however, the union takes account of all workers in determining its demands at the bargaining table, so that the desires of workers who are highly unlikely to leave the enterprise are also represented (Freeman and Medoff, 1984).

As a collective voice, unions curtail the management's power within enterprises and because of this, worker rights are more likely to be better enforced (Freeman and Medoff, 1984).

The social effects of trade unions show that unions are often associated with a reduction in wage inequality; a larger proportion of compensation allocated to social benefits; less labor turnover, the retention of skills and increased incidence of firm-specific training; improvements in workplace practices and increased productivity (Haytner, 2011).

The World Bank published a survey on the economic effects of unions where they concluded that there is "little systematic difference in economic performance between countries that enforce (freedom of association and the right to organize and bargain collectively) and countries that do not" (Elliott and Freeman, 2003). However, trade unions' influence is largely dependent on the situation in their respective countries (Elliott and Freeman, 2003).

In some countries the forming of independent trade unions is considered as a challenge to the government or the leading classes' hold on power. In other countries, the fear is that the forming of trade unions can lead to an increase in labor costs and reduce production in low-wage, low-productivity activities and thus threaten their comparative advantage (Elliott and

Freeman, 2003). This has impact on the role the trade unions are allowed to play and how much influence they have in negotiating for better terms.

China has not signed ILO's conventions on Freedom of Association and Collective Bargaining. The government controls the only legal trade union organization in China and its ability to serve, as a voice for Chinese workers is limited because of this. I will elaborate this further in chapter 4.

### **3.4 Corporate Social Responsibility**

Globalization has made it possible for multinational corporations (MNCs) to create global value chains, in which MNCs, often located in the developed world, controls a web of suppliers in the developed part of the world. These MNCs are often blamed by social activists and trade unions in the western world for seeking out the locations that can offer the lowest production costs, and consequently pressuring their suppliers into keeping the wage cost low and pay little attention to labor standards. Here it might be argued that it is not the MNCs in themselves that cause low labor standards, but the fact that MNCs operate in developing countries where labor standards are already at a minimum. Whatever the reason, MNCs still receives bad publicity when media reports on violations of labor standards at their suppliers' factories. This pressures MNCs into paying more attention to labor standards all through their global value chains, and this has made corporate social responsibility (CSR) and corporate codes of conduct into hot topics in recent years (Liu et. al, 2003, Pangsapa and Smith, 2011).

CSR can be defined in many ways, but a widely acclaimed definition is that of Archie Carroll's (1979); "the social responsibility of business encompasses the economic, legal, ethical, and discretionary expectations that society has of organizations at a given point in time" (Carroll, 1979 in Crane, Matten and Spence, 2008: 5). In defining CSR, Carroll (1979) argues that one should include a range of social expectations placed on enterprises, and that there are at least four types of corporate responsibilities; economic, legal, ethical and philanthropic. First, one of the primary responsibilities of an enterprise is to produce goods and services in a way that is profitable for its owners; the economic responsibility of the enterprise. Secondly, enterprises are expected to comply by the laws and regulations that

reflect society's values and norms. Third, enterprises are expected to abide by ethical norms of society. Carroll argues that, because norms are not written down in law, they are more ambiguous than legal requirements and therefore more difficult for companies to follow. However, there is a link between legal and ethical responsibilities, because ethical expectations can be seen to predict the emergence of new laws and regulations. The fourth dimension of corporate responsibility set forth by Carroll is philanthropy. Philanthropy is when a business engages in activities that are not expected by the society. This can be activities such as, volunteer work, sponsorship of philanthropic projects or donations to non-profit organizations. Although an enterprise is not considered to be irresponsible if it is not engaged in philanthropic activities, it has become more common for a company to do so (Voiculescu and Yanacopulos, 2011:2).

For MNCs that operates in developing countries, CSR often takes the form of corporate codes of conduct. These are guidelines set by the MNCs in which their suppliers are obliged to follow (Elliott and Freeman, 2003).

### **3.4.1 Effects of CSR and Corporate Codes of Conduct**

Considering the great financial and political power that MNCs have in the global economy, one could expect that the implementation of CSR and corporate codes of conduct can make a difference in improving labor standards. Because MNCs often operate in countries where labor laws are poorly enforced and trade unions are weak, CSR could potentially serve as a substitute (Villiers, 2011).

However, the actual impact of CSR and corporate codes of conduct have been debated, and the issues raise several questions.

The first is related to worker representation. Corporate codes of conduct are normally decided and established at the top level of the corporation, and in many cases the top level of a MNC is located in the developed part of the world. As mentioned, MNCs control a web of suppliers and the question is therefore how one set of codes can fit the heterogeneous group of workers that this web of suppliers consists of? MNCs often operate in different countries and this also

challenges the corporation in finding one set of codes that can be implemented regardless of cultural and economic differences. Because the codes of conduct are not developed and established by the workers themselves, who in theory are supposed to benefit from them, the great challenge lies in finding codes that are in accordance with the actual needs and preferences of workers (Jenkins, Pearson, Seyfang, 2002).

The second question is related to the implementation of corporate codes of conduct. How shall the implementation be controlled and monitored, and by whom? Although the number of corporations that have established codes of conduct in recent years has increased, it does not necessarily mean that it will improve the workers' situation. Elliott and Freeman argue that to make sure that the subcontractors are actually following the codes, they have to be monitored (Elliott and Freeman, 2003: 43). But who should be the ones to conduct the monitoring is a controversial issue. Some corporations are conducting their own internal monitoring, while others pay for independent monitoring by firms that specialize in assessing labor standards, while a few others allow NGO's to do the job (Elliott and Freeman, 2003). NGOs often argue that these monitors have to be conducted by independent parties. If these monitors are conducted by the firm itself, which has an interest in "passing" the factories, there is less reliability in the results that they find.

But whether or not corporate codes of conduct can actually make a difference in terms of improving labor standards, it is argued that the mere presence of MNCs and foreign invested enterprises (FIEs) in developing countries can have a good influence on local labor practices (Liu et. al, 2003).

The first argument is that MNCs and FIEs are a good source of capital for developing countries, and as argued earlier, there are evidence showing that there is a link between economic growth and improvement of labor standards. Secondly, MNCs and FIEs in developing countries may adopt practices that are superior to those in the country in which they operate, because MNCs and FIEs are influenced by the practices used in developed countries. This does not mean that they will necessarily adopt labor standards that are at the same level as in their own country, but that the labor standards will be at a higher level than within the indigenous enterprises. Thirdly, because of this the MNCs and FIEs can also have a positive effect on the indigenous enterprises, by showing which practices that can be used to improve the situation of workers, without losing out in the competition (Liu et. al, 2003).

The main challenge here as well is to adopt standards that are fit for the country in which one operates, and at the same time increase workers' participation, so that the corporate codes of conducts are actually in accordance with the workers' preferences (Liu et. al, 2003).

### **3.5 Structural Changes: Decrease in Surplus Labor**

In the previous sections of this chapter I have looked at how labor standards can improve through regulating the market in various ways. However, many still believe that the best lever for improving labor standards is through economic growth and development. How this can work in practice is sought explained by William Arthur Lewis, in his theory on economic development with unlimited supplies of labor.

Lewis argued that in developing countries the “rapid economic growth in its early stages is driven by the presence of “surplus” labor in the traditional, rural economy and its movement into more productive modern employment in urban areas. The apparently infinite supply of unskilled labor from the rural areas allows rapid modern sector growth to proceed for a considerable while without putting upward pressure on wages” (Lewis, 1954).

According to his theory, which has been named the “Dual Sector Model”, economies in underdeveloped countries normally consist of two sectors, a subsistence agricultural sector and a capitalist manufacturing sector. The agricultural sector is characterized by low productivity, low wages and an abundance of labor. The capitalist sector on the other hand is defined by higher wages, higher productivity, and a demand for more workers (Lewis, 1954).

Lewis argues that an unlimited supply of labor might exist in those countries where the population is so large relatively to capital and natural resources, that there are large sectors of the economy where the marginal productivity of labor is negligible, zero, or even negative. This phenomenon can also be called “disguised unemployment” and normally it appears in the agricultural sector, where there is low productivity. The reason being that the family holding is so small that if some of the family members would have obtained other employment, the remaining members would still be able to cultivate the land. But the

phenomenon of disguised unemployment can also happen in other self-employed sectors as well as in the sectors where people are working for wages (Lewis, 1954).

In the process of industrialization, the modern economy in the urban areas starts to withdraw “surplus” labor from agriculture to the industry. The continuous withdrawal of labor from rural areas causes an increase in per capita land and other resources enough to raise the marginal productivity of labor and therefore of incomes and wages in the rural sector. As a consequence labor supply from rural areas to the modern economy becomes inelastic and higher wages must be offered to induce additional movements of labor into the modern economy. From this point, wages in the industry in urban areas also start to rise. The “turning point in economic development” is the point at which surplus labor in the countryside dries up, and real wages begin to rise (Lewis, 1954).

Lewis maintains that when a country reaches its turning point, other major economic changes also occur. First, the demand for agricultural products increase and this furthermore increases the import of such products. Secondly, the industry in urban areas becomes more capital-intensive. However, this depends on the country’s ability to succeed in structural change towards industries, which can increase profitability despite higher labor costs (Lewis, 1954).

In this process the lack of skilled labor might become a bottleneck. But Lewis argues that this can only be temporary, because if the capital is available for development, the capitalist or the government will soon provide the facilities for training more skilled people. The real bottlenecks for further development, he argues, are capital and natural resources. So long as these are available the necessary skills will be provided as well, although with some time lag (Lewis, 1954).

China started its reform-era with a large surplus of labor in the countryside. After 30 years of rapid economic development, in which cheap labor has been the main driving force, several academics in China have started to argue that China has now reached or is close to reaching its turning point (Garnaut, 2006, Minami and Ma, 2010, Bloomberg, 2010); and findings from my fieldwork show that the lack of labor was a big concern for employers.

## 3.6 Conclusion

How labor standards can be improved is not a question that can be answered easily. As this chapter has shown, the improvement of labor standards is a process that is largely determined by local economic, political and cultural factors. One could therefore assume that how this process evolves will differ from country to country. This is also why the establishment of internationally recognized labor standards is such a controversial issue.

However, this chapter has also explored some general theories on determinants that are considered important for labor standards to improve.

The concept of labor standards first appeared when workers started to engage in mechanized labor. The industrial revolution brought with it harsh working conditions, and labor relations that gave employers almost ultimate power over its workers.

It was in light of this that the first worker movements started to evolve. Many of the rights gained by workers in the West have been won through worker solidarity and collective bargaining. But a prerequisite for higher salaries and decreased working hours in the West was also higher productivity, and economic development, which furthermore resulted in a change from labor-intensive industries, to knowledge-based and high tech industries.

The theories explained in this chapter are largely based on experiences with labor relations in the West. The question is whether these theories also can apply to the Chinese society.

In order to get a better understanding of what the situation for workers in China is today, the next chapter will explore labor relations in China, both its history and its recent developments.

# **4 Background: Labor Standards and Labor Relations in China**

China has been very successful in using cheap labor as its comparative advantage in order to attract foreign investments, in the last 30 years of opening up and reform. In 2010, China became the second biggest economy in the world. In addition, China has also been the world's biggest exporter since 2009 (Bekkevold and Kristoffersen, 2012:13). It would be no exaggeration to claim that it is due to the sacrifices made by millions of Chinese workers that China again has become an important player on the global market.

This chapter will give an introduction to both the history and current events in labor relations in China. The aim is to give the reader an understanding of what the situation is and what challenges and possibilities that exists to improve labor standards in today's China.

## **4.1 Historical Overview of Labor Relations in China**

### **4.1.1 Labor relations in the Mao Era**

A popular slogan from Mao during the pre-reform era was "The working class takes leadership in everything". Pursuing a Stalinist economy, the CCP claimed that all assets and property belonged to the people. In this view, the workers were the "masters of the enterprise" and they collectively owned the enterprise where they worked (Meng, 2000).

Thus, they could not sell labor to themselves, labor was not seen as a commodity and their wages were not seen as the price of labor. Because the workers were the ultimate owners of property, they could also obtain work whenever they needed to, and no one had the right to dismiss anyone else. Full employment and lifetime tenure thus became fundamental features of the system favored by the CCP (Meng, 2000).

When the CCP took power in 1949, unemployment was high in China, and it was a difficult task for the government to provide work to all or even reduce the unemployment rate. Several



measures were thus initiated to obtain the goal of full employment in the urban areas, among them control of rural-urban migration and job allocation.

Many of the unemployed were living in cities, and to obtain full employment in the urban areas, and at the same time secure sufficient food production, the government implemented the household registration system, also known as *hukou*(户口), in the late 1950s to restrict rural-urban migration. This system made it almost impossible for people to move from one place to another, since food rations, schooling and often housing were restricted to the place where one was registered. It was also almost impossible to change one's *hukou* from one place to another. An urban *hukou* was considered better than a rural one, since the urban population enjoyed more privileges. The *hukou*- system insulated the urban workforce from competition, and increased job security in the cities (Buckley, 2001).

When the CCP took power, it gradually took full control over the national economy. According to Christopher Buckley, this was obtained through a series of measures which nationalized major industries and firms and converted most remaining small private businesses into collective enterprises, owned by their employees and under the sponsorship of municipal or local government authorities (Buckley, 2001). The state-owned enterprises (SOEs) were the engines of industrial growth and urban social transformation, and they were carrying out the demands of the economic plans. Because of this, the workers in the SOEs also enjoyed higher status and more privileges than the workers employed in collective enterprises or the rural population. They were at the top of the working class hierarchy, and enjoyed the privilege of the so-called "iron rice bowl". Once a worker was assigned a job in a SOE, the enterprise would provide him life-long employment, welfare, housing, and pension when the worker retired. And when he resigned, the possibility was there for his son or daughter to take over his position. This created a stable society within the SOE, and for the workers it also created a close connection with and dependence on their enterprise. SOEs were more than economic entities; they were "mini-societies" (Buckley, 2001).

To be assigned a job in a SOE was neither the worker's, nor the management of the enterprise's choice; it was decided by the state. From 1957 on, the state exercised almost total control of job allocations in urban areas (Knight & Song, 2005). Economic planning would decide the supply and demand of labor, not the market. The state would decide how many

and whom the enterprise should employ. The job seeker rarely had the possibility to choose what job he was to be allocated to, but when he was first given a job, the tenancy normally lasted for life. This made the initial job allocation crucial, since it most likely would also be the last. In principle, the worker was not allowed to quit, switch jobs or move to a different firm. That was only allowed with official consent, something that rarely happened, and thus transfer from one employment unit to another was almost impossible. This top-down allocation system often led to many mismatches where workers were unfit for the job they were placed in. For the management this was problematic, since they were not allowed to fire anyone. Only if the employee had committed a criminal act were they allowed to see him go. The state was also in charge of the amount of workers that were to be employed, and in times of economic downturns, enterprises were often ordered to “overstaff”, thus creating the phenomenon of “five workers doing the work for three” (Meng, 2000).

Job allocation was not the only thing that was determined by the state. In the state sector, wages were also set and controlled by the central government, and neither the enterprise nor the workers had the right to negotiate pay. A national scale determined wages, based on the workers’ educational level and work experience. The scale had only eight skill ranks, and the wage differentials were small, with the highest level being only 5-6 times higher than the lowest (Liu et. al, 2003). The companies were given an annual total wage bill quota by the Ministry of Labor and Personnel. The quota was decided in accordance with the amount of employees and their skill level. Enterprises were not financially independent, and all profit was given to the state. In return, all costs were covered by the state, including wages. Pay increases were also decided by government regulations, but wages grew slowly during the pre-reform era, and the urban average real wage level was almost held constant for the whole period between 1952 and 1978 (Meng, 2000).

However, to compensate for the low wages, the state provided the workers with a wide range of welfare benefits. These benefits were provided at enterprise level and seen as part of the total labor cost, but this also meant that if the worker left his work unit, he would then lose his social benefits (Liu et. al, 2003). The welfare benefits included housing, medical care, pensions, and sometimes even schooling and hospital treatment. Pensions were like the wage bill, funded by the government, and allocated to the enterprise according to the number of retired employees. Because the enterprises were not financially independent and the

workforce was almost totally immobile, this welfare system could run smoothly (Meng, 2000).

However, due to the lack of labor mobility and the rigidity of the wage system, workers had few incentives to increase their human capital, and because the workers had the job for life, they also had few incentives to work efficiently or to improve their work methods. Thus, the pre-reform era labor system might have been an egalitarian one, but it did not promote efficiency or economic growth. This was further emphasized by the ownership structure of the SOEs. Since the state was in charge of finance, and the management had little say on how the money should be spent, they also paid little attention to profit making, or to raise productivity. The enterprise would be supported by the state regardless of profit making (Meng, 2000).

When Mao died in 1976, it marked the end of ten years of social turmoil during the Cultural Revolution that had left China with a shattered economy. When the new leadership of the CCP took over, with Deng Xiaoping in the front seat, economic growth and development became top priority (CLB, 2010a). But for this to happen, the inefficient SOEs had to be reformed, and the country had to open up for foreign investments in order to attract capital. Labor mobility also had to be increased, to release the large pool of surplus labor that existed on the countryside. 1978 was the year when China started to leave behind its socialist ideology, where the workers were the masters of the enterprise, in exchange for a so-called “socialist market economy”, where cheap labor would become the main comparative advantage (Gallagher, 2005).

#### **4.1.2 Labor Relations in China after 1978**

After the opening of the Chinese economy in 1978, economic development became the main concern for the Chinese government (Josephs, 1988). In 1978, 78% of the Chinese workforce was employed in the state sector (Cai and Park, 2011). However, the SOEs had proved to be inefficient and unproductive, and they did not generate the profit that was needed to rebuild China’s economy. With the reforms starting in 1978, the government gradually opened up for a private sector and foreign investments. This soon led to rapid economic development. For the SOEs, however, which in the pre-reform era stood for the biggest share of the production

in China, this meant tougher competition (Chen, 2003). Compared with newly established private enterprises, the SOEs were often overstaffed and highly unproductive and inefficient. As a result, many SOEs lost revenue or even went bankrupt. In an attempt to rescue the SOEs from bankruptcy, reforms were initiated (Hansen & Thøgersen, 2008: 124).

### **Smashing the Iron Rice Bowl: Reform of the SOEs**

The transformation to a more market-driven economy meant less central planning, and this also extended to the area of job allocation. One important reason for this was the government's inability to provide jobs for everybody. At the end of the 1970s, unemployment was again a huge problem in the urban areas. Many of the youths that had been sent to the countryside during the Cultural Revolution had returned to the cities, and the state did not have the capacity to provide jobs for all of them. Even though creating new jobs and solving the unemployment crisis was given top priority in the late 1970s, the government officially retreated from guaranteeing full employment in the early 1980s (Josephs, 1988). During the unemployment crisis in the late 1970s, the job allocation bureaus had been pressuring SOEs to overstaff, which according to the central government had led to declining labor productivity. The central government urged "vitality" in the SOEs, and "excessive and rigid control" by the government was seen as an obstacle for achieving this. The SOEs thus had to be reformed (White, 1987).

Reformers argued that the labor system of life-long tenure had to be changed, and that workers should be employed on a contract basis. The reformers saw several advantages with implementing a contract-based employment system. Firstly, it would create a clearer definition of workers' and management's rights and responsibilities. Secondly, it would make the workers more focused on the job they were supposed to do, since their performance would determine whether their contract would be renewed or not. Thirdly, the contract would lead the way for the "two freedoms": the freedom for managers to fire and hire, and the freedom for workers to change jobs. According to the reformers, a contract-based employment system would eventually lead to higher labor productivity and a more flexible urban economy (White, 1987). There was, however, huge opposition to the introduction of such a system. And because of this skepticism, the implementation of the labor contract system happened gradually and at a very slow pace (White, 1987).

The first experimental implementation of labor contracts began in the Special Economic Zones (SEZs) in 1983, and was advanced further in 1986 when the State Council adopted a nationwide policy on the implementation of labor contracts in SOEs, with the “Temporary Regulations on the Use of Labor Contracts in State-Run Enterprises”. From the 1st of October 1986, all new employees in SOEs should have labor contracts (Becker, 1989). This new policy meant that the “iron rice bowl” was no longer an option for new employees, but existing workers were unaffected by this new policy, and thus it created a “two-tier” employment system (Becker, 1989).

The introduction of labor contracts marked a clear shift away from the old labor system. In the old system, the workers were supported by the enterprise for life, whilst with the new contracts, the enterprise was only responsible for the worker as long as the contract stated. The enterprise had no obligation to renew the contract, and when the contract ended, the enterprise also did not have to continue to pay income or benefits to the worker (Guthrie, 1998). The new policy implemented in 1986, formally marked the end of the “life-long” employment system.

The implementation of the labor contract system was meant to lead workers to those sectors where labor was needed (Josephs, 1988). However, in its early stages, labor contracts had little impact on labor mobility.

Firstly, workers were still very much dependent on their work unit, because the introduction of labor contracts had not been followed up by reforms of the social welfare system (Buckley, 2001, Coady and Wang, 2000). Thus, in order to obtain the same welfare benefits, one still had to be employed by a SOE. Of the welfare benefits that SOEs provided, housing and pensions were especially important. (Buckley, 2001).

Secondly, every worker in China had a personal file, *dangan* (档案), which was needed when transferring from one work unit to another. The employers could refuse to hand over the file, and thus use this as a means to keep workers within the enterprise. Skilled and technical personnel often met difficulties when they wanted to change employer (Buckley, 2001). However, in some cases, the management also stood on the side of the workers. At some enterprises the management felt a responsibility towards people who had been their

employees for many years. Many employers felt that it was wrong to just see them go, despite the SOEs often being overstaffed and unproductive. The primary function for SOEs before the reform had been to take care of its workers, and many managers kept on playing this role also in the reform era (Guthrie, 1998).

In addition to the introduction of labor contracts, the wage system was also reformed. Wages should no longer be fixed by the state, but rather be set in accordance with the profitability of the enterprise (Meng, 2000). The aim was to make the wages depend more on the workers' productivity, instead of only being based on formal qualifications, as it had been in the pre-reform era. Thus there was established an incentive for workers to become more productive (Meng, 2000). In reality, however, this new wage system led to a bigger difference between the management and the ordinary workers. In the mid-1990s, in accordance with central government directives, SOEs began to implement an annual salary system, after which the income gap between managers and workers gradually widened (China Labor Bulletin, 2010). In the late 1990s, the restructuring of the SOEs intensified. According to China Labor Bulletin, it was during this period that "the employer established clear and unshakable control over the labor relationship". There was an abundant supply of workers from the overstaffed enterprises. Thus, employers had the upper hand, they could select the candidates they wanted and dictate wages, conditions, benefits and terms of employment. The result was a complete reversal of the government-led system during the Communist planned economy. While the party was still in charge, China had in effect got an unbridled "employer-led" capitalist system that "marginalized and exploited workers, depriving them of any means of protecting or pursuing their own interests" (China Labor Bulletin, 2010).

From 1995 to 2002, 30 million workers were laid off from SOEs, many of them without getting compensation. The workers of the SOEs had been reduced from being the "masters of the enterprise", however theoretically, to wage laborers in the classic capitalist sense of the word. In this process, the role of the SOEs managers also changed. In alliance with local government officials they succeeded to gain control over enterprise assets at very low prices, elevating themselves from being state appointed managers to de facto owners of the enterprise (China Labor Bulletin, 2010).

## **Foreign investment and rural-urban migration**

In addition to the reforms of the state sector, another important part of the reforms initiated in 1978 was the opening up to the outside world and the allowance of a private sector.

The opening to foreign investments and trade were essential parts of Deng Xiaoping's program to reform China and reverse the legacy of the Cultural Revolution. According to Mary Elisabeth Gallagher it was a calculated decision to allow limited FDI in order to overcome the dire capital shortage and a dearth of technology, modern industrial equipment, and managerial know-how (Gallagher, 2005). However, the intention was not to make China a capitalist country, but rather to let FDI serve as a supplement to China's still primarily socialist, state-owned economy. The original vision of the state leaders was "to see FDI as a passive tool, something that could be controlled and manipulated to fit the goals of China's leadership" (Gallagher, 2005).

In 1980, the four coastal cities of Shenzhen, Zhuhai, Shantou in Guangdong and Xiamen in Fujian, were designated as Special Economic Zones, and in 1984, this so-called "open-door policy" was extended to 14 coastal cities (CLB, 2012d). In these SEZs, regulations and taxes were relaxed, and capitalism was tolerated in exchange for new technology and profit (Gallagher, 2005).

The first foreign investments came from Chinese expatriates in Hong Kong and Taiwan. This was a way for the Communist party to legitimate the introduction of a more capitalist economy, because these expatriates were seen as helping out their poor countrymen ("patriotic investments"). Later on investments started to come from countries such as Japan, Korea and the more advanced countries in the West. Most of the investments were made in manufacturing, and the main attraction was China's large pool of unskilled, cheap labor (Gallagher, 2005).

Beginning in the late 1980s, the central government started to relax the former rigid system that had made it almost impossible for the rural population to work in the urban areas. The FDI in the SEZs gave opportunities for the rural population to find employment in the industry in the urban areas, outside of the SOEs. The reforms of the agricultural sector in the beginning of the 1980s had also released a large surplus of unskilled labor in the rural areas.

With the relaxation of the *hukou* system, rural migrants started to travel in large groups to the SEZs on the east coast to work in the foreign invested factories (Buckley, 2001).

However, reports soon started to show that not only were the wages low, but working conditions as well were often harsh in the foreign invested factories. The government's main goal was to attract foreign investment, and in the quest for this they often chose to ignore the low labor standards. In contrast to the SOEs these foreign and private owned enterprises did not have the same obligation to provide the workers with welfare benefits, which also made them more competitive than the SOEs. Because the workers often were migrants, with their *hukou* registration in some place in the countryside, they were also deprived of the welfare benefits that the state would have provided them with if they had stayed where they were registered. Because schooling was (and still is) provided at the place of registration, many migrant workers left their children behind to work in the factories. Despite the low wages, migrant workers could make more than they would have done if they had stayed in the countryside. The reason for this was that the economic reforms that had given priority to development of the east coast had created big regional economic differences (Chen, 2003).

In the late 1990s, there was also a pressure to employ over 30 million laid-off workers resulting from the restructuring of SOEs (CLB, 2010a). The chosen solution adopted by the government was a "labor-intensive, export-oriented model that stimulated economic growth and to some extent relieved employment pressures" (CLB, 2010a). This strategy, however, placed the workers in an unfortunate situation. The oversupply of labor also meant that the employers faced little pressure to increase wages or improve working conditions. Workers were the weaker part, since they were forced to compete against each other for jobs, and they had neither tradition nor experience in collective bargaining with their employers. As a consequence, wages for factory workers remained at a very low level, sometimes not even sufficient for the most basic living standard (CLB, 2010a).

The labor reforms and the opening for foreign invested enterprises and a Chinese private sector have changed the structure of labor relations in China and made it more heterogeneous. As the number of workers employed by SOEs fell dramatically in the late 1990s, employment in the private sector started to grow steadily. This has made it more challenging for the Chinese government to reach out to the Chinese workforce as a whole. The welfare benefits in the pre-reform era were very much attached to the enterprise, thus providing Chinese



workers with similar welfare benefits in the reform era has proved to be difficult (CLB, 2010a).

The growth of private enterprises over the last three decades has to a large degree been characterized by lawlessness. Local government officials have been willing to look through their fingers with violations of labor rights, in exchange for economic growth and local investments. This meant that employers had a free hand in determining the pay and conditions of their workforce (CLB, 2010a).

The consequences of the reforms of the Chinese economy and labor relations have, however, not only been negative for Chinese workers. Thirty years of economic reforms have produced an economic growth that has lifted millions of Chinese out of poverty, and it has increased per capita income from 224 dollars in 1978 to 3180 dollars in 2008. But it has also transformed China from being one of the most egalitarian societies in the world to becoming one of the most unequal countries in Asia, and indeed in the world (Gallagher, Kwan Lee and Kuruvilla, 2011). This has furthermore increased social tension in the Chinese society. This has become a huge concern for the Chinese government, and in order to maintain social stability the Chinese government has responded to this in many ways, but it has been typified by an aggressive legislative effort (Gallagher, Lee and Kuruvilla, 2011: 14).

## **4.2 Labor Laws in China**

In the 1990s China began to develop what is now a comprehensive legal framework on labor standards and labor rights in China. This effort has been made in order to improve labor protection and decrease tensions and conflicts in the workplace.

The Labor Law of 1994 marked the beginning of this process. The Labor Law enshrined the labor reforms that had been initiated in 1978, while at the same time providing the basic legal platform for further labor legislation in the late 1990's and for the 21<sup>st</sup> century. When the Labor Law was established, nine single-item laws were also in planning to be drafted to ensure the implementation of the Labor Law. These nine single-item laws were; the Employment Promotion Law; the Labor Contract Law; the Occupational Skill Development Law; the Wage Law; the Social Insurance Law; the Labor Protection Law; the Work Safety

Law; the Production Safety Law; the Labor Disputes Law. However, many of these laws were not established until several years later (Chen, 2011:35).

Three of these laws came into effect in 2008; the Labor Contract Law, the Employment Promotion Law and the Labor Dispute Mediation and Arbitration Law. The Labor Contract Law is considered to be the central piece of these three and also the most controversial (Hendrischke, 2011: 51). The latest addition is the Social Insurance Law that was established in 2010.

#### **4.2.1 Labor Law of 1994**

The Labor Law was passed in July 1994, and came into effect in January in 1995. It was the first national labor law of the People's Republic of China. Before this, a mix of administrative regulations, State Council incentives, and laws passed by the NPC had regulated Chinese employers and workers. These were not, however, unified or comprehensive (Gallagher and Dong, 2011: 39). The labor law of 1994 was meant to unify the legal treatment of employees in different industrial sectors with different forms of ownerships (Chen, 2011:35).

The promulgation of the Labor Law was to a large extent motivated by concerns about two factors; how to promote efficiency and managerial autonomy in the SOEs and how to increase regulation of the foreign-invested and private sectors (Gallagher and Dong, 2011: 39). Gallagher and Dong argue, however that “through the labor law the workers in the state sector saw their rights reduced, whilst the workers in the foreign and private owned enterprises saw their rights clarified and expanded” (Gallagher and Dong, 2011: 39). They claim that it was the 1994 Labor Law that eventually contributed to the smashing of the “iron rice bowl” by writing into law the labor contract system as the basic mode of employment relations in China (Gallagher and Dong, 2011: 39).

The Labor Law states, “Labor contracts shall be concluded if labor relationships are to be established” (The Labor Law, Chapter 3, and Article 16, Ministry of Commerce, 1998). The law allows either fixed-term or non-fixed-term contracts, but after the establishment of the

Labor Law, many employers started to make use of short term contracts, often not lasting more than a year. The law states that if the same employer has employed the employee for more than ten years, the employee can request a non-fixed-term labor contract. However, since the law states that this has to be agreed upon by both parties, this rarely happened (Gallagher and Dong, 2011: 40). Thus, the formalization of labor contracts facilitated the use of short-term contracts.

Despite this, the Labor Law is an important piece of legislation for Chinese workers, because it enshrines into law many significant labor rights. It gives workers legal rights to basic standards and benefits with regard to working hours, wages, working conditions and even social welfare. And it determines the level of labor standards in China (Gallagher and Dong, 2011, Ngok, 2008).

The Labor Law established a standard working-hour system of eight hours per day and forty-four hours per week. This was changed the year after to 40 hours a week. In addition, the law also set a limit on overtime work, which should not exceed 36 hours per month. There was, however, made room for an alternative to the standard working-hour system. This is when the employer has a “special nature of production”, such as seasonal industry production. This system permits longer working hours during peak periods, but it has to be approved by the government in advance, and the amount of working hours cannot exceed the legal limit set for the whole year. Overtime payment is required for work in excess of the system’s requirements (Brown, 2010: 130).

Regarding wages, the Labor Law states that the workers “wages shall be raised gradually on the basis of economic development” (The Labor Law, Chapter 5, Article 46, Ministry of Commerce, 1998). It also states that “the State shall implement a system of guaranteed minimum wages. Specific standards on minimum wages shall be stipulated by provincial, autonomous regional and municipal people’s governments and reported to the State Council for registration” (The Labor Law, Chapter 5, Article 48, Ministry of Commerce, 1998). The local governments should according to the law set the local minimum wage in reference to local factors concerning; “1. The lowest living costs of laborers themselves and the number of family members they support; 2. Average wage level of the society as a whole; 3. Productivity; 4. Situation of employment; 5. Differences between regions in their levels of economic development (The Labor Law, Chapter 5, Article 49, Ministry of Commerce,

1998). The law also requires the employer to pay wages in cash and on time, and also to pay for statutory holidays, marriage or funeral leaves, or periods of social activities required by law (The Labor Law, Chapter 5, Article 51, Ministry of Commerce 1998).

The minimum wage system was further specified by the 2004, “Regulations on Minimum Wages”, introduced by the then Ministry of Labor and Social Security (Brown, 2010: 128). The ministry stated that, “when determining the monthly minimum wage, provincial governments should take into consideration factors such as the cost of basic necessities for employees and their dependents, as well as the local consumer price index”. It also recommended that local and regional minimum wages should be set at about 40 to 60 percent of average monthly wages. In reality, however, the minimum wage in most provinces is often below the recommended level of 40 percent (CLB, 2009: 29, Brown, 2010: 125).

The Labor Law furthermore promulgates that the workers should be offered social welfare. The law states that “The State shall promote the development of the cause of social insurance, establish a social insurance system, and set up social insurance funds so that laborers can receive help and compensation when they become old, suffer diseases or work-related injuries, lose their jobs, and give birth” (The Labor Law, Chapter 9, Article 70, Ministry of Commerce, 1998). According to the law the costs of these social insurances should be shared in a tripartite way between the state, the employer and the employee. The law furthermore states, “the level of social insurance shall be brought in line with the level of social and economic development and social sustainability” (The Labor Law, Chapter 9, Article 71, Ministry of Commerce, 1998). This means that the law is quite vague regarding what the minimum level should be in terms of these social welfare benefits.

One of the motivations behind establishing the Labor Law in the first place was to include the workforce in the private and foreign-owned enterprises and provide them with benefits and rights at the same level as those of the workers in the state sector. The establishment of a social insurance program has to be viewed in this light. As mentioned in the previous chapter, the welfare benefits in the pre-reform era were delegated to the workers from the state through the enterprise. Although this system to some extent also continued in the state sector in the beginning of the reform era, there were no equivalent entitlements for workers in the private and foreign-invested enterprises. By establishing a system that would provide the

entire Chinese workforce with at least a minimum of social welfare benefits, the social insurance program could thus function as a way for the Chinese government to protect the workforce as a whole and to avoid social tension in the enterprises, and furthermore in the Chinese society.

The establishment of a social insurance program was ambitious on paper, but it did not work as smoothly in practice. At the time of the establishment of the Labor Law, local governments did not have the financial or the institutional capacity, not to mention the political will, to implement extensive social insurance programs (Gallagher and Dong, 2011). The fact that the private and foreign-invested enterprises were not obliged to pay for social welfare had been considered one of the competitive advantages of these two sectors in comparison to the state sector. For local governments, who at the time were more concerned with attracting foreign investments, the implementation of a social welfare system that would oblige enterprises to pay for the workers' social welfare benefits was felt as a hindrance to local economic growth. As a result, the political will to implement such a system was very low (Gallagher and Dong, 2011). In addition, migrant workers were not included in the social insurance system. This has later been changed, and I will elaborate this further under the section on the new Social Insurance Law of 2010.

Due to lack of enforcement and to rather vague formulations, the Labor Law of 1994 did not serve to decrease social tension in the workplace. Official statistics show that the number of labor dispute cases increased from 19,098 in 1994 to 226,000 in 2003, during that same period the number of workers involved increased from 77,794 to 800,000 (Ngok, 2008: 54). In addition to labor disputes, spontaneous strikes were also not uncommon. Many of these conflicts involved migrant workers, whom the Labor Law had failed to protect (Ngok, 2008).

The 1994 law was both meant to increase the flexibility of the public sector as well as increase workers protection in the private sector, however the labor law was far more successful in increasing flexibility than protecting the workers (Gallagher and Dong, 2011:44). Gallagher and Dong argues that “combined with the realities of a large labor surplus, these legal developments were more effective in ending socialist employment than protecting workers in the new market economy” (Gallagher and Dong, 2011:40).

The Labor Law of 1994 was the first law to set national labor standards in China. However, the Labor Law proved to be vague in its formulations and although the standards set were compatible to standards in Western countries, they were not sufficiently implemented, and thus labor violations remained prevalent. The labor contract law of 2007 was meant to rectify some of the problems that the first labor law had created.

#### **4.2.2 Labor Contract Law of 2007**

*“This Law is enacted and formulated in order to improve the labor contract system, specify the rights and obligations of both parties to the labor contracts, protect the legitimate rights and interests of the workers and construct and develop a harmonious and steady employment relationship” (Labor Contract Law, Chapter 1, Article 1, Beijing Review, 2007).*

The Labor Contract Law (LCL) was established in June 2007 and implemented on January 1, 2008. It was a controversial law, and prior to its establishment, the mere draft attracted over 190 000 submissions, 60 % of them from ordinary workers. The law text was revised three times before its final passage (Hendrischke, 2011: 52).

The debate among Chinese academics prior to the passing of the LCL was in general divided into two schools; the Southern and the Northern. The debate focused on whether Chinese labor standards were, in effect, too high. The Southern school argued that the standards set in the 1994 law was not being implemented because the labor markets were not fully developed and because the government did not have the capacity or the will to do so. They argued that the government should focus on a regulating and enforcing minimum labor standards and extend these to include the entire Chinese (Gallagher and Dong, 2011:49).

The Northern School argued that because of the many violations of labor laws at firm level, the government should impose greater control and intervention into labor-management relations. They furthermore maintained that because labor supply far exceeded demand, exploitation of workers would continue for a very long time, if the government did not intervene (Gallagher and Dong, 2011: 49).

The Chinese leadership sided with the Northern School. Both President Hu Jintao and prime minister Wen Jiabao had taken over their posts after the passing of the first Labour Law, and thus had no prestige attached to it.

On the other hand, they were very much concerned with the rising wave of unrest in Chinese society in the beginning of the 2000s. The new leadership modified the former policy of rapid, uninhibited growth, and instead emphasized greater sustainability, equality and social harmony.

The new LCL was one of the tools to achieve this goal (Gallagher and Dong, 2011: 45).

The LCL intends to clarify some of the vague formulations in the Labor Law that had negative effects, and also strengthen the enforcement of labor rights.

Firstly, the LCL aims at protecting the migrant workers better than the Labor Law had done. Although migrant workers are not mentioned specifically in the law, the law states that the rights stipulated in the law should apply to all workers who have signed a contract. The law also makes such contracts mandatory (Ngok, 2008).

Secondly, the LCL is meant to reduce the use of short-term contracts. If the employee has been employed for two fixed contract periods, the third one has to be a non-fixed, lifelong contract. This means that the employer would have to take this into consideration when deciding the length of the first two contracts. If the employer employs his workers for only one year, the workers have to be offered a non-fixed labor contract after two years. The main difference compared to the Labor Law is that the employer will be punished if he does not obey the law. If the worker is willing to renew the contract, severance payment should be given to the worker if a fixed-term contract expires (Ngok, 2008). However, these rules had the adverse effect that many employers fired their workers shortly before the new law came into force, and then rehired them afterwards in order to start at point zero and thus postpone their obligations.

Thirdly, the LCL requires a more concrete description of the employee's working conditions in the labor contract. For example, a day of rest during the week is mandated, and a daily rest period (excluded from work hours) is typically provided, often as the lunch break (Brown, 2010).

Fourthly, the LCL also strengthens the role of workers' organizations, as will be described in section 4.3.3.

With the Labor Contract Law, employers who violate the law are subject to strict punishment. Officials in charge of labor policies and laws and their enforcement are under greater pressure to perform their duties under the law (Ngok, 2008).

### 4.2.3 Social Insurance Law of 2010

In the pre-reform era social security in China was largely built up around two pillars. First, the “iron rice bowl”, which gave workers in SOEs access to basic social benefits, that included pension and medical care. And secondly, parent’s belief in that their children would take care of them when they got older, and old tradition in China (CLB, 2012b).

With the reforms of the SOEs, the growth of a private sector and strict implementation of the one-child policy, these two pillars started to falter, and so did workers’ social security.

New laws have been implemented in recent years to create a social insurance system that can provide social security for the entire Chinese workforce. There are two main reasons why this is a pressing issue for the Chinese government. First, the government wants to maintain social stability, and secondly, by establishing a social insurance system, the government hopes to increase domestic consumption. The saving rates in China today are over 30%, much higher than in countries that have well functioning social security systems (CLB, 2012b). The weak social security system in China is claimed to be one of the main reasons why Chinese people save a big portion of what they earn. If a family member becomes ill, the medical expenses are often high, also for those who are insured (CLB, 2012b). If China is going to succeed in offsetting its dependence on exports in the future, people need to start spending. The government sees the establishment of a social insurance system as a means to that end (CLB, 2012b).

The 1994 Labor Law set the principles for the social insurance system in China. However, as mentioned previously, the formulations were quite vague in what the minimum level should be, and it also did not include migrant workers (Gallagher and Dong, 2011). The Social Insurance Law, the first law only concerning social security, was promulgated on 28<sup>th</sup> of October 2010 and it came into force on 1<sup>st</sup> of July 2011 (CLB, 2012b). The Social Insurance Law (SIL) is meant to incorporate the entire Chinese workforce into the social insurance system (Brown, 2010).

The law states, as the Labor Law, that there are five mandatory social insurances; pension, medical, unemployment, work-related injury and maternity insurance (SIL, Chapter 1, Article 2).



Both the employers and employees finance pension, medical and unemployment insurances. Whilst maternity as well as work related injury insurances are employer funded (Brown, 2010:135, ed).

The SIL confirms that insurance funds can be transferred if the worker changes his work location, which was first stated in the LCL. For migrant workers, this can make a big difference, especially when it comes to pensions. Since you can only obtain pensions if you have participated in the scheme for 15 years, migrant workers who are moving from place to place would under the old regulations have difficulties obtaining their pensions if they had not stayed in the same place for 15 years (CLB, 2012b). The new law states not only that pension funds follow the worker when he changes work location, but also that one can stop payment for a period. As long as the required amount of years is paid, one will receive pensions at retirement (CLB, 2012b). However, the practice of transferring social insurance funds, which also includes medical insurance, is still new and China Labour Bulletin (2012), maintains that the practice have yet to be properly enforced (CLB, 2012b).

The one-child policy makes pensions one of the most costly insurances for the government to provide the entire workforce with. The retirement age in China has since 1978 been 50 for women (55 for civil servants) and 60 for men (CLB, 2012b). With a growing elderly population, and a diminishing workforce, the government has started to argue that the retirement age has to be raised. In 2012, the Ministry of Human resources and Social Security proposed to rise the retirement age some point in the future (CLB, 2012b).

Despite the new SIL, which is meant to give the entire workforce a social safety net, there are still many workers who are not incorporated into the system. In 2011, only 215 million of China's 359 million urban workers had pensions. Even though the new law states that employers who do not comply with the new law will be fined, China Labour Bulletin (2012), argues that due to the lack of enforcement, the intentions of the new law are so far not working in practice (CLB, 2012b).

#### **4.2.4 The Problem of Inefficient Enforcement of Labor Laws in China**

If the Chinese labor laws had been enforced, they would have guaranteed Chinese workers decent working conditions (Elliott and Freeman, 2003: 120). The reality is, however, that reports of violations of labor standards and bad working conditions are still prevalent. The

problem with the Chinese labor laws is not the content of the laws, but rather that they are not being properly enforced.

Some of the problems impeding the effective implementation of labor laws in China are similar to those encountered in other areas of law. Among them are weak law enforcement, regional differences in implementation and corruption. Chinese workers, moreover, already in a weak position, are not used to go to the courts to claim their rights. For many of them, their main concern is simply having a job.

Another problem is that local authorities decide regulation of important issues, for example the setting of minimum wages. Local governments tend to give priority to other considerations, such as economic growth and foreign investment, instead of enforcing workers' rights (Buhmann, 2005: 79).

Finally, the absence of free trade unions and the weakness of the official trade unions, also contributes to weak labor law implementation (Buhmann, 2005: 79) This will be elaborated further in the next section.

## **4.3 Trade Unions and Collective Bargaining in China**

### **4.3.1 The Role of the Trade Union in the Mao Era**

In communist countries the role of the trade unions has been quite different from that in the Western capitalist world. Under the rule of a communist party, the trade unions have been considered an integral part of the party-state apparatus (Clarke & Pringle, 2007:1). The primary function of the trade union is on the one side to provide the workers with different welfare goods, so as to keep them motivated. On the other side, the union is supposed to control the workers to make sure that the production goals are met, and to function as a channel for the party to implement different policies. In short, the role of the trade unions is

to keep a harmonious relationship between the management and the workers, rather than to represent the workers' interests in opposition to the management (Clarke & Pringle, 2007: 1).

The trade unions in China are no exception to this. The ACFTU, which is the only legal trade union organization in China, was established and developed under the direct control of the CCP, and under CCP rule it has been an integral part of the party-state apparatus (Zhang, 2003).

The structure of the ACFTU has remained largely unchanged since the 1950s. The ACFTU is a top-down organization and it operates on three levels; national, regional and primary. Primary level unions are the same as enterprise unions. In addition, China also has ten industrial unions. The roles and functions of the industrial unions are strongly controlled by the regional and national union federations and organized according to governmental policies. At all levels, trade unions are under the leadership of the CCP (Liu, Li and Kim, 2011).

In contrast to Western trade unions, the ACFTU has traditionally not functioned as a channel for workers to raise their demands to and bargain with the management. The workers and the management were seen as being on the same side and not in opposition to each other. The enterprises were state-owned and the state was officially working for the welfare of the workers (CLB, 2010a: 5).

In the pre-reform era the ACFTU's role was to provide the workers with their welfare goods and to "keep them happy". The workers in the SOEs stood at the top of the working-class hierarchy and they were the main focus of the ACFTU (Howell, 2003: 103) Sometimes the ACFTU was representing workers in dispute with the management, but only in minor cases and on an individual level. It was never an organization involved in collective protests or bargaining. This might not be too surprising, considering its role as being a part of the party-state apparatus, and that opposing the management in a SOE would also mean opposing the policy of the Party-state. Wages, working hours and other conditions were all determined by the state (CLB, 2010a: 5).

### 4.3.2 Adjusting to Market Reform

When considering that the ACFTU is an organization that is built up around the principles of socialism, needless to say, China's transformation to a more market-driven society has seriously challenged the role and position of the ACFTU. During the last three decades of reform, the structure of the ACFTU has remained largely the same, despite the many changes in the society in which it operates. This has made the role of the ACFTU seem more outdated, even irrelevant to many workers.

With the reforms of the SOEs, managers got more power and the focus went from providing lifelong jobs and welfare benefits to the workers, to increasing the profit margin. The management and the workers were no longer playing on the same team (Chen, 2003: 1010). This had a huge impact on the previously privileged workers in the state sector, and the reforms resulted in several protests all over China. This put the ACFTU in a very difficult spot. On the one side the ACFTU were supposed to support the workers, and the workers in the SOEs used to be their core member group. On the other side, however, they were also supposed to help the Party keep social stability and maintain production. The ACFTU was in no position to stop the laying off of workers. So, to ease the tension among the laid-off workers, they tried to assist the workers in other ways, such as helping them getting their compensation, give them training and advise them in finding new job opportunities (Clarke & Pringle, 2007: 21).

With a growing private sector and the entrance of foreign-owned enterprises in the Chinese market, it soon became evident that the workers in the SOEs were not the only ones getting a harsh treatment. Cheap labor was the main attraction for foreign enterprises to invest in China. These were in most cases migrant workers or laid off workers from the SOEs. Private and foreign enterprises often used exploitative practices and victimized workers. They were violating safety standards, enforcing long working hours and low payments. Still, in the chase for capital, the state showed that it was willing to ignore this (Chen, 2003: 1010).

The ACFTU also played a minor role in supporting these workers. An important reason for this was that these workers belonged to a different group and worked for a different type of enterprise, than the workers ACFTU was used to representing. Because these workers were

working in the private sector, the establishment of trade union organizations in these enterprises was also difficult (Howell, 2006: 9), since they were often small, informally organized and transient (Li & Taylor, 2007: 711).

Migrant workers proved especially difficult for the ACFTU to reach (Yao & Zhong, 2008: 8). For a long time migrant workers were not allowed to become trade union members, not to say organize among themselves. An important reason for this was that they were not considered a part of the working class. However, seeing the many problems facing the migrant workers and the need for the union to defend its own legitimacy, the law was changed in 2003, and migrant workers are now allowed to become members (Howell, 2006: 9). However, this does not mean that a lot of them do become members or that the ACFTU has been able to represent them in a sufficient way. When migrant workers face difficulties, they rarely tend to go to the union. Instead they take to the streets, organize strikes or violent protests against the management (Chen, 2010). Moreover, the trade union has in more cases than not shown that in case of social tension in the workplace, it tends to support the management rather than the workers. This further enhances the migrant workers' impression of the ACFTU as useless in terms of helping them to improve their situation (Chen, 2010, Howell, 2008).

*“The workers are not oppressed by anyone else but their employers. In the same way, workers are not betrayed by their unions – they have no union, and they are perfectly aware of this. This is why when they have a problem they first go to management, then to the local government to complain/protest.” (Taylor, 2002, in Li & Taylor, 2007: 709).*

In general, the ACFTU lacks the capacity and resources to reach out to the workforce as a whole. The ACFTU has traditionally been, and still is, financed by the member enterprises. They are by law supposed to pay 2% of their employees' payrolls to the ACFTU (Howell, 2006: 8) With the diminishing role of the SOEs and the difficulty of establishing trade unions in the enterprises in the private sector, the ACFTU suffers from reduced financial resources (Howell, 2006).

### **4.3.3 Recent Attempts to Strengthen the Role of the ACFTU**

ACFTU's diminishing influence among the Chinese workforce, combined with the increase in social instability is a concern for the Chinese government. To cope with this challenge, attempts have been made both at national, regional and enterprise level to strengthen the influence and relevance of the ACFTU (Howell, 2008, Li, Liu and Kim, 2011).

#### **Trade Union Laws**

The central government has been supportive of establishing new labor laws that will increase both the protection of worker rights as well as strengthen the position and influence of the ACFTU.

The ACFTU is still under the control of the party-state and because of this it has problems when representing workers demands that go against the Party's policy line. But in one important area, however, ACFTU's close connection to the Party has been beneficial in promoting labor interests; it has been able to promote a legal framework to protect the interests of workers (Li & Taylor, 2007). After the demonstrations on the Tiananmen Square in 1989, the ACFTU agreed to a pact with the party, where the ACFTU would be granted access to the policy process in exchange for its continued support for the party leadership (Howell, 2008, Liu, Li and Kim, 2011). ACFTU has made use of this advantage through playing an active role in inserting many pro-labor clauses and articles into various policies and regulations such as the Labor Law, the Trade Union Law, the Labor Contract Law and the Labor Dispute Mediation and Arbitration Law. Between 2003 and 2008, the national ACFTU was engaged in the discussion of more than 60 labor-related national laws and regulations. In particular, it played an important role in the preparation of the Labor Contract Law, and succeeded in the inclusion of many regulations that improved the rights of workers (Liu, Li and Kim, 2011).

The Trade Union Law, first passed in 1992 and then revised in 2001, recognizes that the ACFTU shall be a protector and representative of workers' rights and interests. It states that in a case of go-slows or work stoppage, the ACFTU shall on behalf of the workers present

their demands to the management. It also emphasizes that the workers have the right to demand the establishment of a trade union within an enterprise and that restricting this will be considered illegal, though this still has to happen in compliance with the ACFTU (Howell, 2003: 112). The Trade Union Law also stipulates that enterprises with more than 25 employees shall establish unions (Liu, Li and Kim, 2011: 282). In the Labor Contract Law of 2007, it is specified that where there is no trade union, the workers themselves may elect their own representatives to negotiate with the management, but only under the “guidance” of the next higher level of the ACFTU (Clarke & Pringle, 2007). Furthermore, the LCL also strengthens the role of unions in workplace management and collective bargaining.

Except that the law does not grant the right to establish independent trade unions or to strike (the latter was removed from the Constitution in 1982 in connection with the rise of the Solidarity movement in Poland (CLB, 2009); on paper the workers have many of the same rights as workers in the West. The ACFTU can play a role in legislation on the national level, but it does not show real capacity to get these laws enforced in practice. So, although the workers have the rights in principle, in reality this generally does not help them to improve their situation (Li & Taylor, 2007).

When workers choose to use their legal rights and go through the legal system, the ACFTU normally only offer their support to them if it is a case involving an individual or if it is a case where the violation is so clear that they are sure to win. They rarely support groups of workers that have been involved in strikes or uprisings: because they do not want to send the signal that they support such actions (Chen, 2003). But, although these laws might be extremely weakly enforced today, they may become powerful weapons for the Chinese workforce in the future as China moves towards the rule of law and becomes more integrated in the world community (Liu, Li and Kim, 2011). There is evidence that after the Labor Contract Law was implemented in 2008, workers have become more aware of and eager to use their legal rights.

### **Trade Union Organizing at Enterprise Level**

Due to the large-scale restructuring and bankruptcy of many SOEs as well as the increase in private and informal employment, the membership of the ACFTU was reduced dramatically in the 1990s (Liu, Li and Kim, 2011:281). Faced with this dramatic reduction in union

membership, the ACFTU has in recent years focused on setting up and organizing unions at enterprise level. It has especially tried to establish unions in privately owned enterprises and FIEs, since these have traditionally been hard to reach out to. As a result, Chinese union membership increased from 87 million in 1999 to 226 million in 2009. By 2009, 92% of the Fortune 500 companies located in China had trade unions, including enterprises such as Wal-Mart, which traditionally have been hostile towards trade unions (Liu, 2011: 157). But what does this increase in union membership and organizing at enterprise level mean in practice?

Since independent unions are banned in China, union organizing in reality means to set up ACFTU branches bureaucratically at various levels. The most common way for the ACFTU to establish trade unions follows this pattern; the national ACFTU assigns organizing quotas to regional unions, the regional unions then set up enterprise unions by gaining approval from employers, who normally respond to this in one of two ways. One way is to agree to the establishment of the union but to suppress it completely, so that the union only exists on paper. The other way is that of co-optation, where employers dominate union activities and make the union an integral part of their management system, whereby the company's human resource manager often functions as the union leader (Liu, 2011).

To ensure that unions are established in different enterprises, regional unions have been willing to sacrifice many rights that the unions enjoy. For example, they guarantee that there will be no collective action; they allow employers to appoint union leaders and determine union functions, and reduce mandated union duties (Liu, 2011). This way of organizing trade unions is thus giving more power to the management rather than the workers. Enterprise unions that are organized in this way are often weak, subordinate to management and largely irrelevant to workers (Liu, 2011) Thus, although increased focus on union organizing has increased ACFTU membership, the established enterprise unions lack independence from employers and in most cases do not provide workers with a voice to address their demands.

### **Direct Elections**

Normally the trade union representatives in an enterprise are either appointed by ACFTU, where the key leaders are chosen by the party, or by the management in compliance with the ACFTU (Clarke & Pringle, 2007). The consequence of this has often been that trade union



representatives fail to serve the workers and instead side with the management (Howell, 2008).

Article 11 in the Chinese Trade Union Law states: “Trade union committees at various levels shall be democratically elected by members’ assemblies or members’ congresses.” In recent years there has been some experimenting with holding democratic elections of trade union committees within different enterprises, and the direct election of grassroots union cadres has been officially promoted by the ACFTU since 1997. In the 2000s, the practice has become more common, especially in the provinces of Zhejiang, Shandong and Fujian, albeit in a piecemeal and slow manner. While reform-minded regional unions undoubtedly want a more democratic organization that is accountable to the members, there are also other motives behind the introduction of direct elections (Liu, Li and Kim, 2011:295). Anita Chan argues that although ACFTU officially has been promoting this reform, most of the elections have in practice not been initiated by the ACFTU, but rather by foreign enterprises, which in recent years have come under pressure by their consumers back home to improve working conditions abroad (Chan, 2005).

### **Collective bargaining**

China does not have a comprehensive national law on collective bargaining, but rather several regulations on collective contracts (ITUC: 2010). The right to collective consultation and collective contract is guaranteed by the 1994 Labor Law, Provisions on Collective Contracts (1994, 2004) and Interim Measures of Collective Wage Consultation (2000) (Brown, 2010). However, the Labor Law only states that enterprises may engage in collective consultations as a medium to settle disputes (ITUC, 2010). In addition to the enterprise-level collective consultation, which is the only form of collective consultation mentioned in these laws and regulations, two new forms of collective contract were officially introduced by the 2007 LCL: region-based collective contracts and local industry-based collective contracts (Brown, 2010).

By 2008, almost 150 million workers and staff were covered by collective contracts and 51 million had formal wage agreements (Liu, Li and Kim, 2011:285). However, at enterprise

level, the process of collective consultation as well as the content of collective contracts have little effect because the enterprise unions are too weak to take the workers' side, and bargain with the management (Liu, Li and Kim, 2011). When the ACFTU engages in collective negotiations, the workers themselves rarely have any influence (ITUC, 2010).

As a consequence, the content of these collective contracts are often largely formalistic. The majority of the contracts signed at enterprise level often follow the models designed by the regional unions. These contracts will for example mention an annual wage increase, but they do not specify a rate of increase (Liu, Li and Kim, 2011).

The two new forms of collective contracts that were introduced by the 2007 LCL, have in some studies shown to have more positive outcomes. The local industry based collective contracts have had positive effects on wage negotiations and they are approaching the genuine collective bargaining example set by the West, and therefore may actually contribute to increasing real wages and improving working conditions. However, these collective contracts are limited to a few industries (Brown, 2010, Liu, Li and Kim, 2011).

Through 30 years of reform, China has moved more and more towards becoming a full scale market driven economy. With this, the role of the ACFTU, originally an organization founded upon the principles of a socialist society, has also become more ambiguous. The ACFTU is now challenged by the task of representing a much more diversified work force, facing various problems and needs. To overcome this challenge it is necessary to legitimize its role as the only legal trade union organization in the country. On the other hand, the ACFTU is still part of the Party-state apparatus. Because of this one of its main tasks is also to follow the Party's policy on maintaining social order in the work place (Chen, 2010, Howell, 2008, Yu, 2010).

## 4.4 Corporate Social Responsibility in China

The concept of CSR was first introduced to China in the mid 1990s. It was introduced by Western enterprises operating in China, through global supply chains. They had come under pressure by customers, social activists and trade unions back home (Chan, 2005). As Western enterprises have become more concerned about their reputation in recent years, the implementation of corporate codes of conducts, as well as international certifications on labor standards, such as the SA8000, has become more widespread.

China-based suppliers to known Western brands are according to Liu Kaiming less likely to exploit their employees (Interview with Liu Kaiming, 18.11.11). However, when a strike erupts in factories that manufacture products for these companies, it often makes headline news both in China and in the West (Frenkel and Sydow, 2011). One company that has experienced this is Apple.

In Spring 2010, in response to the harsh working conditions with long working hours and low payment, 10 young migrant workers at the Foxconn factory in Shenzhen, showed their desperation by jumping to their deaths from the rooftop of the factory building (Chan, 2010). Foxconn is one of Apple's main suppliers, and the incident got much publicity in the Western media. Consequently, efforts were made in order to improve the working conditions at Apple's suppliers in China, by introducing corporate codes of conduct and performing monitoring (Frenkel and Sydow, 2011). Still, recent newspaper reports show that the workers at Foxconn are still unhappy about the working conditions. In October 2012, over three thousand workers at the Foxconn factory in Zhengzhou, went on a strike (Guardian, 2012).

What the case with Apple shows, is that, although a company establish corporate codes it does not necessarily mean that they are followed by the local company or that it guarantees an improvement in labor standards for the workers concerned.

Generally the lack of enforcement of labor laws hinders the implementation of CSR in China. As mentioned previously, CSR means to do more than the law requires, however, according to Karin Buhman (2005), Western enterprises' main focus when trying to implement CSR in

China is not to do more than the national law requires, but rather to make sure that the laws are being properly enforced (Buhmann, 2005).

Another hindrance to implementing CSR is that it is difficult to perform reliable monitoring in China. Chinese factory owners have been known for directing their workers into giving monitors the “right” answers. This was not the case at Foxconn, however, independent monitors revealed harsh working conditions, long working hours and low wages, as late as early 2012 (Nytimes, 2012). The problem here was rather that the factory owners, or Apple for that matter, were not willing to pay for the extra costs that comes with improved labor standards and working conditions (Nytimes, 2012). This is a common problem, and one reasons why CSR causes controversy in China.

When CSR was introduced in China it met much resistant both from the Chinese government as well as Chinese suppliers. This skepticism was grounded on four main arguments; protectionism, commercialization, lack of localization and imbalance in bargaining power (: 89-90).

First, critics argued that CSR and codes of conduct was a protectionist weapon imposed upon Chinese suppliers by the West. As the demand for higher social and environmental standards could increase production costs, critics feared that this could threaten China’s comparative advantage. Secondly, the high certification costs and unqualified certifiers associated with the implementation of the standards, led many Chinese manufacturers to think of the standards as an extortion scheme, in which they need to pay off the certifiers in order to get a certificate of CSR. Thirdly, Chinese manufacturers also claimed that the standards did not fit the Chinese economic reality, because many Chinese companies were in its early stages of development and therefore could not afford to pay attention to environmental or labor standards (Chan, 2005, Lin, 2010). For many local small and medium-sized companies, CSR in the sense of doing more than what the law requires might seem as an indulgence they cannot afford. Even complying by the existent laws might to them already be too expensive (Buhmann, 2005). Fourthly, Chinese manufacturers often have no bargaining power relative to big, powerful MNCs. They therefore cannot make the MNCs share the increased production costs associated with higher labor and environmental standards (Lin, 2010).

In recent years, however, the Chinese government at least, has become more positive to CSR, and it has even institutionalized the concept into law. In the Chinese Company Law of 2006,

Article 5 states that “When undertaking business operations, a company shall comply with the laws and administrative regulations, social morality and business morality. It shall act in good faith, accept the supervision of the government and the general public, and bear social responsibilities” (Lin, 2010).

The reason for the changed attitude towards CSR, can be seen in light of the change in policy by the Chinese government, which is emphasizing the need for a more sustainable development strategy in order to maintain social stability and “building a harmonious society” (Lin, 2010). Another reason is that China has become more reliant on the global market. The markets in Europe and the US are the main destinations of Chinese exports, because of this; China also has to comply with consumer demands in these markets.

The Chinese media has also become more eager to report on corporate irresponsibility, especially targeting foreign MNCs. They are putting pressure on these enterprises in order for them to take a greater share of the cost in improving labor standards (Lin, 2010).

The Chinese government largely determines the Chinese discourse on CSR, and because of this it also has its “Chinese characteristics”. Human rights is for example not included in the Chinese concept of CSR (Lin, 2010).

## **4.5 Structural Changes: Decrease in Surplus Labor**

According to Garnaut and Huang (2006), China can in many ways be seen as a textbook example of Lewis’ dual sector model. When the reforms started in 1978, China was the world’s most populous country with one billion inhabitants. At that time, 80 per cent of the population was employed in agriculture; however, most of them were underemployed (Garnaut and Huang, 2006: 18). Thus, at the starting point of reform, China had a huge amount of surplus labor in the countryside, just waiting to be employed. As economic growth escalated and the industry expanded on the east coast, farmers migrated to the cities to look for work. This subsequently also led to further economic growth and the need for more workers (Garnaut and Huang, 2006).

Nevertheless, since 2004, reports have started to show that firms on the east coast have a harder time than they used to, at recruiting unskilled workers, and as consequence wages have started to increase in urban areas (Chan, 2005, Huang and Jiang, 2010, Minami and Ma, 2010). Because of this, economists have started debate whether China has, or is close to reaching the turning point in economic development (CLB, 2012c, Minami and Ma, 2010). If this is the case, this could have serious consequences not only for China's workers, and China's development model, but also for the global economy (Garnaut and Huang, 2006).

The next section will present some of the arguments in the debate on whether China has or has not reached its turning point in economic development.

#### **4.5.1 What causes labor shortage in China?**

According to Lewis' model, the turning point is when the surplus labor in the countryside dries up, and wages consequently start to increase. In China, wages have increased rapidly in recent years (Chan, 2005), however, in 2004 there were still more than 300 million farmers in agriculture and the problem of serious underemployment seemed to remain (Garnaut and Huang, 2006). Furthermore, the problem of unemployment in urban areas has become more serious (Minami and Ma, 2010). So what is then causing the labor shortage in China's labor-intensive industries on the east coast?

According to OECD, there can be historical and demographic explanations to why China started to experience a labor shortage in 2004. The OECD experts argue that this may just as well be caused by the low birth rate, which is the late effect of the huge amount of people who died of hunger during the Great Leap Forward (1958-1961), probably between 20 and 30 million. China still has a huge amount of surplus labor, and demographically the workforce will keep increasing until 2015. After that, the workforce will start to decrease, much due to the one child-policy (Knutsen, 2012:120).

Since 2004, the problem of labor shortage on the east coast has become more prevalent after every Chinese New Year. Workers who go home for the holiday just do not return (Chan, 2010). One reason for this can be the change in development policy by the Hu and Wen

administration. The “Go West” strategy was launched in the early 2000s. This development policy is aimed at stimulating the economy of western China. Huge investments have been made by the central government to develop the infrastructure and industry in this area. The aim is for the low-cost, labor-intensive industry to move from the East Coast to the Central and Western part of China. In this way all of China can take part in the economic development, and the enterprises on the East Coast, which have already come a long way in its economic development, can shift its focus to producing more high-tech, high-quality, capital-intensive products. This policy has created more employment opportunities for migrant workers closer to home. Thus, they no longer have to travel far to find employment. Although there is still a difference in wages between the east coast and the West, the gap is not as wide as it used to be. The living expenses are also much lower in the West than in the East. As a consequence, people from the Western and Central parts of China no longer have the same incentive to travel to the East Coast to work (CLB, 2010b).

Furthermore, Anita Chan (2005) argues that one of the main reasons why factories on the east coast now have a hard time finding workers, is that the workers are fed up with bad working conditions and the many labor violations. They no longer see it worthwhile to leave their hometown and family behind to work for low salaries under dangerous working conditions on the east coast (Chan, 2005). The migrant workers who are already living in urban areas on the east coast have also become more demanding (Interview with Liu Kaiming, 18.11.2011).

One visible sign of this has been the increase in number of protests and uprisings in factories on the east coast. Since labor shortages began to emerge in 2004, worker protests have not only increased in number, but have shifted focus from a reactive response to labor rights violations towards more proactive demands for higher wages and improved working conditions (CLB, 2012c:5). These protests have according to Liu Kaiming, been initiated by the new generation of migrant workers, those who are born after 1980 (Interview with Liu Kaiming, 18.11.11).

Many of these young workers were born or grew up in the factory towns and cities of eastern China, and therefore they do not consider themselves as being “rural”. China Labour Bulletin (2012) describes the new generation also as more demanding:

*“While their parents’ generation might have responded to exploitation and rights violations by cutting their losses and looking for another job or even returning to their villages, this younger, better educated and more determined generation is far more likely to stay and fight for their legal rights and for a better life in the cities” (CLB, 2012c).*

In 2009, official statistics showed that the proportion of migrant workers born after 1980 already exceeded 60 percent (CLB, 2012c:17). This was also the year when the term “new generation of migrant workers” was first used in official documents. Chinese Academy for Social Sciences pointed out some of the key characteristics of this new generation of migrant workers in a report from 2010 (CLB, 2012c). According to the report the “new generation of migrant workers” have a higher level of education, knowledge of the Internet and mobile telecommunications, higher expectations and aspirations, and no interest in rural living. They have higher demands for consumer products, which furthermore results in the need for higher wages (CLB, 2012c). As a result this generation often switches jobs, in a quest to find the “perfect” job (Jiangxi Daily, 2012).

Still, it should be emphasized that there are still a large number of rural migrant workers in China. In February 2012, the number was set to be 240 million (Knutsen, 2012:120). Conversely, as economic development and a shift in development policy in China have led to an advancement in technology and production, the shortage of skilled workers, especially on the east coast, is already quite profound.

#### **4.5.2 Skills Shortage**

If the academics that argue that China has reached its turning point are right, this would further implicate that China might be expected to change its comparative advantage from labor-intensive to more capital or technology-intensive industries, in the near future. In some areas of China this has already started to happen (Garnaut and Huang, 2006). In 2008, the Guangdong provincial government announced a new grand economic strategy. The government would encourage the labor-intensive industry to move out of the Pearl River Delta, to give room for new technology intensive industries in core areas of the delta (CLB, 2011).



Still, some argue that China is not ready for such a change. A shift from a labor-intensive to a knowledge-based economy creates a greater demand for highly skilled and highly educated employees. The migrant workers coming from rural areas normally do not have vocational education or the necessary training to fit the changes occurring in the industry. Some argue that the lack of skilled workers might thus become a bottleneck for further development.

Skill shortages are most apparent on the east coast, where shortages are prevalent on almost all skill levels and in different job categories and industries. In 2009, the demand for skilled labor accounted for 49.5% of the total labor demand in 112 cities around China (Li and Sheldon, 2011:131). Data from 2001 to 2006 show that shortages are chronic and even increasing in certain categories. Demands are especially high for technicians, senior technicians and senior engineers. Categories of skilled labor that are among those whose development require greatest investment in time, money and other resources (Li and Sheldon, 2011). Furthermore, the lack of skilled workers co-exists with a growing unemployment. In 2004, 56% of the unemployed had only obtained a lower secondary education or below (Li and Sheldon, 2011:132). This implicates that there is a need for a general update of the educational and skills level of the Chinese workforce. However there are great challenges to achieving this.

First, for Chinese workers who have completed vocational training or upper level education, the problem is often that they do not have the relevant knowledge or experience to perform as the enterprises expect. Secondly, because workers often tend to switch jobs quite often, enterprises are not willing to provide their employees with the necessary training that could make them into skilled workers. Third, the *hukou* system still sets limits to the free choice of working anywhere in the country, because social benefits are linked to where one is registered. Since shortages are most profound in the eastern parts of China, more labor mobility, could have made it easier for skilled workers to travel to the east and fill the qualification gap (Li and Sheldon, 2011).

Conversely, skill shortage can also bring with it improvement, because it gives workers more bargaining power. The increased competition between firms for workers with the right qualifications encourages a seller's market, where skilled employees can bargain for higher wages and better terms. This furthermore generates an increase in wages. According to a study by the American Chamber of Commerce (2009), based on 108 FIE manufacturing

companies, increasing wage costs for managerial and technical employees were the main reasons why manufacturing costs jumped 10 per cent from 2006 to 2007 and 5 percent from 2007 to 2008 (Li and Sheldon, 2011:138).

The increased power of the skilled worker also explains the high job turnover among some categories of employees. Li and Sheldon (2011) claims that due to the lack of a real collective “voice” through independent unionism, this “exit” strategy probably appears to be the most effective route for advancement for employees.

The high levels of job turnover among skilled workers have become a huge challenge for employers and as a result “poaching” has become a common practice. By poaching employees, companies recruit workers, with the necessary qualifications, from a competitor, by offering attractive incentives (Li and Sheldon, 2011).

This way of solving the immediate shortage of labor does however contribute to escalating the problem of skill shortage and high job turnover. First, it challenges the practice of workplace training, as enterprise can lose a lot of money on employees who will quit as soon as they get a better offer. As workplace training could be one solution to the problem, this further prolongs the problem of skills shortage. Within the firm, tensions might also emerge, as some employees will get more benefits and higher salaries than others (Li and Sheldon, 2011)

Skill shortage can bring more bargaining power to the workers with the right qualifications. The question is whether this increased bargaining power for some; also benefit workers who are not in high demand in the labor market. This will be one of the questions that will be explored furthermore in my next chapter, where I will move on to present and analyze my findings from my fieldwork.

## 4.6 Conclusion

China has gone through tremendous change in the last three decades, and this has especially affected the workers' situation. Workers in SOEs in urban areas enjoyed high status and many privileges during the planned economy. But these benefits were lost when the planned economy was replaced by capitalism.

Chinese workers have been both the facilitators as well as the victims of China's great economic success. Cheap labor has been China's main comparative advantage, and in the quest for attracting foreign investments and economic development, the Chinese government has chosen to ignore harsh labor violations. The party-controlled trade union has also followed suit, due to its mandate as a protector of party policy and inability to adjust to a more market driven society.

Social stability has been a prerequisite for China's rapid growth. And as the Chinese workforce is starting to rebel against the harsh working conditions, the government is again starting to care about its self-proclaimed mandate as the protector of the proletariat.

Starting from 1994, the government has developed a comprehensive legal framework for the protection of worker rights. These laws determine the level of labor standards in China, in terms of working hours and minimum wage, facilitate the use of collective bargaining, and launch a new social security system that is meant to fill the gap after the smashing of the Iron Rice Bowl.

The problem so far has been the lack of enforcement. The trade union in China is still controlled by the party, and for the workers' the union has proved to be little help. Workers lack representatives that will fight for their rights and ensure that the many labor laws are being properly enforced.

Foreign enterprises operating in China have in recent years come under scrutiny for the bad working conditions in China. In order to protect their reputation, CSR have become common. However, due to the lack of enforcement of laws in China, CSR in China have taken a

different form than what is common in the West. Cultural differences have also hindered enforcement of companies' codes of conduct.

Lack of labor has become an increasing problem for enterprises on the east coast in recent years. For a country that has based its economic growth on a steady supply of cheap labor, this can have huge consequences and it forces the Chinese government into rethinking its strategy.

This chapter has given an overview of labor relations in China. The next chapter will present the findings from my fieldwork.

# 5 Case Study: Labor Standards in Xiaoshan

## 5.1 Xiaoshan: A Brief Introduction

*- A magnificent future is awaiting the people of Xiaoshan.*

Xiaoshan Government website, 2008

When I first arrived in Xiaoshan in October 2011, this same thought crossed my mind. The future really looks bright for the people of Xiaoshan. The apartment I stayed in in Xiaoshan was in one of the many high-class apartment buildings. From my window I could look down on the highway where luxury cars from brands like Lexus, Porsche, and BMW were driving past. Along this highway there were high rising apartment buildings, five star hotels, luxury spas and shops selling expensive imported wine. It was clear that at least some people in Xiaoshan were making big money. And I did not have to look far to see the reason why. Because behind this facade of luxury there were factories as far as the eye could see.

Xiaoshan was classified as a city in 1988. In 2001 it became a city district of Hangzhou, and it is now ranked as the most economically developed administrative district of Hangzhou and among the most developed areas of the Yangtze River delta. It is ranked as the most economically strong county in Zhejiang and number 7 in the whole of China (Xiaoshan Government Website, 2008). Xiaoshan registered an annual GDP growth of 20% from 2002 to 2007, and it ranked first in revenue in Zhejiang for six consecutive years. In 2007 the GDP of Xiaoshan reached 84.29 billion yuan, with a per capita GDP of 63,985 yuan. Its rural per capita income was 11,700 yuan, far exceeding the provincial average (China Daily, 2008).

I once asked the assistant manager at one of the enterprises I studied how people in Xiaoshan have managed to become so wealthy, and she replied: “People in Xiaoshan never stop working and they always look for new ways to make money”.

Xiaoshan is located in a province that is known all over China for fostering people with an entrepreneurial spirit. When the reform period started, Zhejiang province chose a different economic model from the other provinces on the east coast. It is a model based on entrepreneurship, encouraging the establishment of small and medium sized private Chinese enterprises. In Xiaoshan there are more than 16 000 private companies (Xiaoshan Government Website, 2008).

But Xiaoshan has also benefited from huge investments in infrastructure by the government. It has one of China's biggest airports, 9 bridges that link it with Hangzhou city, high speed trains that links it to Shanghai and several highways leading to the bigger cities in the Yangtze River Delta. In 1997, the Central Government also established a developing district in Xiaoshan. And big foreign companies have invested here.

One reason for the rural population being so wealthy is that the residents holding a rural hukou no longer live in rural areas and do not work as farmers. The urban area of Xiaoshan has outgrown the rural area in just two decades. The ones who were born with a rural hukou are now living in an urban area with the same benefits as they had before. Much of the farming land has been sold off to the industry or infrastructure projects. Many farmers have received compensation for the loss of their land and kept the right to own a house. Several of them have spent the money they got in compensation to rebuild their houses, and many migrant workers now rent a room at a farmer's house. Because of this, people with a rural hukou in Xiaoshan often earn more than average factory workers in the district.

While walking through the streets past the many factories in the *kaifaqu* (开发区), developing district in Xiaoshan, I noticed one sign that was posted on the entrance gate of many factories, "looking for workers". The many companies in Xiaoshan have for almost three decades benefited from a stable flow of migrant workers coming to the area looking for work. Xiaoshan has a registered population of 1, 2 million, and a migrant population of 800 000 (Xiaoshan Government Website, 2008). This unregistered part of the population in Xiaoshan comes from other parts of Zhejiang, but also from less well off provinces far away from Zhejiang. When interviewing the management at the three enterprises I studied in Xiaoshan,

there was one concern that was repeatedly mentioned: the lack of workers.

## **5.2 Labor standards in Xiaoshan: Findings from the Three Enterprises**

My initial hypothesis was that labor standards would be higher where the economic development has come the farthest, because economic development leads to an improvement of standards. Considering the overwhelming economic growth in Xiaoshan in the last two decades, my hypothesis should therefore indicate that the labor standards and working conditions in Xiaoshan would be good compared to less developed areas in China. I will now move on to present some of my findings from my fieldwork conducted in three companies in Xiaoshan, one Chinese privately owned, one Hong Kong owned and one European-Chinese joint venture. The first part will focus on what the standards were in terms of wages, working hours, social welfare and the content of the labor contracts. Then, I will move on to discuss whether the four determinants discussed earlier in chapter three and four, have had any influence on the management to set the standards they have today.

### **5.2.1 The Chinese Privately Owned Enterprise**

The Chinese private owned enterprise had 190 employees. It had office workers as well as factory workers. Of the 190 employees 117 came from Zhejiang, whilst 73 came from other provinces.

Before starting my fieldwork, I had read on their website about the company and their HR-system. They emphasized on their website that creating good working conditions was important to the company. The first few days while I was at the factory, this was also my impression. However, after studying various documents and talking to the workers, I realized

that in some areas the enterprise was violating the labor laws.

### **Labor contract**

All employees had signed a labor contract. The signed collective contracts were normally for duration of three years. One argument for this was that they would have to put their employees on fixed contracts after the second term. They therefore had to consider this the first time they signed a contract. The document followed local standards for what a contract should include.

Regarding working hours, the contract stated that the enterprise followed the standards set in the Labor Law: maximum 40 hours per week and maximum 36 hours of overtime per month. If the employees worked overtime, they were entitled to overtime fees. This, however, did not match with how much the workers were actually working. They worked 8 hours per day, 6 days a week, and that adds up to a total of 48 hours per week. They did not get paid any overtime fee unless they were working more than what was considered as normal working hours. But with a total of 192 hours per month it is still below the maximum amount of working hours per month, which is 196 hours.

The contract states that the workers will get a monthly salary. Regardless of how much the workers would get paid, the HR department always wrote the minimum wage (1310 yuan) in the contract. This was because the amount that the workers would get paid would differ from month to month, depending on how much there was to do at the factory and how productive the workers were. So, to make sure that the employees would not complain about the salary being less than what was stated in the contract, they wrote the absolute minimum.

The contract also stated that the enterprise should have an arbitration committee that the workers can go to if they have any problems they would like to address to the management. The enterprise did have such a committee, which consisted of the HR-department and the trade union. But this committee did only meet if there were any issues to be solved, and this had so far never happened.

### **Wage level**



The HR-department at the enterprise gave me access to the workers' salaries the month before. While looking over the monthly salaries of the different employees I realized that the wage level was much lower than what I originally thought was the case. While I was talking to one of the managers just a day ahead, she had expressed that it would be almost impossible for a worker to live on less than 2000 yuan a month in Xiaoshan, but what the list of paid monthly salaries revealed, was that several workers earned less than 2000 yuan a month, and even as little as 1000 yuan. The minimum wage in Xiaoshan is 1310 yuan. The HR-management said that they are currently operating with what was last year's rate for minimum wage, 1100 yuan, but that from next year on they would start paying the new rate.

The wage differed quite a lot between each employee. The factory workers had a base salary of 600-750 yuan per month. The base salary depended on the duration of their employment at the enterprise. They start at 600 yuan, and then it increases by 50 yuan each year. They would get paid their base salary regardless of how much they worked or how much work there was to do at the factory. In addition to the base salary they would also get a result-based plus. This was dependent on how many productive hours they worked each month. Beforehand the management had decided how long it would take to finish one particular assignment. If the workers managed to finish the job faster than was expected, they would also make more money. For one productive hour, they got 8 yuan. The workers normally worked between 100 and 600 productive hours each month. This means that the salary differed quite a bit between them. The wages for factory workers varied from 1000 to 6000 yuan per month. However, if there was little to do at the factory, which was the case when I was there, their salary also went down.

If they worked overtime, longer than 8 hours, they would get paid extra. But they did only get 3 yuan extra if they worked after 10pm until 12pm, and 5 yuan extra in total if they worked after 12pm. This is against the law, since the law states that the workers should be paid 150% if they work overtime on a normal working day.

The office workers had a base salary of 1100 yuan per month. In addition to this they also got an extra pay based on their position, achievements and education. The salary for office workers varied between 2 000 and 12 000 yuan a month.

When interviewing the workers I found that there was quite a big difference between the old, who were above the retiree age, and the young workers in their twenties. The workers I talked to that were above retiree age had been headhunted to this enterprise because of their long experience from the industry. Quite a few of the retired workers had once been employed by a former state owned company, which was later bought by a European company and then an American one. The workers whom I interviewed with this background were very positive about their current situation. Because they were already retired they got pensions, which in Zhejiang are quite high, around 2000 yuan a month. In addition to the pension they also got their salary, and because of their long experience it was quite high compared to other workers at the factory, around 5000 yuan a month. They compared their present situation to how it was when they worked for the SOE in the pre-reform era, when they almost did not have food to eat, and were pleased about the improvements they had experienced in their standard of living.

Among the young workers in their twenties whom I talked to, the view of the conditions at the enterprise was more critical. Both among workers with a university degree and those who only had primary education, the main concern were that the salary was too low. The young men in the factory gave me concrete examples of how much they would have gotten paid if they had been working for a SOE that was located nearby, operating in the same industry. The young office workers whom I talked to, who were all women, were concerned with their lack of work experience and explained that this was one of the reasons why their salary was low. They had entered the company as university graduates, and without any work experience they could not expect a high salary. They also said that it would be difficult to find a new and better-paid job, again because of the lack of work experience.

### **Working hours**

The enterprise had both office workers and factory workers. The working hours in the office were from 7:30 to 16:30 from Monday till Saturday. They had one hour break each day. So they were in total working 8 hours a day, 6 days a week. I was told that working overtime was not common for office workers, but when they did, they would not get paid extra, but rather get the same amount of hours off some other day.

Since the factory was operating 24 hours a day, the factory workers were working in shifts.

They worked 8 hours a day, 6 days a week. They worked one-week day shift, one-week afternoon shift and one-week night shift. If the factory had a lot of orders, the workers would sometimes be asked to work on Sundays as well. But in 2011 this had rarely happened, since the business was slow. The workers I talked to were also quite reluctant to work on Sundays because the overtime pay was too low.

Except for the low salaries, the workers seemed quite happy with the working conditions at the factory. There was, however, one thing that almost all of the workers said that they were missing: more time off. They wished that they could have two and not only one day off each week. This is, however, not very common in Xiaoshan, because in most Chinese private owned factories the workweek is six days.

### **Social welfare**

The enterprise offered the five mandatory insurances; pension, health, injury, maternity and unemployment. It was based on the standards set by the local government. The amount paid by both employer and employee depended on the salary, but the percentage was the same for all. They used the local minimum standard for all five mandatory insurances. The enterprise had to pay 12% and the employee 8% in pension. For health insurance the employer paid 10%, whilst the employee paid 2%. This meant basically that the less they earn, the less they get out of their insurances.

The assistant manager told me that the factory pays for social insurance for all employees, including migrant workers. This was not the case a few years ago. Previously one could not transfer the pension from one place to another, meaning that migrant workers would not get paid pension if they had worked outside of their hometown. Now the policy has been changed, and migrant workers can transfer pension from one place to another.

The company did not offer a housing fund. This, the HR-manager claimed, was not common for private enterprises and especially not for those who employ factory workers. However, one of the workers whom I interviewed mentioned the lack of a housing fund as one of the most negative things about working for the enterprise.

In addition to this, the factory also had a dormitory where the migrant workers could stay for free, only paying 30 yuan per month for water and electricity. The dwellers in the dormitory

normally only shared a room with one or two other persons. The rooms were all equipped with free Internet access. The workers staying in the dormitory told me that they were quite satisfied with the conditions, especially the fact that they did not share a room with that many people. One worker I talked to, who had previously had factory jobs in Guangdong province, claimed that it was better to work in Zhejiang because the social benefits were better.

The company offered a free bus shuttle to and from work in the city center. The factory also had a canteen where the workers could get inexpensive breakfast, lunch and dinner.

### **5.2.2 The Hong Kong Owned Enterprise**

The second company I visited was a Hong Kong owned textile company, located in the state governed developing district. The company had about 1300 employees. Among these 546, were from Xiaoshan and the surrounding areas, whilst 749 came from other provinces. Most of them were blue-collar workers, working in the factory. 100% of what they produced was exported to famous Western apparel brands.

#### **Labor contract**

The employees signed collective contracts. The first contract normally lasted for one year and the second for a period of three years. After signing two contracts, the workers would be offered a fixed contract or as long as the employee requested.

The contract had the same outline as I had seen at the Chinese enterprise, but there were some differences in content, and the biggest concerned working hours. The enterprise practiced what is called a *zonghejisuan* (综合计算), which means that workers can work overtime in peak periods due to production needs. The workers should however, according to law, not be forced to do this.

## **Wage level**

The factory management was not willing to provide me with information regarding the workers' wages. The workers I talked to were also reluctant to tell me how much they earned; only saying that their salary was about the same as for other factory workers in the developing district.

However, in an interview with one of the representative from the HR department, I was told that the wage level at the factory was not very high, but around the same as in other factories in the area. Since the factory signed collective contracts, they also had collective bargaining over wages. This was done together with representatives from the trade union in the developing district, every year in April when the government announced new minimum wage standards, he claimed. According to him, the beginner salary for unskilled employees, without work experience, would be around 3000 yuan a month.

One of the workers I talked to had been working for the same enterprise in 13 years. His salary was now about 2500 yuan per month, but he told me that the salary would increase each year in April. They would also get a month salary in bonus every year around Chinese New Year, so the workers were paid for 13 months.

## **Working hours**

*- There is no point in having time off if you don't have money to spend.*

*Worker at the textile factory*

The factory workers were working 8 hours a day, 6 days a week. The factory was running 24 hours a day, 7 days a week, so the workers did shifts. If they had to work on a Saturday or a Sunday, they would get paid 150%. One of the workers told me that they sometimes had to work overtime. The amount of overtime had increased just the last year because it had become harder for the management to find new workers. This meant that the employees had to work more to compensate for the lack of recruitment.

When looking at the amount of hours the workers had put in last month, I was shocked. Most of the workers had registered about 200 hours a month, which is more than the legal limit.

But some had worked up to 31 hours non-stop and 400 hours during one month. That is double the legal limit.

The documents that the manager provided me with showed that the enterprise had applied to the local government to get an approval for some of the workers to do more overtime than the legal limit. There were also documents confirming that the local government had approved work for as much as up to 400 hours during one month. This is normal in the textile industry, because they are often more busy during some periods of the year than others. If the workers in total worked less than the legal limit during one year, it still would be legal to work 400 hours in one single month.

Some of the workers I talked to said that they were okay with working overtime. The migrant workers were here to work and make money, and they therefore wanted to work as much as possible. One worker from Xiaoshan said that he did not mind working overtime because the prices in Xiaoshan are so high and that there is no point in getting time off if you don't have money to spend. Although the wages increased each year, the salary was still low in light of the high living expenses in Xiaoshan.

### **Social Welfare**

The enterprise paid for the five mandatory social insurances, according to local set standards, but only the absolute minimum.

The enterprise had a dormitory. The workers normally shared a room with one or three other persons. The enterprise would put people who were working the same shifts in the same room, so that they would not disturb each other.

In addition the enterprise also offered lunch for 1 yuan a day.

The enterprise trade union would also organize trips and social activities.

### **5.2.3 The European-Chinese Joint Venture Enterprise**

The joint-venture enterprise was operating in the same industry as the Chinese privately owned company. It was a small company with around 30 employees, the majority of them being engineers. The enterprise did not have a factory, but outsourced their production to local enterprises. The head quarter was located in Europe, and many of the employees had themselves had the experience of visiting Europe. The manager of the enterprise was European, but the assistant manager, as well as the supervisors of the other departments was Chinese.

#### **Labor Contract**

The outline of the labor contract at the joint-venture enterprise was the same as at the other two companies, but in addition it had an attachment. They normally signed contracts for a period of three years, with a probation period of six months. The salary would be a little lower during this period, but still above the minimum wage level. The contract would state exactly how much the salary would be. In the attachment it was also stated what kind of social benefits the company would provide the employee with.

#### **Wage Level**

The wages at the enterprise differed according to the employees' work experience as well as their educational background. The joint-venture company had a fixed monthly salary and did not ask their workers to work overtime. The starting pay was around 3000 yuan for the young engineers, but it would increase by 500 yuan each year. For senior engineers, with long working experience, the salary was higher, but I was not given the exact number. For administrative employees the salary was 4000 yuan each month. For employees working in quality control and sales department the salary was 6000 yuan each month. All the employees were paid for thirteen months each year, with an extra monthly salary being paid around Chinese New Year.

#### **Working Hours**

The employees were working five days a week, eight hours a day, and they had one hour lunch break each day. This was quite unusual for Xiaoshan, as most companies would have their employees working six days a week. The employees whom I interviewed considered

this to be one of the most positive things about working for this enterprise and one of the reasons why they had chosen it instead of others.

The employees said that they were not asked to work overtime, but if they did, it was because they themselves had chosen to do so. If they for some reason were asked to work extra hours, they would get paid overtime fees according to government regulations.

### **Social Welfare**

The enterprise paid for six social insurances. In addition to the five mandatory ones, the enterprise also provided their employees with insurance for accidents happening outside of the office and working hours. If the employees got sick they would get paid 50% of their salary the first six months and after that 40%.

The enterprise also provided the employees with a housing fund. The housing provident fund is a nationally mandated social program. It is funded by the employer and employee contributions, as determined by local governments. The purpose of this fund is to assist employees in buying, building or renovating homes, or paying rent. If the fund is unused by the employee, the fund, with interests, will be available to him when he retires (Brown, 2010: 143). According to the local standard set by the government in Xiaoshan, the employer and employee should pay 8% of the employee's salary to a housing fund. This enterprise however, paid 12% of the salary.

Each month the employees would also get 300 yuan to buy lunch, 50 yuan to cover mobile costs and 500 yuan for national holidays.

The office was located in a brand new office building. The employees had their own break room as well as a Ping-Pong table, where the employees could play during lunch break, or even in their spare time.

The enterprise offered the workers training. As mentioned, they offered free English lectures in their working time. During their lunch break they would also sometimes watch the TV-show "Friends" in order to improve their English. The management encouraged their employees to study the language because it was necessary in order for them to communicate with their customers as well as colleagues at the European headquarter.

In addition, the enterprise trade union also organized several social activities. The management, who paid the equivalent of 2% of the employees' salary, financed these.



## **5.3 Determinants of Labor Standards in Xiaoshan**

Zhejiang province is known for being a pioneer in promoting and enforcing labor standards and for having a generous social welfare system (Interview with the assistant manager at the Chinese enterprise).

My findings from the three enterprises I studied showed that the level of labor standards varied according to ownership type and industry. But there were also other determinants that could explain the difference in enforcement of labor standards. I will now go more in detail into how much labor laws, trade unions, CSR and the decrease in surplus labor did affect the management's attitude and willingness to enforce labor standards within the three enterprises.

### **5.3.1 Labor Laws in Xiaoshan**

The general opinion from managers and business people I talked to in Xiaoshan was that the local government had become much stricter in implementing labor laws in just the last few years, starting from 2008 and the implementation of the LCL. My findings show, however, that there was a clear difference in the willingness of the management at the different enterprises to follow the newly implemented laws.

Liu Kaiming argues that there are big differences when it comes to ownership type and how much employers care about labor standards as well as following laws and regulations set by the government.

According to him, companies from the developed world (European, American, Japanese and Australian), are most eager to obey the rules and protect labor standards. They come from countries where they practice the rule of law and it is thus in their culture to respect it. In

addition to this, companies from the developed world are often big corporations and they have to consider their reputation.

Furthermore Liu claims that Korean, Taiwanese and Hong Kong companies are less concerned about labor standards. They know the Chinese culture better, because it is similar to their own and therefore they also know how to go around the law.

Finally, Liu describes Chinese private owned companies as the worst at protecting labor rights. They are from the Chinese culture where there is no rule of law and they therefore do not obey the laws. They also know the system in and out, including how they can avoid or break the rules without getting into problems. These companies are often small or medium sized. They do not move to other countries if they get into problems, they just shut down, he claims (Interview with Liu Kaiming, 18.11.11).

My findings, to a large extent, correspond to these views.

The assistant manager at the Chinese enterprise told me that the local government had become much stricter, especially after the implementation of the LCL in 2008, in enforcing the labor laws and controlling the working conditions at the factory. The enterprise has to report to the local government once a year and present to them what salaries and social insurances the company offers its employees. The local government would visit the company at least once a year to go through documentation about working conditions and salaries; if the company did not obey the laws they would be fined. It could also risk not getting a loan, as the bank would also demand from private companies documentation that proves that they follow the law. Since Chinese private owned enterprises already are having more difficulties with getting loans from Chinese banks, this could be crucial. In addition, the local government will also punish the enterprise by giving it a bad review in the local newspaper, the assistant manager maintained.

However, looking at the salaries that the enterprise offered their employees, there were some violations of the labor law. They did for example not pay their employees sufficient overtime fees. As a consequence, workers were unwilling to work overtime. Another question is how they can have their workers toiling 48 hours every week without giving them overtime

compensation. The enterprise considered working on Saturdays as being normal working hours, and the workers were thus not paid overtime fees.

The enterprise was in most cases paying the workers more than the minimum wage, but when it came to unskilled workers; the minimum wage became the norm. They also still used last year's level. The HR manager told me that they would start using the new minimum level next year, but as the minimum wage level is adjusted normally every year, they were operating with illegal wage levels for some of their employees. The minimum wage in Xiaoshan, although the highest in China, is still very low in relation to the high living costs in Xiaoshan. And the workers who only get the minimum wage will have a hard time to get by.

According to China Labour Bulletin (2009), this is a common problem. They maintain that employers often see the legal wage as the standard or even maximum wage. When the local government determines a new minimum wage level, employers will often pay this and not more. They furthermore argue that the payment of little or no more than the minimum wage would not be such a serious problem if this was a living wage, but in the majority of provinces and cities across China, the minimum wage cannot sustain an individual worker let alone provide for his or her family (CLB, 2009:29)

When the local government inspects the Chinese enterprise, they would surely be able to uncover these violations. However, the enterprise is still allowed to continue using their practices. The assistant manager at the enterprise told me that when monitors from the local government visit the enterprise, they only go through documents they never interview workers. Documents can easily be manipulated. Furthermore, if you have the right *guanxi* (关系), you can still get away with breaking the law, she claimed.

The manager of the Hong Kong owned enterprise also told me that the local government had become much stricter in enforcing labor laws after the implementation of the 2008 LCL. Representatives from the local government would visit the enterprise to control the working conditions. They would check to see if the salaries were high enough, if they paid the five mandatory insurances and if the safety was good enough. The local government had also become a lot stricter at checking the environmental conditions at the factory premises.

At the Hong Kong owned enterprise, from the information I got hold of, I could not find any violations of labor rights, according to Chinese law. The problem I could find was the long working hours, but this had, however, been approved by the local government, and could therefore not be considered illegal. The HR-department at the Hong Kong enterprise claimed that they paid overtime fees according to government standards, and the workers whom I talked to also confirmed this.

The joint-venture company did not have inspections from the local government; a reason for this might be that they did not have a factory and that it was a small enterprise. Still, I did not find any violations of labor laws. Rather, they offered their employees more than the law required.

The labor laws were to a large extent followed within all the three companies. But, as I will come back to later, both the Chinese and the Hong Kong owned enterprises got a lot of pressure from their foreign customers to follow the laws, and their demands were even higher than those of the local government. It is therefore hard to conclude whether it is the stricter enforcement by the local government or pressure from Western customers that has led to the current situation.

### **5.3.2 Trade Unions in Xiaoshan**

According to the studies of Freeman and Medoff (1984), one of the most important tasks of a trade union is to provide the workers with a voice, which they can use to raise their demands and preferences to the employer. The problem with the official union in China is that it is a top-down organization that often fails to do exactly that. The trade unions at enterprise level are often established on request from the top, rather than through mobilization of the workers themselves. In more cases than not, Chinese enterprise unions have proved to be working closer in cooperation with the management than the workers, this reduces the legitimacy of the trade union in itself and the ability for it to protect workers' rights and needs. In the enterprises I visited in Xiaoshan, the trade unions' close connection with the management was quite profound and this had a huge impact on their mandate and how the workers' viewed their role.

All the three enterprises I visited had trade unions. However, in conversations with managements, HR-departments, workers and trade union representatives the picture drawn of the role of trade union was that of an organization in charge of social welfare. This was the case within all three enterprises.

The Chinese enterprise had a trade union with five representatives, and they represented the different departments at the enterprise. The union had one chairman and one representative for the female workers. Among the current representatives, four were members of the CCP, including the chairman. Two of them had university education, two college education and the last, who was not a member of the CCP, had high school as his highest achieved educational background.

The chairman of the trade union explained to me that the representatives were elected by the workers themselves and the ones elected then decided, together with the management, who should do what. They held the post for a period of 3 years.

One could question how free these elections were. The chairman was part of the administration and a good friend with the management. When I asked the workers about the elections, they did not seem to know anything about them. And when I asked the assistant manager, she told me that it was very easy for the management to manipulate these elections because the chairman of each department often would tell the workers whom they should vote for. In theory, everybody could run for office, but the management would recommend candidates. There was no direct election of the chairman; this would be settled after the representatives had been elected, and in discussion with the management.

The five representatives would meet once every other month. Normally they would know their own tasks pretty well, so they did not have to meet that often. When they did, it was normally to discuss things that were out of the ordinary. When looking at the reports from their previous meetings, I saw that they mostly had been discussing issues relating to social welfare, such as organizing social activities and what kind of gifts they should give the workers for Chinese New year.

I asked the chairman if the workers ever came to him if they were unhappy with their salary or the working conditions. He told me that this was not the case. The management fixed the

salaries according to the workers' position. In some cases where the worker had specific qualifications, the supervisor of that respective department would suggest a salary, and then the manager would decide what should be the proper level. The trade union did not bargain over wages with the management, except from two meetings each year where they would check if everybody was getting paid the minimum wage, he claimed. Since there were quite a few workers that were not paid the minimum, these meetings could not have been totally successful.

He furthermore told me that if workers were unhappy with the conditions at the enterprise they would rather quit and look for a new job than stay and fight for better conditions and higher salaries. The workers could easily do this because there was a lack of, particularly, skilled workers, both in Xiaoshan and in the surrounding areas. Shanghai is located only an hour and a half from Xiaoshan, and there the salaries were much higher, he claimed. When asking a worker who was really unhappy with her salary if she would ever go to the trade union to share her grievances, she looked surprised at me and answered back: "Why would the trade union have anything to do with that?" She told me that if she was unhappy about something she would rather go to her supervisor, not the trade union.

The main function of the trade union at the Chinese enterprise was basically to care for the workers' welfare in terms of arranging trips, buying snacks for the holiday and birthday cake whenever an employee was celebrating his/her birthday. This was also the workers' impression when I asked them about what they considered to be the trade union's mandate at the factory.

During my stay the chairman went on a course arranged by the local trade union. At this course 19 chairmen from 19 enterprises in Xiaoshan were attending. The chairman told me that the topics that had been up for discussion included what kind of activities they could organize, how to improve the conditions for elderly workers and what to do on children's day. So the local trade union was also focusing on the social welfare aspect.

The trade union at the Chinese enterprise was in many ways a classic example of the traditional way of organizing enterprise unions in China, where the management made use of the co-optation strategy. The chairman was very close to the management, and the mandate of the union had been stripped down to only being concerned with soft issues, such as

karaoke nights. The assistant manager at the enterprise also admitted that trade unions within Chinese private owned companies are weak and often closely connected to the management. She furthermore maintained that the stricter enforcement of labor laws in recent years is the work of the local government, who wishes to maintain social stability, and not a result of pressure from the trade union.

The Hong Kong owned enterprise had a trade union board with 8 members. I was told by one of the representatives from the HR-department that the workers elected the trade union representatives, but none of the workers I talked to could remember an election, and some of them had been working there for more than ten years.

Also here, the trade union functioned mostly as a social welfare organization. Looking at the reports from some of their meetings, the issues they had been discussing were about a field trip for the workers to Shanghai, organizing a karaoke competition, whilst a third issue was about a quarrel between workers and what they should write on the information board about it. It seemed like they only had meetings whenever there was a special issue to discuss. Each meeting only had one topic.

However, in talks with one of the representatives from the HR-department he claimed that the trade union did play a role in determining wages. Each year when the local government set a new minimum wage level, the trade union would get together with the management and discuss what the wage level at the factory should be. A reason for this was that the employees were signing collective contracts. However, the impression among workers was that the trade union was nothing more than a social welfare organization, and that it was not involved in determining wages.

In the joint venture enterprise the trade union was established by the management as a means to find out more about the workers' preferences and what the management could do to improve working conditions within the enterprise. The trade union had 5 representatives and the employees elected the representatives themselves. This trade union was independent from the ACFTU and the workers elected their own representatives. The structure was, however, quite similar to enterprise unions under the direction of the ACFTU. The main tasks for the trade union were to organize social activities, but also to bring suggestions to the management. They were not involved in bargaining over wages with the management.

However, at this enterprise the “voice face” of the trade union was important for the management. The trade union was regarded as a benefit rather than a hindrance for the management. It was important for them to get their workers to stay at the enterprise, and the establishment of a trade union was one way of trying to achieve this.

The question I asked myself many times when talking to workers about the role of the trade union was; how can it serve the workers if the workers do not know what the trade union is for? The idea of what a trade union should be is largely based on the experience from the communist era. If the trade union is going to change its mandate, they would also have to teach the workers and the local representatives about what role the union can actually play in changing the workers’ situation.

### **5.3.3 CSR and Foreign Influence in Xiaoshan**

My findings show that CSR and foreign influence did play a significant role in improving labour standards within all three companies, though in different ways depending on ownership type.

Within the Chinese and Hong Kong enterprises CSR was important through the pressure that was put on them by their Western customers. Whilst in the joint-venture company the foreign management seemed to use practices from their home country and apply them to a Chinese context.

The Chinese and Hong Kong-owned enterprises both had Western customers who pressured them into following their codes of conducts. As mentioned before, CSR is when a company does more than what is required by law. My findings show, however, that the codes of conduct in the two companies were almost entirely focusing on issues and demands that are already set in the Chinese labor laws. It seemed as though much of the focus from their Western customers was on making sure that they were actually following the law.

The Chinese company had a few Western customers and their demands to working conditions and salaries were, according to the HR-department as well as the assistant manager, high. The assistant manager told me that demands from their foreign customers had increased in recent



years, and that they exceeded those of the local government. She also said that the foreign customers are not interested in signing a contract until the enterprise can document that their employees are treated in a decent way. The Chinese company was struggling because of tough competition in the market and they depended on getting new orders and new customers. The Western customers would give them a higher price than Chinese SOEs or Chinese private owned companies, and they were thus seen as more attractive. Because of this the Western customers had more bargaining power, which they could use to put pressure on the Chinese company to follow their codes of conduct.

Just before I was about to leave Xiaoshan, the factory started to negotiate with an American company that was interested in deliveries from them. But before they could sign a contract, the American company came to the enterprise to see if the working conditions fulfilled their standards. Afterwards, the American company handed the enterprise a report on their findings. The report showed that there were several things that would have to be changed for the company to sign a contract with them. The Chinese enterprise got a few weeks to implement the changes.

One of the big issues for the Chinese enterprise was that the American company demanded that the workers should only work 40 hours per week. As mentioned above, at the time of my fieldwork they were working 48 hours per week. If the enterprise was to get this contract it would be difficult for them to finish their orders in time if the workers were only to work 5 days a week each.

The assistant manager and the trade union chairman found this demand especially difficult to fulfill. The assistant manager said that these regulations that come from abroad often reflect a lack of understanding of the local situation. Many of the workers wanted to work overtime because they were here as migrants and wanted to make as much money as possible. And although the codes of conduct are meant to protect the workers, the workers themselves might not agree to them. This, she told me, was a typical example of a cultural difference between China and the West. However, in interviews with the workers, one of the things they wanted more of was time off. *Diuxiu* 双休 was one of the first new Chinese words I learned at the enterprise. It means having two days off during the week. The workers I talked to were also reluctant to working overtime, because the pay was too low.

The manager at the Hong Kong factory claimed that their Western customers had high demands regarding working conditions, and that this had changed a lot in just the last four to five years. They also had demands before, but not as many as today. The demands from their Western customers were higher than those of the local government. Representative from their Western customers would come to the enterprise to monitor the conditions and interview workers. They would control everything that had to do with safety, insurances and wages. This was also confirmed by one of the HR-representatives.

Although the Western customers might have had higher demands than the local government, in some areas it seemed that they were satisfied with the enterprise just following the law, despite the fact that the working conditions were rough. One example of this was the amount of working hours in the Hong Kong enterprise. By looking at the list of hours worked, which their foreign customer also had been provided with, it was clear that some of the workers had been working up to 400 hours per month. As explained previously, this is allowed according to the Chinese law, but if this had been published in the media in the West, the chances are big that many would consider it to be intolerable.

The management at the two enterprises who had to consider their Western customers' codes of conduct was both skeptical of them. But the codes of conduct did, however seem to have some effect. First, the Western companies had monitors who came to the factories and talked to the workers. Secondly, the two enterprises were also required to fix things, for example concerning safety, if it was not in order. The Western customers seemed to have quite a lot of bargaining power for two reasons; first, they would not sign a contract before the minimum standards were guaranteed. And because the competition was tough in the area, both companies were depended on signing these contracts. Secondly, the Western customers were considered to be more attractive than Chinese, because they were more reliable.

In the codes of conduct, having a trade union was put forward as a requirement. Because both these factories had trade unions, it can be claimed that they did obey by this demand. However, considering the limited role the trade union did play, it does not fit with the normal Western idea of a trade union.

In the joint-venture enterprise, the mere presence of a Western management seemed to have a significant impact on working conditions. One thing that was particularly emphasized as a positive thing by the employees was the management culture. The employees I talked to told me that one of the best things about working there was that their boss treated them as a friend and an equal. They were not afraid to go to the management if they had any questions. They were used to a hierarchal structure, where the management holds all the power. In the joint-venture enterprise, the European management seemed to have a positive effect on the working conditions within the company.

### **5.3.4 Structural Changes in Xiaoshan**

In my interview with Liu Kaiming he maintained that since China does not have independent unions, and because the enforcement of labor laws is weak, changes in the labor market and a decrease in surplus labor might be the most important determinant to improving labor standards in today's China.

When I first arrived in Xiaoshan it soon became evident to me that there was one issue that was on everybody's mind; the lack of workers. Three reasons for this were emphasized. First, the amount of migrant workers coming to Xiaoshan is decreasing. Secondly, young people from Xiaoshan are not interested in working as blue-collar workers. Thirdly, it is hard and expensive to find skilled workers. The three enterprises I studied were all concerned with finding and keeping the right workers, but they had different ways of solving the problem.

#### **The Chinese Privately Owned Enterprise**

On the first day at the Chinese enterprise, the assistant manager told me that labor in China is no longer cheap. She explained that the living costs in Xiaoshan are rising and therefore one also has to pay one's workers a livable wage. The competition is tougher in the labor market as the level of surplus labor is decreasing, and thus, if you do not pay your workers a high enough wage and treat them well, they will run off to another company that can offer better terms. This was especially the case for skilled workers, and it was a problem the company had to consider, as they needed personnel with very specific knowledge.

At the Chinese privately owned factory the main problem was to find young workers with vocational training. The assistant manager at the factory, who herself was from Xiaoshan, said that it now was really difficult to find young people from Xiaoshan who were willing to work in the factory. Being a factory worker has low status, and parents would not allow their children to work in a factory because of this. Although skilled factory workers in Xiaoshan can earn more money than a person working in a bank or as an engineer, it is considered “losing face” if one has a son or daughter who ends up as a blue collar worker, she claimed.

The impression of both the HR department and the management was that young workers with the necessary skills are aware that they are in high demand and therefore often quite demanding with regard to wages and other benefits. In their search for new employees the HR-department would often go to nearby companies and try poaching their workers. They then would have to bargain with the potential new employee about salary and other benefits. The Chinese factory was however quite small and not as competitive as other companies nearby. When bargaining with potentially new employees they would have to keep in mind that they could not offer salaries and benefits that were much higher or better than the ones already enjoyed by their existing employees. Because, as they claimed, their employees were comparing among themselves, and if they found out that some employees were making a lot more than others, this might lead to tension in the workplace.

Another problem with hiring young skilled workers was that they were notoriously known for shifting jobs quite often. Because recruiting young skilled workers was regarded as being both quite expensive and unstable, the factory had another way of solving this problem; they hired retired workers who had been working in the industry for many years and who had a lot of experience. Because they were already retired they got their pensions. Seeing that the pension was about 2000 yuan a month they were happy with getting a salary around 5000 yuan a month. At the factory most of the skilled workers were retired workers who knew the management from before. Over 30% of the employees were above retirement age.

Although both the management and the HR department complained about how hard it was to get qualified workers that are cheap, the access to unskilled cheap labor was still there. During my stay at the factory I was sharing office with the chairman of the trade union, he was also in charge of hiring new security guards. During my stay there I witnessed several interviews with possible new employees. Most of them had already retired, and they were

looking for some extra income in addition to their pensions. The monthly wage was 1500 yuan. Many of them complained that this was too low. One man applied for the job because he needed to make more money because his son was getting married. He was a retired teacher and his family lived outside of Xiaoshan. He would have to stay at the dormitory if he was to work there. He complained about the salary being too low, but just a few days later he was back, watching the gates at the factory. It should be mentioned that during the short period while I was there quite a few of the security guards quit. The trade union chairman told me that they had to find new people all the time for this post, one big reason for this was that the job was quite boring and the salary was too low. He now only looked for old people to do the job, because according to him, they were more reliable than the young ones. Young job applicants were notoriously known for being unreliable, switching jobs several times a year, demanding a higher salary and more interesting tasks.

The young factory workers I talked to were very aware of how much they should get paid, and they also had good knowledge of how much workers in the same industry at other factories in the area were making. The young people I talked to were working at the factory to get more experience that could get them a better job and higher salary in the future.

### **The Hong Kong Enterprise**

Finding both skilled and unskilled workers was also a problem for the Hong Kong enterprise. The manager at the Hong Kong enterprise told me that it was very difficult for the enterprise to recruit new workers. A reason for this, she said, was that the work in the factory is regarded as quite harsh. It is very hot inside the factory, especially during summertime. The workers also work in shifts, and that makes the job less attractive for job applicants, because they are not interested in working during the night.

The HR representative named two reasons for the lack of workers. First, the difference in salary between Xiaoshan and other provinces is now only a few hundred yuan, migrant workers therefore do not consider it worthwhile to travel so far from their families to work in Xiaoshan. Secondly, the migrant workers that have been working on the east coast for a few years now have got much work experience and they can get a high salary nearby their hometown, he claimed.

The manager told me that it was especially difficult to get young vocationally trained people to work there. Because of this the factory would rather hire young uneducated workers who they would train themselves. These workers were mostly coming from places outside of Zhejiang, and many of them from provinces such as Anhui, Sichuan and Henan, provinces that still lag far behind Zhejiang province in economic development. Whilst 70% of the workers in the age between 40 and 50 years were from Zhejiang, 80% of the workers in the age 18-25 came from outside of Zhejiang.

Another way of solving the problem of lack of labor force was to get the workers who were already hired to work even more. The factory could do this because many of their workers were migrants who wanted to work long hours to make more money. However, the workers I talked to who were of this opinion had been working there for a long time and they represented what might be called the first generation of migrant workers. They were, as they claimed themselves, used to working long hours and under rough conditions. The older workers in the factory did however complain about the young workers, saying they were much concerned about the salary, but not interested in working long hours.

Many of the present workers had been working there for many years, one of them more than ten years. He was not from Xiaoshan, and he came here together with his family. In Xiaoshan there had evolved a small community with people from his hometown. Because of this, they no longer saw the point in moving back to their hometown. When asking the workers at this enterprise what they considered to be the most important thing for them in order to be happy with their job, they answered good colleagues. Because many of their friends and relatives were working at the same enterprise, they had stayed, despite the fact that the pay was low. They argued that the salary in the area was almost the same at every enterprise, and therefore it was more important for them to stay at an enterprise where they knew their colleagues than looking for new opportunities where the pay would be higher.

### **The European-Chinese Joint-Venture Enterprise**

The management at the European-Chinese joint-venture company also complained about the lack of skilled workers. But that the biggest problem about this was that it was hard to get workers to stay. To make the workers remain within the company, it provided them with more social benefits. They also arranged for the workers to have a trade union, so that they

could bring suggestions to the management for what they could do to improve the work environment. So far, they had only lost two employees.

### **Voting With Their Feet- The Rise of a New Generation of Workers**

The new generation of migrant workers has been a concern for academics and businessmen, as well as the Chinese government. Because they are more demanding and unwilling to work under rough conditions, they are disturbing the harmony in the Chinese workplace. My findings, however, show that this is not only limited to migrant workers, but rather it is a phenomenon that is characteristic for the whole generation.

The assistant manager at the Chinese enterprise told me that it is easy to find a job in China, but it is difficult to find a good one. As mentioned, skilled workers, especially the young ones, are often comparing salaries and working conditions at different companies and because they are in high demand they have the bargaining power to increase their salary. This kind of bargaining power does not, however, apply for unskilled workers. According to the assistant manager, there is still a long time to go before the stream of surplus labor in China dries out. However, if the new generation that enters the workforce is unwilling to work for little or nothing, the level of surplus labor does not necessarily have to disappear before improvements start to happen. It was clear that both the Chinese as well as the Hong Kongese enterprise were very much concerned with how they could afford paying higher salaries and benefits to their employees. Today, they are solving the problem by hiring workers who belong to the old generation of migrant workers as well as old local workers. There is, however, a problem with choosing this strategy. In a few years, these workers will retire for good. The question then is whether or not the two enterprises I studied will be able to answer to the new generation's demands for higher salaries and better working conditions, or if they will lose out in the competition with companies that can offer better terms?

If my findings from Xiaoshan were generalizable to the Chinese society as a whole, it would entail that the old development strategy of employing people in labor-intensive industries is becoming outdated. Because my impression from Xiaoshan suggests that the generation that is entering the Chinese workforce today will not settle for the terms set in such a strategy. The rise of a more demanding workforce indicates that the Chinese government has no time

to lose in creating the “good” jobs, if it wants to continue the rapid economic growth experienced in the last three decades.

When I left Xiaoshan I got on the brand new express train bound for Shanghai. From my window I could see the farmers houses looking more like small castles seen in a Disney movie, than impoverished sheds as one might imagine when one thinks of farmers in China. The small castles were to me the ultimate symbol of the economic success story of Xiaoshan. When even the farmers had become part of the economic miracle, why should the workers settle for less? Young people in Xiaoshan were not interested in working in factories for long hours and a lousy pay. But who can blame them when their surroundings tell them that the future looks bright?



## 6 Conclusion

In 30 years, China has gone from being a closed country with a shattered economy, to becoming the greatest exporter, with the second biggest economy in the world. This unprecedented development would probably never have been possible, had it not been for China's large pool of cheap labor. Workers in China have been willing to toil for hours under harsh working conditions and for low salaries, in order to build a brighter future for themselves, as well as the country. However, as China's economy is growing and the people are becoming more aware of their own rights, employers are having a harder time finding workers who are willing to settle for anything. The question of how labor standards in China can be improved seems to be more urgent than ever.

In my thesis I have explored how labor standards in China can be improved, by focusing on four determinants, namely; labor laws, trade unions and collective bargaining, CSR and decrease in surplus labor.

How labor standards can be improved is not an easy question to answer, and there are many factors determining the outcome. The aim of this thesis was not to find a concluding answer, but rather to get a better understanding of what the situation is today and what the prospects might be for Chinese workers in the near future.

My theoretical approach focused on the debate on labor standards, which is mostly based on experiences from the West. Countries in the West have already gone through a process where worker rights gradually have become more comprehensive and working conditions have improved. It was therefore natural to look at how this process worked in the West, in order to get a better understanding of what might happen or happens in China. There is however a limitation to this approach. Because there are clear differences, culturally, economically and politically, between the West and China, and this is especially the case when it comes to the role of trade unions and worker participation.

Where trade unions have played a significant role in improving labor standards in the West, the trade unions in China are very much controlled and governed by the ones oppressing the workers.

ACFTU was built up around socialist principles, however, in a more capitalist society, where employers have more power over their workers; the old trade union structure has become outdated and made the trade union irrelevant to workers. Because the Chinese government does not allow the establishment of independent trade unions, workers rarely have the possibility to raise their demands through trade unions. As Freeman and Medoff maintains, the voice aspect of the trade union is crucial for the workers to raise their demands to the management in order to improve their situation and limit the power of the employers. When workers do not have this option, they can either choose the exit strategy, if that is at all an option, or hope for goodwill from the employer.

CSR is one form of goodwill that has become popular also in China in recent years. But as I have shown, it has its limitations. Because when CSR and corporate codes are decided far from and in different cultural settings than the ones the workers are living in, it is difficult to enforce. Because how can they know what workers really want and need? MNCs who invest in low cost countries, are often not willing to pay the price for improved labor standards, and the local companies also often lack the financial resources to pay the extra cost.

Arthur Lewis' theory on the turning point in economic development implies that only when surplus labor dries up, will wages start to increase and working conditions start to improve. In China some academics argue that this has already started to happen. However, China still has an oversupply of labor; the lack of labor can thus be a cause of other factors.

The data from my fieldwork show that it is difficult to find out which one of the determinants, that I have focused on, that has the most influence and is most important for things to change for the better for Chinese workers.

The management at all three enterprises emphasized that the local government had become much stricter in enforcing labor laws, especially since the Labor Contract Law came into effect in January 2008.

However, data collected from two of the enterprises show that in some areas working conditions are still harsh, especially when it comes to working hours and wages. The local government seems to be quite willing to let the factories have their employees work long hours. The minimum wage in Xiaoshan, although the highest in China, is still quite low in relation to the living costs in Xiaoshan. For some of the lowest paid workers, often the unskilled ones, the minimum has become the standard. This means that although the company respects the legal wage limit, the wage is still too low to be considered a decent one.

The trade union seemed to play a passive role in protecting the worker rights. This, I will argue, has two important reasons. First, their mandate was stripped down to the aspect of social welfare instead of collective bargaining. In none of the three enterprises the trade unions were independent from the management, and the workers as well as the trade union representatives quite frankly admitted that the management of the enterprise has the sole and ultimate power to decide what the wage level should be. Secondly, the workers themselves do not see the trade union as an organization that could serve as a voice for them to raise their demands and preferences to the management. And as the trade union chairman at the Chinese private owned company argued, the workers would rather choose the “exit” strategy than to stay and fight for their rights. The lack of workers in Xiaoshan also means that there would be several other possibilities if they were not happy with the conditions at their current workplace, so it would be useless to stay and fight for better conditions.

Foreign customers demanding “codes of conduct” seemed to have quite a lot of influence on the enterprises. One important reason for this was that these customers were considered to be quite attractive. Therefore, they had much bargaining power in relations with their Chinese partners. But experience shows that they cannot stop the violations of labor rights completely. I will argue that also here the lack of a free trade union is one important reason for this. Although the “codes of conduct” I studied, specified that the enterprise should have a trade union, they did not seem to care or know much about the trade unions’ mandate in practice. Because if the foreign customers really knew how little say the trade unions had within the enterprises, how could they then “pass” the factories?

However, in Xiaoshan, the biggest fear of the employers was clearly that of not being able to find enough qualified workers, at a decent price. This made the management at all three

enterprises think about how they were treating their workers and what measures that could be adopted to make their enterprise more attractive for the personnel they were searching for.

The improvement of labor standards in China is an ongoing and troublesome process. But my impression from my fieldwork in Xiaoshan is that things are going in the right direction. Laws are being more strictly enforced. Workers in many cases have a stronger position versus their employers, and have more possibilities to choose an exit option if they are not satisfied with their condition.

However, there is a danger that this could lead to bigger differences and more tensions between the high-skilled and low-skilled workers, between the young and the old. Such tensions were already noticeable in my interviews with workers, and it could be an important obstacle to the worker solidarity and the willingness to collective action that would be a prerequisite for a free trade union movement to gain foothold in China.

Decrease in surplus labor might give some workers more bargaining power, but this is definitely not the case for all. Trade unions are, among other things, supposed to protect those who are unattractive on the labor market. In today's China older and unskilled workers do not have anyone to stand up for them. My assumption is therefore that the one thing that could bring broad improvement for Chinese workers would be a stronger and independent trade union.

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