

From Iron Rice Bowl to the World's Biggest Sweatshop: Globalization, Institutional Constraints, and the Rights of Chinese Workers

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Abstract

This article discusses how China's institutional constraints combine with its integration into the global economy to suppress its workers' rights. The rapid expansion of China's market economy is the consequence of the government's active embrace of global capitalism and global capitalists' ongoing search for new markets and lower production costs. China's traditional socialist labor relationships collapsed as a result of state-owned enterprise (SOE) reform and the emergence of private enterprises. In the wake of these events, China's leaders promulgated new labor legislation and social insurance schemes, but these initiatives fail to safeguard workers' rights effectively. This is because the SOEs fail to compensate their workers properly, local authorities do not actively monitor labor abuses, the judicial system cannot effectively defend workers' rights, and the Chinese government suppresses efforts to organize independent labor unions. In short, global capitalism together with China's authoritarian polity have limited workers' rights and undermined their well-being.

China's adoption of free-market policies and the subsequent influx of foreign direct investment (FDI) have accelerated the nation's economic globalization. Between 1984 and 2008, FDI in China increased from US\$1.3 billion to US\$92.4 billion (Chinability n.d.). The story of globalization has come full circle since China's integration into the world economy (Lechner 2009, 83). This integration increased the wealth of Chinese people rapidly; the nation's per capita gross domestic product jumped from ¥251 in 1980 to ¥7,518 in 2010 (IndexMundi 2010).

The literature proposes several different arguments concerning globalization's effect. Some studies focus on between-country interactions. Others advance a race-to-the-bottom thesis, which holds that nation-states have to maintain their economic competitiveness by restricting labor's benefits. Still others insist that this second position is too deterministic and assert that countries' domestic institutions play important roles in mediating the forces of global capitalism. With this last view in mind, the current article examines how China's domestic institutions shape the rights of Chinese workers in the age of globalization.

Economic Globalization and Domestic Institutions

Globalization is a challenging term to define, as its definition differs with the perspectives of those defining it. Two of these perspectives take in global capitalism's complex relationships with nation-states. The first focuses on various levels of between-country interaction that resulted from the collapse of state communism in the Soviet Union and Eastern Europe, the advance of communication technologies, and the increasingly complicated economic and environmental issues now affecting many countries. In this perspective, globalization is defined as the dynamic social, political, cultural, and economic interactions between nations. For example, David Held

and Anthony McGrew (2000, 4) assert that globalization “denotes the expanding scale, growing magnitude, speeding up and deepening impact of interregional flows and patterns of social interaction. It refers to a shift or transformation in the scale of human social organization that links distant communities and expands the reach of power relations across the world’s major regions and continents.”

The other major perspective on globalization focuses mainly on the expansion of global capitalism and its impact on labor and social services. This perspective defines globalization as “an economic process, increasing cross-border integration of production and markets” (Callinicos 2007, 64). This process involves the “freedom for capital to move across national boundaries” (Mehmet, Mendes, and Sinding 1999, 17). The perspective envisions a search by capitalists, particularly the owners of multinational corporations in advanced economies, for new consumer markets and for new factory locations that will reduce production costs.

This second perspective, reflected in the race-to-the-bottom thesis, suggests that globalization reduces nation-states’ power over their welfare policies by leaving governments with little choice but to give multinational companies labor and welfare concessions in exchange for investment. At a time when capital is markedly transnationally mobile (Milberg 2004), the theory holds that governments trying to attract FDI must create favorable business environments by limiting business regulations, taxes, environmental protection, wages, and labor welfare (Mehmet et al. 1999; Braunstein and Epstein 2004). Layna Mosley (2007, 116–17) summarizes this perspective’s key features by noting that “the global economy has placed governments, particularly in the developing world, in a ‘golden straightjacket’; they must compete in order to survive, and the only means of competing is reducing government intervention, lowering taxes, and steadfastly pruning environmental, health and safety, and labor regulations.”

This means that “global markets become masters of governments, eviscerating the authority of national states” (Mosley 2007, 111). As noted earlier, however, some critics argue that this thesis is too deterministic; they find that domestic institutions can mediate the forces of the global economy (Gough 2000; Regini 2000; Gilpin 2001; Braunstein and Epstein 2004; Weiss 2004).

After studying small, trade-dependent European states, Peter Katzenstein concludes that “historical differences in these states’ domestic institutions generate cross-national variation in political-economic strategies” (cited in Mosley 2007, 111; see also Katzenstein 1985). Elissa Braunstein and Gerald Epstein (2004, 211) find further that FDI’s effect depends on countries’ institutional contexts, and that states in some institutional circumstances can “exert bargaining power over MNCs’ [multinational corporations’], and regulate them such a way as to generate significant benefits for their communities.”

In examining such contexts, Ian Gough (2000) finds differences in responses by several East Asian states to the 1997 Asian economic crisis. He notes that Korea moved toward becoming a developed welfare state, but Thailand and Indonesia adopted a so-called third way based on community and local innovations; Malaysia and the Philippines exhibited less policy innovation than their neighbors. He concludes that “domestic and international institutions, interests and ideas” mediate the forces of globalization (2001, 4).

Some suggest that the nature of a nation’s polity determines its resistance to external economic pressures. Advanced democratic governments manage to maintain their high expenditures on social services (Deacon 2000; Garrett 2000; Scharpf 2000; Weiss 2003). Social-democratic, citizenship-based, Western European welfare states, in particular, are “surprisingly sustainable in the face of global competitive pressures” (Deacon 2000, vii).

Furthermore, Linda Weiss (2003, 295) points out that developed welfare states' total public social welfare expenditure as a percentage of national income has not declined in the 1990s despite benefit cuts and increases in restrictions on welfare entitlements. She concludes that the developed democracies' fiscal behavior "has not been consistent with the idea of an eroding tax base undermining welfare policy" (2003, 295) and takes this to mean that the states have avoided an all-out race to the bottom.

Geoffrey Garrett (2000, 396) argues that countries in the Organization for Economic Cooperation and Development (OECD) do not respond to globalization by promoting a policy of racing to the neoliberal bottom, as they already have embedded and extensive social infrastructures. He notes that these features make it likely that governments will encounter strong resistance if they attempt retrenchment from their public welfare responsibilities. Fritz Scharpf (2000, 371) finds that democratic states need to regulate labor markets and production processes for the benefit of workers, as the states derive their legitimacy from "a commitment to the public interest and to distributive justice." That is, drastic welfare cuts would likely pose a direct threat to the legitimacy of most democratic governments.

Undemocratic governments, by contrast, are able to suppress labor rights and limit welfare expenditures. Ozay Mehmet and colleagues (1999) point out that the common feature of the miraculous East Asian economies is their administration by notably authoritarian governments. Governments in those states are hostile to workers' rights to freedom of association and collective bargaining. They add that "failure to respect workers' rights on the part of host governments while developing cozy business relations with MNCs [multinational corporations] creates an institutionalized imbalance in power between labour and capital: the welfare of workers, especially the vulnerable ones, is declining in an otherwise integrating world economy"

(1999, 17).

All this suggests that domestic institutions tend to shape globalization's pressure on social policies, as authoritarian polities are less likely than democratic ones to resist international capitalists' demands. Specific cross-national differences in domestic institutions also are found to vary the effect of external economic forces on East Asian countries (Mosley 2007). This article therefore examines how China's domestic institutions shape the effect of economic globalization on workers' rights.

Globalization and China's Labor Policies

This section examines how the Chinese government reorganized its social protection system and rebuilt labor relations through new labor legislation to address the challenges caused by the nation's economic globalization. Since its open-door policy began in the late 1970s, China has successfully attracted a large amount of foreign capital. More than 380,000 foreign enterprises were established there between 1980 and 2001 (Zhu 2004). The nation became the world's second largest recipient of FDI in 2009 (the United States was the largest) (*Bloomberg News*, 2010).

Economic globalization in China is the consequence of an active policy to engage with global capitalism and of global capitalists' search for new investment opportunities. In the 1980s, the Chinese government set up special economic zones in Guangdong Province, Fujian Province, and coastal cities in other provinces. The zones were designed to attract foreign capital. Foreign investors in these zones received special advantages, including concessionary tax policies and exemptions from export and import duties for equipment and instruments. The goal of China's

economic policy is to lure export-oriented FDI (Braunstein and Epstein 2004; Lechner 2009).

In 1986, the Chinese government began an active campaign to gain membership in the World Trade Organization (WTO). It did so on the premise that WTO membership could “accelerate the flow of foreign investment into China ... [as] the engine of growth” (Braunstein and Epstein 2004, 237). China estimated that WTO membership would increase its GDP by 22 percent, and such an increase implied the creation of more than 11.8 million new jobs (Chang 2002). In 2001, China was accepted as a member of the WTO after years of negotiations.

To accelerate growth and meet WTO membership criteria, China had to change the structure of many of its state-owned enterprises (SOEs)¹. Claustre Bajona and Tianshu Chu (2010, 802) note that the WTO’s 1995 Annex B of the *Agreement on Subsidies and Countervailing Measures* targeted China’s SOEs. It stipulates that subsidies in the form of grants and tax breaks for SOEs which were running at a loss needed to be phased out within 5 years (World Trade Organisation 2001). Also, China and the United States signed the *Agreement on Market Access between the People's Republic of China and the United States of America* in 1999. Accordingly, China needs to reduce tariffs, eliminate import quotas, open its banking, insurance, and securities markets, and open its accounting, consulting, engineering, medical, and information-technology service industries (Braunstein and Epstein 2004). In particular, the agreement requires China to lower its average tariffs from over 40 percent to 11 percent (Wu 2009). In short, Chinese companies likely face fiercer foreign competition because China, being a WTO member, is required to give “full access to its market to foreign firms” (Braunstein and Epstein 2004, 239). China’s reform of SOEs therefore became a process of eliminating inefficient enterprises and enhancing the productivity of selected ones so that they could survive external competition for the domestic market.

In order to facilitate SOE reform, Chinese leaders published a key document, *Decision on Issues Concerning the Establishment of a Socialist Market Economic Structure*², at the third plenum of the Fourteenth Communist Party Congress (Chinese Communist Party [CCP] Central Committee 1993). In this decision, the government protected some key SOEs that it continually supervises for strategic considerations but sold or bankrupted many small and medium-sized SOEs. It transformed others into different types of businesses. In 1994, the implementation of the *Company Law of the People's Republic of China* provides a legal base for this enterprise reform (National People's Congress 1993). In a 1999 publication, *Decisions on the Reform and Development of SOEs*, the government announced an effort to build a modern enterprise system for its SOEs within 3 years (CCP Central Committee 1999).

The SOE reforms forced millions of workers to retire early and made many middle-aged workers redundant; layoffs touched 5.6 million workers in 1995, 8.9 million in 1996, and 11.5 million in 1997 (Lee 2000). Approximately 28 million workers lost their jobs from 1998 to 2003 (Information Office of the State Council 2004). Some suggest that the actual number of laid-off workers is higher, because many workers and enterprises did not go through a “cumbersome” process of obtaining the certificate that identifies a worker as laid-off (Lee 2000, 924).

The government introduced several initiatives to meet the demands that arose for welfare assistance as a result of the SOE reforms and the emergence of private enterprises. It initially set up Re-employment Service Centers, where laid-off workers could receive job training and financial assistance for a maximum of 3 years before the termination of their formal employment relationship with an SOE. These centers also paid laid-off workers' social insurance premiums³ for pensions, unemployment, and health. In order to meet the welfare needs of all types of workers and poor citizens, the government eventually established three security systems: a

basic-living guarantee system for SOEs' laid-off workers, an unemployment insurance system for all unemployed workers, and a minimum-living-standard guarantee for poor people. It intended these systems to function as a means of addressing widespread poverty in the mixed economy (China Internet Information Center 2002).

Moreover, the Chinese government called on employers and employees to share the welfare burden by implementing various types of insurance schemes following the collapse of its traditional enterprise-based welfare system. In 1997, it issued the *Decision of the State Council on Establishing a Unified Basic Old-Age Insurance System for Enterprises Employees*, which requires all urban workers to participate in a united pension scheme that combines a social pool with personal accounts (State Council 1997). Accordingly, retired workers can draw funds from personal accounts based on the amount of their own contributions. In addition, they receive money from a social pool account, which is funded by employers' contributions and distributed to all retired workers. In the 1994 publication, *Views on Reforms of the Medical Care System for Enterprise Workers*, the government modified the national health policy, setting up a health-care insurance scheme that includes a social-pooling fund and personal accounts for SOE workers (State Development and Reform Commission et al. 1994). In 1998, the scheme was extended to cover all workers (Information Office of the State Council 2002).

The move from a "rigid, centrally-planned command economy to a multi-ownership market economy" (Zhu 2004, 1013) prompted new legislation on labor relations. The government also had to manage an increasing number of labor disputes involving the rapidly growing number of mostly unregulated private and foreign companies in its coastal provinces (Gallagher and Dong 2008).

In 1994, China enacted the first labor law since its open door policy in the late 1970s.

Prior to this, China emphasised self-reliance and self-sufficiency, having few commercial contacts with foreign countries. The objectives of the law are to “protect the legitimate rights and interests of laborers, readjust labor relationships, establish and safeguard the labor system to suit the socialist market economy, and promote economic development and social progress” (*Labour Law*, National People’s Congress 1994). It should be noted that the law offers Chinese workers rights to equal employment, selection of profession, remuneration, rest, holidays, labor security, health protection, job training, and social insurances. The law also introduces a locally based minimum wage and an annual vacation leave. Furthermore, it sets additional standards for working hours, health, safety, and the protection of women workers.

In 2007, the Chinese government passed the Labor Contract Law, which took effect on January 1, 2008. The law is intended to address domestic and international concerns over abusive working conditions, employment insecurity, and deteriorating labor relations (Gallagher and Dong 2008). This breakthrough legislation gives trade unions and employee representatives the right to negotiate with employers for collective contracts covering a company, industry, or region. It also obliges employers to consult with workers when drafting or revising employment regulations (BMU Consulting 2008). Moreover, it mandates that all workers must be employed on the basis of a written contract that stipulates their wage rates and the conditions under which they can be fired.

The preceding discussion suggests that China’s integration with the world economy and the collapse of its SOEs forced the Chinese government to provide social security to workers through various insurance schemes and to safeguard their rights through labor legislation. For the protection of their rights, Chinese workers now rely heavily on the labor-monitoring efforts of central and local governments as well as on the judicial system. The next section examines

whether China's domestic institutions can protect these rights in the context of rapid economic globalization.

Domestic Constraints and the Rights of Chinese Workers

The preceding discussion illustrates that China's economic reform has threatened the livelihood of hundreds and thousands of SOE workers. Therefore, the Chinese government introduced new social insurance schemes and labor legislation to meet workers' welfare needs, improve labor relations, and maintain social stability. The effectiveness of these measures is seriously constrained, however, by the urban bias in government policies, the restrictions on labor activities, a weak judiciary, and local governments' noncompliance with labor regulations.

The Household Registration System and the Social Exclusion of Migrant Workers

Despite the promulgation of labor-protection laws and the implementation of several insurance schemes, most Chinese migrant workers are unable to access their benefits because of a household registration system, *Hukou*. Before China's economic reform, *Hukou* provided a residency-based welfare entitlement by which the state allocated daily necessities and job opportunities, but it also regulated migration. Accordingly, all Chinese citizens are required to apply to the authority to change their place of residence. As the CCP used cheap rural resources and agricultural products to help develop China's urban economies, people living in cities had better jobs and social services than those in rural areas (Chan and Zhang 1999; Chan 2003). The *Hukou* system institutionalized this disparity, providing relatively poor social services and poor job opportunities to residents in rural areas but restricting their ability to relocate.

Economic reform released surplus workers from rural areas, and these workers later helped to facilitate urban industrialization. In 1978, the government replaced the commune system with a household responsibility system. Under China's planned economy, the commune system tied a worker to the land in a specific area, and he/she and other workers in the same commune were collectively responsible for the production of their common farmland. After the elimination of communes, a worker is only working for his/her family's allocated farmland. The worker now has little economic relationship with the village and township authorities. Because agricultural production from the allocated land is insufficient to support the livelihood of all family members, many rural workers have little choice but move to cities searching for better prospects. As a result, the Chinese government made some changes on its *Hukou* system to tackle rural areas' employment pressures. In 1983, peasants were allowed to enter cities and run small businesses. Local governments were also granted power from central government to set criteria for recruiting peasant workers to meet their areas' economic needs. Given local governments' great power over rural migrants, Wu (2009, 38) criticizes that *Hukou* reform became "more of a local government responsibility than a national government based one".

These policy changes led to a massive labor migration from rural to urban areas, but most of these migrants have no residency rights in the cities. Because the *Hukou* system classifies them as peasant-workers, migrants are denied the rights and benefits of permanent urban residents and are subject to severe discrimination (Wu 2009). The *Hukou* and its classifications have become an excuse for local authorities to treat migrant workers differently than permanent residents. According to the All-China Federation of Trade Unions (ACFTU), there were more than 120 million rural migrant workers in China in 2006 (*People's Daily Online* 2006).

Yi Zhang and Fang Cai (2008) note that local authorities' welfare programs for migrant

workers can be classified into four types: (1) programs that allow migrant workers to join urban residents' social insurance schemes; (2) those that provide specific social insurance schemes for migrant workers; (3) those that only allow migrant workers to join local rural-migrant insurance schemes; and (4) programs that create two types of insurance schemes within single enterprises: one for urban residents and another for rural migrants. Because of their residency is officially classified as rural, migrant workers are treated as foreign workers; their Chinese citizenship does not provide them with welfare entitlements equal to those of permanent residents.

Although the 1994 Labor Law requires all urban workers to join social insurance programs, most migrant workers are excluded from them. As table 1 illustrates, a small proportion of migrant workers joined insurance schemes to provide benefits for health (13.8 percent), old age (10.9 percent), and unemployment insurance (5.3 percent) by 2008 (Zhang and Cai 2008). Xiaogang Wu (2009) finds a sizable gap between social insurance coverage for workers with permanent urban residency and that for workers with official rural residency; 52.2 percent of workers with permanent urban residency are reportedly protected by basic pension schemes, and 50.4 percent are protected by basic medical insurance schemes. By contrast, only 7.1 percent of rural migrant workers reportedly have basic pension protection, and only 8.9 percent have basic medical insurance. Table 2 illustrates these differences. Although the 2007 Labor Contract Law regards migrant workers as laborers in a legal sense, they still "can be treated differently by policies adopted by local governments" (Ngok 2008, 60).

<Tables 1 and 2 about here>

The previous section discussed the disadvantages suffered by rural migrant workers, this section will examine the conditions of laid-off and retired workers. It should be stressed that the concept of laid-off workers in China is different from that in Western societies. In China, laid-off workers from SOEs, as mentioned in the earlier part of this article, would be transferred to Re-employment Service Centers for three years. It was only after this three-year period, their employment relationship with employers would formally end. The SOEs were required to pay work-related insurance schemes' premiums to laid-off workers at the Re-employment Service Centers as well as pensions for already retired workers.

Several factors play a role in the suppression of laid-off workers' welfare rights. Of particular note is employers' failure to pay salary and required insurance premiums for their employees. Despite the Chinese government's promises to provide laid-off workers with various forms of compensation and to pay their social insurance premiums, many laid-off workers are unable to access social insurance benefits because their SOEs have "either gone bankrupt or [are] suffering serious losses and [are] deeply in debt" (Solinger 2002, 315). In short, the SOEs lack sufficient resources to fulfill their salary and benefit obligations, leaving employees without access to benefits (2002).

According to the ACFTU's 1997 survey, 20 percent of SOE workers, including those who were still working and those laid-off workers at the Re-employment Service Centres, experienced salary arrears; and 46 percent of workers were due pay for 3 or more months (Blecher 2002). Nationally, 24,214 SOEs failed to pay wages and pensions to 3.5 million workers for several months in 1996 (Chen 2000). In analysis of a sample of 8,109 respondents from five Chinese cities, including Fuzhou, Shanghai, Shenyang, Wuhan, and Xian, William Giles, Albert Park, and Fang Cai (2003, 19) find that 11 percent of working-age adults employed

from 1996 to 2001 were subject to “wage arrears.” In addition, 10 percent of retired respondents reportedly experienced “pension arrears,” and 30 percent encountered “health expenditure reimbursement arrears” (Giles et al. 2003, 51).

The mentioned problems encountered by both laid-off and retired workers are actually caused by the failure of China’s administrative complaints scheme and judicial system in protecting the rights of workers. The Chinese government allows citizens to lodge complaints against government departments (including SOEs) and officials via letters, e-mails, faxes, telephone calls, and personal visits. The State Bureau for Letters and Calls is located in Beijing, and local governments have similar offices. Many complainants report, however, that these offices do not properly investigate their complaints or even ignore them.

For example, several hundred workers from the Henan Ya-Xiang Group have registered complaints with both central and local offices since 2001, expressing their anger over corruption in the company management and irregularities in the handling of its bankruptcy. Despite their persistent complaints, they received no response from the authorities (*China Labour Bulletin* 2005). A report by the *China Labour Bulletin* (2007a, 3) asserts that the existing administrative complaint system is “over-burdened, unresponsive, overly complex and ineffective.” The report finds that only three of every 10,000 petitions result in some form of resolution.

Another difficulty in compelling government departments to investigate complaints is that the departments are not accountable to the public. Labor inspectors in particular have considerable discretion to dismiss cases that they consider to be inappropriate or outside their jurisdiction (Ngok 2008). So too, labor departments, the local bodies charged with overseeing business practices and handling labor complaints, lack the authority to impose credible sanctions on noncompliant firms. For example, departments lack the authority to force cessation of

business, to confiscate firm earnings, or to revoke business licenses. If a local labor department finds that an employer violated workers' rights, it can only ask the firm to correct malpractices and pay compensations for workers for any losses (Ngok 2008).

Moreover, local labor departments are subordinate to both the central government's labor ministry and to local government leaders. Because local officials have a personal interest in economic performance, they "tend to stand up for capital and oppress labor" (Ngok 2008, 55).

Sean Cooney (2007) notes that China's legal system also sets several barriers in the way of workers attempting to defend their rights. Many workers try to defend their rights in the judicial system only to find that the courts refuse to deal with their cases. The associate head of the Supreme Court of central government argued in 2000 that issues related to laid-off workers and pay arrears are special phenomena linked to the central government's policies on enterprise reconstruction and labor contracts. He held that the SOE reform guidelines consider such issues to be matters of policy and that they must be resolved by local governments rather than by the courts (*China Labour Bulletin* 2008). Local supreme courts accordingly decline to hear labor cases linked to the SOE reforms (*China Labour Bulletin* 2005). The courts are therefore obviously unwilling to challenge the legal basis for the government's policies or to check the actions of local officials in handling the SOE reforms.

The primary weakness of China's judicial system is its domination by the executive authorities. Local government officials, rather than the central government's Supreme Court, decide the budgets of local courts. They allocate funds for basic facilities, set judges' salaries, and determine judges' welfare benefits. Local courts are therefore " beholden to the interests of local governments" (Michelson 2003, 264). Senior local government officials also sit on committees responsible for approving proposals to restructure SOEs in their regions (*China*

Labour Bulletin 2007b). Local judges are therefore understandably unwilling to defend workers' rights to the detriment of their own interests. Workers other than those laid off by SOEs also find it difficult to seek justice through the courts (Cooney 2007).

Another barrier is the highly disadvantageous position in which the court process places workers. Workers are generally unable to receive legal aid for the expensive legal fees that come with bringing actions against abusive businesses. It was reported that official legal aid centers are not only underfunded but their lawyers have little incentive to manage more cases (Taylor 2011). Also, the average cost for a labour lawsuit in China in 2009 was ¥4,000, which was a factory worker's three to four-month wages (Crothall 2009). In sum, these barriers illustrate the difficulties faced by Chinese workers attempting to respond to abusive employers.

Since both the administrative redress scheme and the judicial system fail to protect labor rights, workers use protests and demonstrations, even blocking government offices and the railways to pressure the authorities to address their concerns. This explains why the number of mass protest incidents, including petitions, demonstrations, and other large-scale actions caused by labor disputes, jumped from 10,000 in 1993 to 60,000 in 2003; so too, the number of participants in these incidents increased from 730,000 to 3,070,000 (*China Labour Bulletin* 2008).

Such labor protests are extremely risky, however, as the central government's top priority is social stability. It does not hesitate to use any measure it considers to be effective for controlling the spread of protests perceived to be threats to public order (*China Labour Bulletin* 2007b, 35). One local police chief emphasized that the government's approach is to "use effective methods, grasp the situation and, in particular, discover and control the lead organizers and key elements behind the scenes, collecting evidence and being well prepared to handle them

according to the law” (*China Labour Bulletin* 2007b, 35). The authorities suppress peaceful protests and arrest labor leaders, charging them with crimes and threatening national security (*China Labour Bulletin* 2007b). Ching Kwan Lee (2005, 30) criticizes the authority for using the law as “a tool of control over society, while allowing itself to remain mostly unrestrained by the law. When it is not in the interest of the local officials to enforce labour regulations, there is hardly enough countervailing authority (from the judiciary, for instance) to preserve the sanctity of the law.”

Official Trade Unions and Weak Labor

The relative power of labor and capital in China is now extremely unbalanced. This is mainly because the state-run trade union is relatively weak. Although China’s constitution grants workers the right to join unions, only the officially funded ACFTU can engage in collective bargaining with employers and represent workers in negotiating and signing collective contracts (Lee 2005). Furthermore, the ACFTU is managed by government officials instead of workers. City- and county-level unions are actually part of the apparatus of the local authorities, and most union leaders are CCP cadres (Lee 2005). The ACFTU and its associated unions are therefore “mass organizations under the leadership of the Communist Party” and mainly serve the state’s interests rather than those of the workers (Zhu 2004, 1019; C. Chan 2008).

Also, many local governments are business partners of foreign joint ventures, and local officials are part of the management teams of these firms. When challenged by workers, these companies can obtain political support from senior government officials by mobilizing riot police to suppress protests or influencing court decisions. Because local authorities play a dual role, acting both as holders of political power and partners in joint-venture enterprises, the ability

of official unions to defend workers' rights is obviously restricted. As an electronics company worker emphasized when labor disputes led to protests: "The union follows the lead of the government" (Gross 2009).

Since the ACFTU is the sole representative of Chinese workers, those who attempt to form independent unions are brutally suppressed, and when workers apply to the authorities to set up their own unions, those authorities reject their applications (*China Labour Bulletin* 2005). For example, Wenming Li established the Federation of Migrant Workers and the Association of Migrant Workers, which had not been formally approved by the official. As a result, the authorities charged Li with engaging in counterrevolutionary propaganda and incitement and with conspiring to subvert the government. Li was convicted and sentenced to prison for 3 and a half years (Chan 2001).

The introduction of a market economy and the inflow of foreign capital resulted in the rapid proliferation of private companies. The state's control over the working class diminished, however, because there are few labor unions in the private sector and severe labor disputes arose in the absence of government unions. The disputes threatened social stability, as local governments found it difficult to contain the public outpourings of long-suppressed anger and resentment (*China Labour Bulletin* 2009). In 2001, the ACFTU announced that it would establish a million new unions in private companies and increase the federation's membership by 36 million workers. This effort was an attempt to consolidate the CCP's power base in the mixed economy (*China Labour Bulletin* 2005). In 2009, the ACFTU established 313 trade unions, and unions came to operate in 83 percent of the multinational corporation headquarters in China (Gross 2009).

Despite the increasing number of trade unions, Chinese workers' rights have improved

little. In order to achieve its ambitious targets, the ACFTU changed the procedures for forming unions. It allows employers to appoint senior managers as the founding chairpersons of their companies' unions (*China Labour Bulletin* 2005). As a result, many of the new unions are actually run by the companies' senior managers or even their owners' relatives rather than by workers (Chang 2002, 132). Because some unions were established without any election, some workers even are not aware that trade unions operate in their factories (C. Chan 2008). Instead of promoting labor rights, these unions have become a new mechanism that helps employers to regulate workers' activities.

Anita Chan (2008) argues that some positive developments can be found in the work of the ACFTU. Her study of trade unions' relationships with Wal-Mart suggests that the ACFTU achieved a breakthrough by setting up union branches in Wal-Mart's stores by "using 'underground' grassroots tactics' according to which local unions organized workers after working hours (Chan 2008, 5). She concludes that "workplace unions organized secretly even by official local unions has given space for some workers to grab the opportunity to turn the unions in real unions" (2008, 13). In particular, the ACFTU allows workers and union branches to negotiate directly with Wal-Mart.

While recognizing the ACFTU's achievement on the case of Wal-Mart, it should be noted that this working model has not been institutionalised by the Chinese government as a practice for establishing similar trade unions in foreign firms. In most cases, the practice for forming trade unions in China are still mainly shaped by the attitudes of central and local senior government officials. This is because the ACFTU is the sole representative of workers, which is still "under the administrative direction of the CCP at the central level, under the direction of the local party/state structure at the local level, and under the control of firm management at the firm

level” (Gallagher and Dong 2008, 37–38).

Implementation of the collective bargaining power promised by the Labor Contract Law of 2007 requires “significant support from other government branches and the local party,” as well as the establishment of viable employers’ associations to negotiate on the behalf of firms in the same industry or region (Gallagher and Dong 2008, 38). Chris Chan (2008, 12) considers the future development of China’s trade unions and pessimistically concludes that, because unions lack active memberships and management generally controls their committees, “the real barrier to collective bargaining and democratic trade unionism [remains] unchanged,” despite the 2007 law.

This section illustrates the role of official unions in China’s political control mechanism. By allowing employers to control the newly established unions, the CCP shows that it now trusts capitalists more than workers. To some extent, the new unions are an expression of an unholy alliance between China’s communist cadres and global capitalists. This alliance subjects Chinese workers to a “hegemony of the market and of the state” (Blecher 2002, 287).

Policy Implementation and Labor Abuses

As discussed above, legislation in 1994 and 2007 attempted to safeguard workers’ rights in China’s new market economy, but policy implementation is always problematic in China. In particular, low level authorities and local governments may not strictly follow policies set up by higher level authorities and central government. Kevin O’Brien and Lianjiang Li (1999, 167) find “a pattern of selective policy implementation,” as bottom-up street-level discretion compromised the central government’s top-down policies. Susmita Dasgupta, Mainul Huq, and David Wheeler (1997, 17) examine the implementation of pollution-control measures,

concluding that local government officials frequently bend the rules and that “under-reporting and under-assessment of [noncompliance] are common in China.” Alasdair MacBean (2007) reports similarly that local governments’ compliance with China’s national environmental regulations is poor. The following evidence shows that noncompliance by local governments subjects Chinese workers to a wide range of labor abuses:

Low wages.—Many foreign companies manufacturing goods in China pay their workers low wages in order to enhance their profit margins in competitive global markets (Zhu 2004). In the city of Shenzhen, for example, a supplier for the global mobile-phone giant Motorola offered its workers a basic salary that was lower than the city’s minimum wage (Students and Scholars Against Corporate Misbehavior [SACOM] 2006). In another case, the authorities caught the Ningbo Beifa Group paying its 3,000 employees less than the national minimum wage. Ningbo Beifa Group is a top supplier of pens, mechanical pencils, and highlighters to Wal-Mart and other major retailers. The authorities caught them doing this on three occasions (Roberts and Engardio 2006). A 2009 audit finds that 23 of Apple’s 83 suppliers paid workers less than the local minimum wages and that more than half did not pay their workers the required overtime rates (*China Economic Review* 2010).

Excessive working hours.—China’s Labor Law of 1994 specifies that employees only have to work 40 hours a week, are entitled to 1 day off a week, can work a maximum of 3 overtime hours a day, and should work no more than 36 overtime hours a month (Information Office of the State Council 2002). An investigation of five of Wal-Mart’s Chinese suppliers led SACOM (2007) to report that all severely violated the legal limitations on working hours by

requiring their employees to work a minimum of 11 hours a day for 6 days a week, by prohibiting employees from refusing overtime, even if they were sick, and by requiring them to work more than 160 overtime hours a month (SACOM 2006).

At the Quan Tak Footwear Company, a Taiwanese-owned supplier for Rocky Brands in the United States, employees were required to work from morning until 10 p.m., and sometimes even until midnight (Sweatfree Communities 2008). A report by SACOM (2009) finds that the Hong Kong-owned Tianyu Toys Factory, which supplies products to Disney, Coca-Cola, Tesco, and Tomy, required its workers to work from 8 a.m. to 8 p.m. According to a compliance manager of a major multinational company, only 20 percent of Chinese suppliers comply with wage rules and just 5 percent obey hour limitations (Roberts and Engardio 2006).

No employment contracts or social security contributions.—Only 40 percent of China's firms participated in pension schemes in 2001, because some local authorities allowed employers to enroll only 10 to 20 percent of their employees in the legally required social insurance schemes (Lee 2005). Of the five Wal-Mart suppliers studied by SACOM (2007), four reportedly had no written contracts with young workers and none of them paid the legally required medical and pension insurance contributions for their workers.

Although the 2007 Labor Contract Law requires employers to pay social insurance premiums for all workers, SACOM (2009) reports that many workers employed by the Hong Kong-owned Tianyu and Wai Shing plastic toy factories had no pension, medical, or industrial-injury coverage. Similarly, the authorities found that Kunying Computer Products and Xieying Computer Products, suppliers to Microsoft and other global companies, violated labor laws by failing to register more than 300 workers between the ages of 16 and 18 and also by

forcing them to work excessive amounts of overtime (Barboza 2010).

Health and safety.—The Hivac Startech Window Film Company, which supplies products to Motorola, employs the chemical n-hexane in its manufacturing process. A report by SACOM (2006) finds that the company failed to provide employees with a well-ventilated work environment and that the factory had n-hexane concentrations of between 449 and 1,106 mg/m³, well over the maximum safety level of 325 mg/m³. Such high concentrations of n-hexane can cause serious damage to workers' nervous systems. The report indicates that the company also failed to provide the workers with adequate protective equipment and the workers had no way to prevent their skin from absorbing n-hexane. Labor-rights groups note that Chinese factory workers lose or break more than 40,000 fingers a year on the job (*China Economic Review* 2010). In the Pearl River Delta, factories supplying products to Wal-Mart, Disney, and Dell were reportedly employed child labor and failed to pay wages (*China Economic Review* 2010).

Poor accommodations.—In China, employers often provide housing for workers. A 2007 report by SACOM finds unsanitary housing conditions in five factories that supply products to Wal-Mart. In one case, a single room reportedly housed 12 male adults, and the communal bathrooms were unacceptably dirty. Andrew Malone and Richard Jones (2010) report that Foxconn, which supplies iPods and other products to Apple, provided only minimally basic accommodations for its 420,000 workers in Shenzhen. The workers reportedly slept in cramped rooms on triple-decked bunk beds that had only simple bamboo mats for mattresses. Malone and Jones (2010) indicate that some dormitories housed more than 40 people and were infested with ants and cockroaches. They also find that these accommodations had no air conditioning,

although summertime temperatures there hit 35°C (95°F), and humidity levels rise to 90 percent.

Humiliating punishments and unreasonable fines.—Intimidation, physical violence, corporal punishment, and unreasonable fines are common tactics employed on subsistence-wage workers in enterprises backed by foreign investment (Zhu 2004). One factory reportedly fined workers ¥10 for not wearing a work cap and ¥50 for anything that the managers perceived to be misconduct (SACOM 2007). Foxconn reportedly enforced strict discipline upon its workers and docked their salaries for such offenses as having long nails, being late, yawning, eating, sitting on the floor, talking, or walking quickly (Malone and Jones 2010).

Local Government's Self Interest

The widespread labor abuses in China also needs to be analyzed in the context of local officials' self-interest and local governments' financial strains. The central government has absolute power over the appointment of senior officials in local governments. Ye Chen, Hongbin Li, and Li-An Zhou (2005) conclude that local governments' political status within the national hierarchy and the turnover of their top leaders are directly linked to economic performance. This means that civil servants' career prospects depend on whether they can achieve the performance targets that their administrative superiors set for them. These performance targets are mainly economic, including the annual rate of GDP growth, the amount of revenue collected, financial contributions to higher levels of government, and the quantity of foreign investment attracted. Meeting or exceeding these economic targets is "decisive for local officials seeking political promotion" (Liu and Tao 2004, 10). In order to advance their careers, senior officials must make economic growth their top priority. They do this by creating favorable business conditions and

avoiding the active defense of labor rights.

The effects of these pressures can be seen in Shanghai, where foreign employers often fail to contribute legally required premiums for old age, health and unemployment insurances. One study finds this failure among 82 percent of companies owned by interests from Hong Kong, Macau, and Taiwan, among 76 percent of those owned by European and American interests, and among 83 percent of those owned by other foreigners (Maitra et al. 2005). As local governments compete with each other for foreign investments (Li et al. 2011), senior officials are unlikely to implement or enforce strict labor-protection measures for fear of driving foreign firms elsewhere. Reducing workers' welfare "in the pursuit of economic development is an unspoken policy approach of many local authorities" (translated by authors) (Pan 2002, 162).

The pursuit of foreign investment is also a result of the financial pressures on local governments. According to the World Bank (2002), 70 percent of China's public expenditure occurs at the subnational level (i.e., provinces, prefectures, counties, and townships). The introduction of the 1994 tax-sharing reform increased the central government's revenues but weakened the local governments' fiscal ability to fulfill their welfare responsibilities (Wong 2000; Jin 2005; Zhang 2006). Local governments now provide social services that were once the responsibility of the SOEs before China's economic reform. Estimates from the Ministry of Finance (2008) indicate that local governments received only 47 percent of China's public income in 2006 but bore 75 percent of its national expenditures (Ministry of Finance 2008). One study indicates that nearly 90 percent of the 2,000 townships in Hunan Province were in debt in 2001 (Liu and Tao 2004). In fact, county and village authorities' total estimated debt amounted to ¥17.7 billion in 2002; the estimated average debt was ¥4 million for township governments and ¥20,000 for village governments (Ministry of Finance 2008).

Since the 1994 tax reform, which was originally stated in the *Decision of the CCP Central Committee on Issues Concerning the Establishment of a Socialist Market Economic Structure* (CCP Central Committee 1993), local authorities have relied heavily on taxes from commercial activities and the sale of land. These income sources include business taxes, income taxes and profit remittances from local government-owned enterprises, urban land-use taxes, and income taxes from commercial enterprises other than those controlled by the central government (Wong 2000; Jin et al. 2005). Dependence on these sources and such financial considerations make local officials notably passive in the enforcement of labor laws (C. Chan 2008), as the need to increase the tax base provides them with an incentive to pursue pro-business policies (Jin et al. 2005). For example, they do not actively prosecute firms classified as major polluters because such firms are “important to the local economy in terms of providing tax revenue or employment” (OECD 2006, 35).

Because of conflicting interests, policies of China’s central government are not fully implemented, and “offsetting policies issued by local governments” undermine national policy efforts (Wu et al. 2007, 580). Local officials only engage in activities that the central government effectively monitors and make no effort to implement policies that it does not monitor (Huang 1995). Local officials can always find ways to “evade central regulations when they conflict with local vested interests” (Liu and Tao 2004, 2). Plans for affordable housing projects, for example, were unsuccessful because they could not benefit local governments (Li, Chiang, and Choy 2011). Local impediments to effective implementation of national labor laws, particularly local officials’ career ambitions and foreign firms’ local tax contributions, are key phenomena that explain why China cannot stop labor abuses despite the high legal standards it established for labor protection.

Unchecked local administrations, a weak judicial system, and a powerless working class result in large-scale violations of labor rights in modern China. Prior to the promulgation of the 2007 Labor Contract Law, Mary Gallagher and Baohua Dong (2008) predicted that the measure's implementation would be unsuccessful because the government does not match such legal changes with political reforms. In the absence of a democratic system for checking the activities of local governments and an independent judicial system for defending the rights of workers, the new labor law could only offer false promises to the suffering Chinese workers.

Conclusion

Some argue that a nation's domestic institutions can shape the effect of globalization. To evaluate that argument, this article examines the experiences of Chinese workers, finding that China's internal factors exacerbate the negative effects of global capital's exploitation of labor. The case of China provides several insights into globalization's interactions with domestic institutions.

The first of these insights is that good labor legislation is impotent if it is not implemented effectively. It is evident that local government officials, principally motivated to boost their local economies by attracting foreign investment, have molded China's labor regulations to their own ends. As a result, there is lax enforcement of fine-sounding labor legislation and little improvement in working conditions, despite the high standards that legislation sets for labor protection.

A second insight is that the successful implementation of labor legislation depends on the presence of an independent national judicial system. This article shows that Chinese workers have little hope in defending their rights through a judiciary effectively controlled by local

government officials who are reluctant to prosecute abusive employers for fear of losing foreign investments. China's local governments' passive role in defending worker rights show that national policies can be subverted and nullified if regional interests conflict with national policies. Particularly, local officials and foreign businessmen align against national efforts on providing a decent work environment for workers in a competitive global economy.

Another insight is that the balance of power between capital and labor is likely to be extremely unequal if trade unions are not independent. As this article indicates, Chinese workers have no freedom to establish trade unions or to take industrial actions. They can only be represented by the ACFTU, which discourages protests and has political stability, rather than labor rights, as its principal concern.

A final insight pertains to codes of conduct. The widespread labor-rights violations committed by Chinese suppliers of global companies directly call into question the effectiveness of the existing multinational corporations' codes of conduct. According to Niklas Egels-Zandén (2007, 45), "Chinese suppliers successfully deceive toy retailers' monitoring organizations by decoupling the formal monitored part of their organisation from the actual operational part of their organisation." More effective monitoring procedures must be established to safeguard the well-being of workers in China and other developing countries.

China's experience illustrates the ways in which forces of globalization have been shaped by the suppression of rural migrant workers' citizenship rights, by local governments' noncompliance with central policies and law, by the absence of an independent judicial system, and by the absence of independent trade unions. While facing a relatively weak labour force in such an environment, multinational firms can maximize business interests by offering workers low wages and poor work conditions. According to Mehmet and colleagues (1999, 19), the

capital-labor asymmetry results in a global assembly line with “exploitative and coercive production systems.” It is evident that Asian, European, and other already industrialized economies endeavor to squeeze their labor costs by requiring Chinese workers to work for low wages in poor and dangerous work environments. As a result of rapid economic growth and integration into the global economy, China has become the world’s biggest sweatshop.

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Table 1

Insurance Programmed Participation Rates among Migrant Workers

Type of Insurance	Respondents' Feedback			Total (%)
	Did Not Join	Joined	Not Aware	
			of the Scheme	
Health	82.4	13.8	3.8	100
Old-age pension	85.3	10.9	3.7	100
Unemployment	94.7	5.3	0	100

Source.—Zhang and Cai 2008, 186–89.

Table 2

Welfare Differences between Permanent Urban Workers and Rural Migrant Workers in 2005

	Permanent Urban Workers (%)	Rural Migrant Workers (%)
Publicly-funded Medicare*	35.3	6.1
Basic medical insurance	50.4	8.9
Supplementary medical insurance	17.5	3.1
Basic pension	52.2	7.1
Supplementary pension plan	16.7	3.3
Unemployment insurance	29.7	2.5
Housing or housing allowance	27.3	5.6

*Medicare in here refers to public-funded health care scheme in China.

Source.—Wu 2009, 46.

¹ Before introducing economic reform in the late 1970s, China was a planned economy, and all economic entities were owned and managed by the government. Based on socialist ideologies, state-owned enterprises (SOEs) provided comprehensive social services for meeting workers all types of needs, including health, education, housing, childcare, burial services, and financial assistance. Thus, a SOE was like “a mini-welfare state” (Leung and Nann 1995, 57). Although the Chinese government sold many SOEs to private companies, especially the small and medium-sized ones, it still controls a significant number of SOEs with economic and military importance such as China Aerospace Science and Industry Corporation, China Petroleum & Chemical Corporation, and China National Machinery Industry Corporation. As China’s WTO membership will not allow it to heavily subsidize the SOEs, the Chinese government introduced a large scale enterprise reform since the early 1990s in an attempt to enhance the productivity of public-funded enterprises. China expects its SOEs can compete effectively with foreign firms for the local market.

² The central government of China publishes policy papers called ‘decisions’ to address social, political and economic issues. These ‘decisions’, however, are not law but administrative rules and regulations only. Very often, ‘decisions’ provide government departments with key ideologies and guiding principles for drafting new laws.

³ As mentioned in note 2, prior to China’s economic reform, SOEs provided workers with comprehensive social services. Workers from SOEs, however, did not need to pay insurance contributions because of low wages, and their enterprises were required to pay 3% of the total wages as insurance premiums. During the time of a planned economy, Chinese government was responsible for any losses incurred by the SOEs. However, both central and local governments found it difficult to bear this financial burden as many SOEs suffered heavy losses and were unable to pay workers’ insurance premiums, nor meet employees’ welfare needs. In order to shift the welfare duties from the state to the SOEs and their employees, China’s central government introduced various types of insurance schemes that require contributions from both SOEs and their employees. For example, an unemployment scheme for the workers of SOEs was implemented in 1986, an old age pension scheme in 1991, and a medical scheme in 1994 (Chan, Ngok, and Phillips 2008). The three security systems mentioned in this article were established after China’s economic reform with an aim of addressing workers’ social service needs in a mixed economy. The basic living guarantee system was only for laid-off workers from SOEs, who entered the Re-employment Service Centers and still maintained an employment relationship with their employers. The unemployment insurance is for workers who have paid unemployment insurance premium. The minimum living standard guarantee is for poor citizens whose incomes are below a certain level.