

Do China labor Laws favor its rural employees? A Review on China's Employment Relations

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Abstract

Due to the fast development in economic systems in China, the change has resulted in the effects on labour relations in the Chinese economy. These economic reforms have posed a significant threat to state-owned enterprises (SOEs), forcing the government to take charge of the economy. Further, employees' interests, coastal regions, and rural areas are areas that the government has taken control of. Besides, China's entry into World Trade Organization (WTO) in the year 2001 has also had a substantial impact on the Chinese employment system. The optimum minimum wage present in the larger area differs from that of smaller regions. In addition, the lower districts have worse social protection and working conditions for workers. Despite this, the labour cost has increased in China, pushing foreign enterprises to de-localize the production unit to other neighbouring countries such as Bangladesh, Vietnam, Indonesia, or Malaysia. The Chinese communist party (CCP) is not interested in losing command over the economy and is concerned with maintaining the surplus export-oriented industry. Therefore, this research will look at how China government is taking a more decentralized and experimental approach towards solving the labour relation issues due to the changes that economic reforms have caused. Lastly, industrial relations in China have experienced a substantial alteration to the passage of time. With the absence of significant representation of unions in the enterprise, the IR in China is generally between the employer and the workers. Hence, the role of the state becomes crucial to handle the difference. Consequently, the state has adopted the experimentation and decentralized approach to address the issues, but still, the problem continues. SOEs and enterprises that have good government ties are far better with their older counterparts. This shows that significant exploitation is happening in those firms which are independent of the IR problems. Further, the article will look at the major causes of labour disputes in China and questions if the true level of labour disputes has been captured by official statistics.

Keywords: State-owned enterprises, world trade organization, Chinese employment system, industrial relations.

Introduction

Today, China is one of the fastest developing economic systems around the globe. 1978 is when China has undergone the economic reforms leading to the 'socialist market economy. With these changes in the Chinese economy, labour relations have also undergone many alterations and changes in the present era. Some economists compare this change similar to the industrial revolution in England in – the 1870s. China's economic system is mainly dependent on exports. Its most exports go into the

most industrialized countries. It makes the Chinese market lucrative for investors, and as a result, China has the highest Foreign Direct Investment (FDI).

The economic reforms paused the dominance of state-owned enterprises (SOE). Nevertheless, China wishes to control the economy, which contributes to joint ventures with foreign companies. With new firms entering into the Chinese territory, it becomes essential for the state government to protect the interest of the employees. There are two primary areas in China, first is the coastal regions and the rural areas. The affluent area like the Pearl River Delta, whose national average growth is much more eminent than the national growth rate, that is, 14-15%. These variances among different regions increased the vast migration of labour towards the well-developed neighbourhoods. Modernization and industrialization will not be congruent with human and social rights, which force the state to reduce the issues arising due to unrest happening among the workers.

The entry of China into WTO (World Trade Organization) in the year 2001 had a substantial impact on the Chinese employment system. Optimum minimum wage presents in the larger area, but it differs with the smaller regions. The lower districts have worse social protection and working conditions for workers. Despite this, the labour costs have increased in China, which pushed the foreign enterprises to de-localize the production unit to other neighbouring countries such as Bangladesh, Vietnam, Indonesia, or Malaysia.

The Chinese communist party (CCP) is not interested in losing command over the economy and is concerned about maintaining the surplus export-oriented industry. It is one of the primary reasons that China took the decentralization and experimental approach towards labour relations. Further, China as a country has been faced up by occasional labour disputes. Further in the article, I shall discuss the latest China Labour and employment law and its effects on the foreign companies that are part of the Chinese economy. We therefore tend to learn that foreign companies in China tend to find it hard surviving in the Chinese economy due to the existing China employment law.

Literature Review

Main features of China's employment relations system.

All-China Federation of Trade Unions (ACFTU) is the only official union in China, which acts as a mediator between the state and the workers. In the early 1990s, only ACFTU was responsible or any labour dispute. However, the social unrest at the beginning of the 2000s and the economic crisis led to various industrial relations institutions (Steve and Jacob, 2021). For instance, to re-regulate labour, labour contract law came into existence in 2008. The entry into the WTO and the influx of foreign enterprises pressurize the regime to have a 'collective bargaining' which brought changes in the trade union, workers, and employers at the workplace level. In that respect is likewise an exciting fact that the workers do not possess a legal right to strike, which enhances the labour dispute, and few strikes started occurring at the micro level specific to sectors (Antoine, 2021).

State, Trade Union and Workers.

The rapid economic expansion enormous amount of migration happened for the inland China to the coastal areas for more beneficial chances (Baek, 2000). To restrict the mass movement, the state monitored its citizens by the hukou system – it's a registration system that helps the individual receive the state's benefits. Moreover, every province has its hukou system. Suppose the individual move from the rural area to the urban areas or a different region than the individual would be unable to receive the aid provided by the state (Bulletin, 2015). It causes an increase in the exploitation by the employers as the workers are not entitled to receive the same benefits such as a pension, wages, etc., as their urban hukou dwellers.

ACFTU power has been thinned a lot with time. The only union more act like a prostate authority rather than pro workers. Furthermore, less incentive is provided to the ACFTU if they are inclined towards pro-labour's role. Unless and until massive pressure is felt from the employee's end, ACFTU pays the slightest attention to the worker's disputes (Bain, 2007). Since 2008 some new laws have come into existence, such as Labour Contract Law (2008), the Labour Dispute Mediation and Arbitration Law (2008), the Employment Promotion Law (2008), and the Social Insurance Law (2011). These laws were formed to provide justice and comfort to workers (Choi and Peng, 2015).

Still, at many levels, ACFTU – the only officially recognized trade union, represents the worker's views of the state but reluctant to raise any issue in front of any higher official or any significant employer (Bain, 2007). This causes a massive distrust and raises the question of the ACFTU for its efficiency. Labour laws and regulations protect workers who have proper documents while the migrant workers, in the absence of papers, lead a miserable life and cannot enjoy the fundamental rights (Bain, 2007). Enterprise outside the SOE fails to furnish security to these migrant workers due to a lack of documents. If the company would try, it will have to yield a significant penalty to the state, and they could be punished under the employment relations. Private firms and foreign companies are becoming more prominent in the Chinese market (Friedman & Kuruvilla 2015). These businesses operate under different historical, legislative, economic, and labour market environments. External factors heavily influence their business strategies and employment regulation (Cooke, 2014).

Understanding China labour and Employment Law.

In the year 2020 China has announced to the world that it is open for business. However, foreign companies find that this is not a simple task, particularly due to the existing China employment law. Besides, having the second-largest economy in the world, China also has the second strongest consumer market globally. It is due to this strong factor that businesses consider China as potential location for start-ups and business expansion. However, after learning what it takes to open a business in China, many back out. Several factors contribute to this backing out; the stringent China employment law and labour regulations, particularly with regard to employment contracts; registering a company in China is extremely process-intensive; the continuous changes in relevant laws, normally several times a year; the complexity and ambiguity of the relevant laws; the difficulty involved in the recruitment of both local and foreign employees; the lax intellectual property law; and, the considerable costs and time involved in the creation of business (Steve and Jacob, 2021).

Changes in Chinese Employment Law in 2019

In mid-2019, the Chinese government prioritized the reduction of social insurance burdens on employers. Changes in the law were made via a state council special notice. The Ministry of Human Resources and Social Security, the State Taxation Administration, the Ministry of Finance, and the National Healthcare Security Administration all backed these changes which include: reduction of employer's maximum pension contribution from 20 percent to 16 percent, continuation of temporary employer contributions to unemployment insurance and work injury insurance and lastly, the mandate to substantially reduce social insurance burdens on small-scale employers by not implementing large back payment orders for unpaid or underpaid social insurance contribution (Steve and Jacob, 2021).

Labour conflict and its management in China.

In China, labour disputes has been in plenty especially collective disputes, this has resulted from the violation of workers' rights in every aspect of employment relations. While labour disputes in State owned enterprise are mainly caused by bankruptcy and insolvency, those in foreign-invested enterprises (FIEs) and privately-owned enterprises (POEs) are caused by managements seeking quick profits by sacrificing workers' rights. China has developed a third labour dispute management system within Chinese characteristics, which is different from the old system, that is, resolving labour disputes via state administration and western practices, such as collective bargaining. The third way characterized by reliance on labour arbitration and judicial channels and management-state bipartism for resolving labour disputes (Antoine, 2021). In order to truly address labour tension, the government needs to embrace the same solutions promoted by many NGOs and activists: regular collective bargaining in conjunction with an authentic and representative trade union. With these reforms in place, not only would the number of disputes likely to fall but the vast majority of labour rights violation could be prevented from occurring when workers have the power to defend their rights in their own workplaces (Steve and Jacob, 2021).

Collective bargaining, Labour disputes, and the settlement

'Collective bargaining' was introduced in the early 1990s after the Trade Union Law (1992) authorized unions at the enterprise level to conclude collective contracts with the employer. The Trade Union has passed the official right to negotiate with employers on behalf of workers and sign a collective contract. Matters such as labour remuneration, working conditions, occupational health & safety, professional training, and insurance & welfare are discussed with the employers before finalizing the collective contract (Cookie et al., 2014)

Still, the collective contracts appear to be more widely embraced in the SOEs than in private or foreign firms. It has likewise been found that the collective agreement failed to cater to the needs of the employees at the local level as the agreement gets finalized without considering the workers' problems. Hence, it brings up the question of an agreement's effectiveness (Friedman, 2012). Moreover, the collective contracts merely looked like a formality with little implication for both employers and workers.

The economic transformation evolves the Chinese IR when it comes to labour dispute resolution. With the introduction of the laws in 2008 and 2010, currently, the labour settlement consists of three stages: mediation, arbitration, and litigation (Cao and Rubin, 2014). Mediation is the first step that mainly happens at the enterprise. In this process, when the labour disputes take place, the mediation committee tries to resolve them. The committee comprises the company representatives, the trade union, and the employees or the third party – if acceptable to both sides in a dispute. The state encourages to settle the labour dispute through mediation. If this approach fails, then one of the parties in dispute may apply the case to the labour dispute arbitration committee. If either party is not satisfied with the arbitration ruling, the disputed case could go to the local People's Court.

At every level, the emphasis is given to the settlement of the dispute either through mutual understanding and voluntary agreement between the parties in dispute (Friedman and Kuruvilla, 2015). Compounding of market and labour reforms in China, there occurs a steep hike in labour disputes. Moreover, frequent labour strikes at the enterprise level pressurized the state regime (Kuruvilla and Zhang, 2016). As a result, numerous efforts were formed by the workers to fix up an autonomous governing body that could cater to the issues of the workers as most of the time, ACFTU fails to address the troubles. However, those independent organizations soon get suppressed by the state to curb any new political movement (Lee *et al.*, 2016). According to the Chinese law, any strikes or protest is illegal. It pushes the workers to go for strikes at the municipal level. Mainly strikes or protest happens to have better pay, work condition, respect and social insurance (Wen, 2016). There has an increase in the number of labour unrest over time. Therefore, Chinese economic growth gave way to furnish an environment for effective industrial relations.

Three major issues in China's ER & current approach to address those issues

With the advance in the Chinese economy, presently China's employment system faces three significant problems: labour shortages, High attrition rate, and rising industrial conflicts. Many experiments are done at various levels, like legal experiments, collective bargaining experiments, and managerial experiments (Cooke, 2014). These patterns adopted by the Chinese government demonstrate that the country adopted a hit and trial method to deal with the increasing uncertainty of Chinese employment relations.

Labour deficits

Enlargement of the Chinese economy, especially in the coastal regions and the Pearl River Delta, gave rise to steep labour shortages. Few policies such as a one-child policy and hukou system trigger the issues seriously (Kim and Chung, 2016). Moreover, China's expansion of tertiary education leads to more educated youth, and young workers are more restless than their counterparts (Wen and Lin, 2015). Labour deficits contribute to frequent strikes as employers need employees, and they can move to another employer in the search for better working conditions (Leung, 2014). The state has modified the hukou system for the Pearl River Delta region, where there was an acute shortage of labourers. Moreover, the state has also amended the law, which boosts informal employment such as short-term contracts, casual work, labour dispatching via employment agencies. Manufacturing and garment industries utilize this opportunity to maintain their production. Furthermore, the management - primarily private and foreign firms - considers the gentle approach towards employees and pays due respect to employees (Friedman and Kuruvilla, 2015; Kim and Chung, 2016). Chinese HRM changed their style from aggressive management to harmonized management. Labour dispatch agencies are increasing gradually (Friedman and Kuruvilla, 2015). According to China research and investment strategy report 2013-17, around 26,000 labour dispatch companies exist in China. These agencies account for 17% total workforce in urban employment.

High attrition and industrial conflict

A second main problem in China's ER is a high turnover of employees. Rising income levels and more opportunities with labour shortages gave rise to high attrition (Shen, 2007). Sometimes workers choose the 'exit' option if the employer doesn't listen to their needs. Private export enterprises have severe attrition problems (Wang *et al.*, 2016). Lack of benefits - especially for rural workers, due to the hukou system enhances the turnover. Other factors such as wages, work conditions, health & safety, etc., contribute to the problems. With the economic expansion, abundant alternative employment opportunities are present, so employees have many choices (Griffiths and Schiavone, 2016). They prefer to leave the current job if any minor adverse situation happens.

The third main issue is the steep rise in Industrial conflict. In 2005, the Chinese government published that more than 87,000 strikes happened at the sectoral level, which increased from 9000 in 1994. No recent figure is available as the state doesn't publish such accounts to avoid chaos. Nevertheless, the legal aid centres and social organizations report that the industrial struggle has increased dramatically from 2005 (Huang, 2016). Unrest among migrant workers due to lack of proper facilities, respect & humility, health & education contributes more to this issue (Wang, 2008). Industries settled in the coastal regions witnessing the high pace of conflict, particularly in industries such as aerospace, fabrication, cement, textile, and existent estate (Li, 2014).

To control the turnover, the state has adopted the minimum wage regulation. This regulation improved the wage conditions of workers. Through this move, those employees - who use to leave the employer because of wages can be controlled by this regulation. Informal employment also contributes to curbing the attrition rate (Li, 2010). The state emphasizes collective agreement with the foreign and private initiatives - to assure a high degree of decentralization (Yuan & Ning, 2014). This approach helps to sustain a harmonious relationship with the workers.

Many NGOs and legal aid centres helped workers with their rights - those who work in a private firm. The state has given a bit of media freedom. Any protest gets captured in the press; it pressurizes private firms to change their employment

arrangement (Yuan & Ning, 2014). This physiological experimenting approach reduces stress. The state also empowers ACFTU at all stages and involves workers, facilitating the trade union to develop and build confidence. Furthermore, numerous foreign and private firms' management has created the separate grievances unit to pay attention to the employees' problems (K. Wang, 2008). This step assists the management team in constructing up the faith and conveying the message that every person in the establishment is worth it and contributes to its growth.

Conclusion

Industrial Relations (IR) in China have experienced a substantial alteration to the passage of time. With the absence of significant representation of unions in the enterprise, the IR in China is generally between the employer and the workers. Hence, the role of the state becomes crucial to handle the differences. Consequently, the state adopted the experimentation and decentralized approach to address the issues, but the problem continues. State-owned enterprises (SOEs) and enterprises with good government ties are far better than their older counterparts. This shows that significant exploitation is happening in those firms which are independent of the government. In the final stage, the HRM practices have to be used to combat some IR problems. HRM is relatively undeveloped in China's IR. The evolution in the HRM will facilitate the management to understand the employees' attitudes. Therefore, the management can be more emphatic and provide better workplace conditions to employees, which they constantly crave.

Recommendations

With the rapidly changing Chinese business environment and considering the communistic form of government, these are my recommendations that could supply the route to China's employment system. 'hukou' system – needs to be modified a bit further. Suppose the state allows that for five years, any individual could work in any region. The individual would have the same benefit similar to their native area, OR at least the state should provide the minimum standard of public service. Well established centralized collective agreement should be present for every industry – this would reduce the conflict and control the turnover. This measure would bring down the disparity among the employees. Management should empathize with the workers' family problems and get involved in solving those challenges – this will help gain trust, loyalty, and commitment. Moreover, management should also set up some recreational activities such as sightseeing, festive lunch, or providing help for their family holidays – employees would feel more bound to the organization and assist in employee retention.

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