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## Labor Conflicts in China

### *Typologies and Their Implications*

#### ABSTRACT

Labor conflicts in China can be classified into three types: those over legal rights, over interests, and over the pre-reform entitlements. They have relatively distinguishable bases, claims, framing, and patterns of interaction with the government. The typological classification is useful for understanding the developmental trajectory of labor conflict in China.

**KEYWORDS:** rights-based conflict, interest-based conflict, moral economy-based conflict, labor relations, China

THE COLLECTIVE ACTION TAKEN by Chinese workers during market reform has been extensively studied in recent years. Scholars have focused on the motivations, forms, discourse, and organization of such actions; they have also investigated the factors shaping workers' responses to the market economy such as institutional location, legal procedures, the socialist legacy, communal space, identity, and collective memory.<sup>1</sup> However, very little

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1. See, for example, William Hurst, *Chinese Workers after Socialism* (New York: Cambridge University Press, 2012); Chris King-chi Chan, *The Challenge of Labor in China: Strikes and the Changing Labor Regimes in Global Factories* (London: Routledge, 2010); Ching Kwan Lee, *Against the Law: Labor Protests in China's Rustbelt and Sunbelt* (Berkeley, Calif.: University of California Press, 2006); Ngai Pun, *Made in China: Women Factory Workers in a Global Workshop* (Durham, N. C.: Duke University Press, 2005); and Feng Chen, "A Subsistence Crisis, Managerial Corruption, and Labor Protest in China," *China Journal*, no. 44 (2000), pp. 41–63.

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attention has been paid as to how to categorize the diverse forms of labor actions, given their widely varied characteristics. Official statistics only distinguish “individual” and “collective” disputes. There is no clear differentiation of the latter category, sometimes termed as “worker group incidents” (*gongren qunti shijian*), in terms of their causes, demands, and forms. In fact, angry workers have made different demands, used different discourses, taken different forms of action, and used different channels for problem solving. The government has also responded to different types of labor conflict in different ways. The undifferentiated concept of “worker collective actions” or “worker group incidents” obscures the rich variety in labor resistance.

Accordingly, this paper examines the typology of labor conflict, which we argue is a primary parameter for explaining the variations of worker action in China. Current studies have not clearly categorized labor resistance. But the students of Chinese labor politics do differentiate it in some ways. For example, some scholars distinguish labor resistance in terms of the repertoires of actions taken, such as everyday resistance, collective action (including stoppages, strikes, protests, demonstrations, and occupation of factories), petitions, and lawsuits. Others focus on the difference between workers from state-owned enterprises (SOEs) and the private/foreign sector, assuming that workers will act in different ways depending on their institutional locations as well as their lived experience.<sup>2</sup> But these two approaches do not explain what has shaped workers’ choice of the form of action, nor do they account for why workers from the same sector—for example, private/foreign enterprises, will adopt different forms of contention, such as legal actions, collective protests, or strikes.

This paper argues that although Chinese workers have specific grievances stemming from concrete situations and disputes, and will make various claims on the government or employers, these largely boil down to three types of disputes: those over “rights,” over “interests,” and over pre-reform entitlement, which blurs “interests” and “rights” and will be termed “moral economy-based conflict.” These three types of conflicts can be characterized by their relatively distinguishable bases, claims, framing, and the patterns of interaction with the government that result from them.

2. Ching Kwan Lee, *Against the Law*; Feng Chen, “Industrial Restructuring and Workers’ Resistance in China,” *Modern China* 29:3 (April 2003), pp. 237–62.

Several advantages of such a typological classification of labor conflicts can be identified. First of all, it can signify the nature of the conflict in which workers are involved and tell what workers are demanding, what is at stake, and what kind of dispute drives them to act. Different types, to a large extent, determine the forms of contention selected. As this paper will show, workers involved in different types of conflict face different institutional constraints as well as opportunities, and may choose different channels for redress of their grievances. In this sense, the “type” is closely identified with the repertoires of action chosen by workers. As protesting workers make different claims framed within different discourses, the proposed typological classification will also help us to understand the various ideational, symbolic, and legal resources resorted to by workers in pressing their cases. Moreover, because the government responds to different types of labor conflict in different ways, they can be used as an important indicator to forecast specific patterns of state-labor interaction in a labor dispute. Hence, they can have important implications for institution building in labor relations. Finally, the typological analysis suggested here will be useful for understanding the developmental trajectory of labor conflict. The paper argues that these three types of labor conflict have emerged in a sequence (but not in stages), which reflects the changes in China’s political economy, legal institutions, and labor relations, as well as in the working class *per se*.

In the following sections, the paper will first outline an analytical framework that relates the types of labor conflict to the institutional settings and explains their sequential emergence in terms of institutional as well as socioeconomic changes. Then, it will examine the three types of resistance, respectively, elaborating how they influence the forms of work actions, their action frame, discourse, and patterns of interaction with the government. The paper concludes by discussing the implication of the rise of interest-based conflict for China’s labor movement.

#### **RIGHTS AND INTERESTS IN CHINA’S LABOR CONFLICT**

Defending *hefa quanyi* (legitimate rights and interests) has been a common claim underpinning various popular actions across China, whether by urban citizens whose houses were to be forcibly demolished, peasants whose land had been ruthlessly taken away for development projects, residents whose neighborhood was threatened by environmentally hazardous projects, or

people from different walks of life seeking redress of various grievances.<sup>3</sup> Without exception, labor conflicts are also triggered by workers' perception of the violation of their *hefa quanyi*. Nevertheless, *hefa quanyi* is too general a term to classify the types of workers' action. Nor is it capable of revealing the enormous social and institutional implications of these actions. Popular actions in China are also depicted as "rightful resistance."<sup>4</sup> This refers to the tactic of the subaltern class of poaching the rulers' ideology and their theater of legitimation to reduce their own vulnerability and make their actions more palatable to officialdom, especially to potential allies among the elite. The concept, however, cannot itself help to specify the basis of the different claims and forms of claim making. It is clear that in the numerous disputes arising within Chinese society, the line between "rights" and "interests" remains highly ambiguous and hard to distinguish. The term "*hefa quanyi*" expresses such vagueness. However, as will be argued in this paper, rights and interests are perhaps more clearly differentiated in the labor sector than in any other areas, thanks to the development of legal institutions regulating labor relations.<sup>5</sup> This paper classifies workers' actions in defending their perceived *hefa quanyi* into three types, distinguished by whether the conflict involves rights, interests, or pre-reform entitlement that obscures rights and interests.

Distinguishing between rights and interests is always difficult. All rights can be viewed as legally sanctioned interests. However, interests by no means amount to rights. Popular struggles in various social contexts can be read as a historical process that has turned people's interests into rights.<sup>6</sup> This is particularly the case for the Western labor movement, which fought to

3. Kevin O'Brien, *Popular Protest in China* (Cambridge, Mass.: Harvard University Press, 2008); Yongshun Cai, *Collective Resistance in China: Why Popular Protests Succeed or Fail* (Stanford, Calif.: Stanford University Press, 2010).

4. Kevin J. O'Brien and Lianjiang Li, *Rightful Resistance in Rural China* (New York: Cambridge University Press, 2006).

5. A relatively clear demarcation between rights and interests in labor disputes is observed by scholars of labor relations in Vietnam. See Simon Clarke, Chang-Hee Lee, and Do Quynh Chi, "From Rights to Interests: The Challenge of Industrial Relations in Vietnam," *Journal of Industrial Relations* 49:4 (2007), pp. 545–68. Anita Chan also discusses the difference between rights- and interests-based disputes in China. See Anita Chan, "Strikes in China's Export Industries in Comparative Perspective," *China Journal*, no. 65 (January 2011), pp. 27–53.

6. See, for example, Reinhard Bendix, *Nation-Building and Citizenship: Studies of Our Changing Social Order* (Berkeley: University of California Press, 1977); Charles Tilly, "Where Do Rights Come From?" in Theda Skocpol, ed., *Democracy, Revolution, and History* (Ithaca, N. Y.: Cornell University Press, 1998), pp. 55–72.

legislate what workers saw as their basic interests into their rights.<sup>7</sup> It can be argued that in general, once a legal institution governing labor relations is in place, a demarcation between rights-based and interest-based labor conflicts can be largely made. The former involve disputes over the interpretation or application of existing standards,<sup>8</sup> while the latter make economic demands beyond what the laws have stipulated. However, as a transitional phenomenon accompanied with the disintegration of the socialist paternalist system, moral economy-based conflicts do not distinguish rights and interests.

While all three types of labor conflict are rooted in emerging capitalist economic relations, in which labor is sacrificed and rendered powerless, they have a different institutional basis, make different claims, take different forms, are framed in different discourses, and invite different responses from the government. Moral economy-based conflict arose as a defensive response of SOE workers to the crumbling of the socialist paternalist enterprise system that once guaranteed their socioeconomic status. However, in such a conflict, workers' claims did not make a clear distinction between rights and interests, because under the old socialist institution, there was no labor law that stipulated workers' individual rights, although the Constitution granted the working class a privileged political status. Rather, the workers' view of their entitlement was ideologically constructed, embedded in rhetoric such as "workers are the master of the enterprise," and so on. They saw the privileges they had received from the old system as their *hefa quanyi*. Triggered by massive layoffs that resulted from SOE restructuring, moral economy-based protests often took the forms of collective action, including petitions, protests, demonstrations, sit-ins, road blocking, the occupation of factories, and so on. Governmental agencies were often targets of moral economy protests. Although there were some policies on compensation for workers, they were poorly implemented, and few institutionalized mechanisms existed for handling this type of labor action. Ad hoc relief measures have often been applied to defuse protesters. Dissuasion and suppression were alternately used to dissipate workers' contentious gatherings.

The implementation of the Labor Law in 1994 for the first time in the history of the PRC (People's Republic of China) set up a legal framework for

7. See, for example, Anthony Giddens, "Class Division, Class Conflict, and Citizenship Rights," in *idem, Profiles and Critiques and Social Theory* (London: Macmillan, 1982), p. 172.

8. T. Hanami and R. Blanpain, eds., *Industrial Conflict Resolution in Market Economies* (Dordrecht, Netherlands: Kluwer Law and Taxation Publishers, 1984), p. 8.

labor rights, which was subsequently reinforced by the 2008 Labor Contract Law. Legal rights as codified in labor laws are not only related to workers' tangible interests but also have a procedural dimension, as they encompass legally defined methods of dispute resolution. Rights disputes arise when workers perceive their rights as granted by labor laws being violated or neglected. To what extent workers' rights claims reflect the rise of their rights consciousness, as suggested by some scholars, is controversial. A rights consciousness is commonly defined as "the awareness of existing rights" and "the willingness to assert rights."<sup>9</sup> However, Perry argues that Chinese citizens' growing assertiveness on "rights issues" reflects not so much a rights consciousness as a "rules consciousness," which significantly differs from the Western notion of citizenship rights.<sup>10</sup> In the sense that the claims based on workers' rights that drive forward labor disputes only concern their legal rights as stipulated on the statute books, rather than a broader concept of citizenship or any rights not recognized by the state, the claims may reflect what Perry calls rules consciousness. However, for the purpose of this research, the term "rights" rather than "rules" will be used to refer to such legal rights, as they are viewed as real rights. This is not to suggest, however, that these state-sanctioned rights are fundamentally different from citizenship rights, which remain less institutionalized and unenforceable.

In most situations, workers seek redress of their grievances as individual plaintiffs through judicial procedures. Sometimes, however, the infringement of legal rights as inflicted upon a group of workers has engendered collective action. Workers' grievances are framed in legal terms. The courts have been the principal state institution identified to cope with such claims. Special arrangements based on the collaboration of local bureaucracies, courts, trade unions, and Letter and Visit Offices have also been created to handle collective protests caused by employers' infringement of workers' rights.

Interest-based disputes involve workers' demands for economic benefits beyond those stipulated in law. Their emergence manifests workers' increasing dissatisfaction with the existing labor standards, particularly, their perception of unfairness or injustice that are mostly related to wage levels (which even meet the legal minimum) and working conditions. In other words,

9. Lianjiang Li, "Rights Consciousness and Rules Consciousness in Contemporary China," *China Journal*, no. 64 (July 2010), pp. 47–68.

10. Elizabeth Perry, "A New Rights Consciousness?" *Journal of Democracy* 20:1 (July 2009), pp. 17–20.

workers are “asking for more,”<sup>11</sup> namely, pay raises calculated against “reference factors” such as rising living standards, inflation, and profit growth. This is essentially what interest-based claims are all about. Interest-based claims have commonly been expressed in positional terms that embody a raw sense of economic justice. Wildcat and spontaneous strikes have been common forms of workers’ action in this area, since the trade unions cannot play any meaningful role in negotiating wages (in many private enterprises, there is simply no union representation), nor are they allowed to organize strikes, and there are no alternative institutions to which workers could turn for help. However, unlike rights-based disputes, interest-based ones cannot be channeled into the judicial process. Without any formal institutional mechanism to handle such conflicts, some ad hoc or impromptu forms of mediation and negotiation have been employed, with trade unions serving as a “third party” in the settlement process.

Three types of conflict unfold in sequence shaped by economic, legal, and institutional changes, with moral economy protests occurring first, followed by rights- and interest-based disputes (see Table 1). The sweeping restructuring of SOEs in the mid-1990s produced moral economy-based protests, the first wave of labor protests in China since the reforms. Not until the past few years, as a large proportion of laid-off workers has reached the age of retirement and become eligible for pensions,<sup>12</sup> has this wave of moral economy protests begun to recede. Widespread labor abuse accompanied the market reforms from the outset in private and foreign enterprises located in coastal areas. However, it was the installation of a labor law system that has clearly defined workers’ legal rights in labor relations. These laws have encouraged workers to confront employers on a range of issues such as contracts, wages, overtime, and industrial injuries, where they find their legal rights to have been infringed. Rights-based claims have motivated most labor disputes, collective and individual, in the past decade or so.

The rise of interest-based conflict is a rather new development, though strikes for pay raises have occurred sporadically before. A surge in the number of such economic strikes in 2010, started by Honda workers from Guangdong Province in May, indicates that even though there is good compliance with

11. Rosanne Currarino, “Politics of ‘More’: The Labor Question and the Idea of Economic Liberty in Industrial America,” *Journal of American History* 93:1 (June 2006). Also see Anita Chan, “Strikes in China’s Export Industries in Comparative Perspective.”

12. The legal retirement age is 60 for men and 55 for women.



TABLE I. A Typological Summary of Labor Conflict in China

<i>Types</i>	<i>Claim (for)</i>	<i>Frame (in)</i>	<i>Form</i>	<i>The Government's Response</i>
Moral economy-based	Unpaid wages, livelihood allowance, and pensions; factory assets	Pre-reform socialist discourse, subsistence ethics	Demonstrations, petitions, sit-ins, traffic blocking, factory occupation	Ad hoc relief measures, dissuasion, dispersion by force
Rights-based	Legally stipulated wages, unpaid wages, and overtime fees; compensation for breach of contract, industrial injury, and so on.	Statutes and regulations	Seeking arbitration, lawsuits, collective action	Legal proceedings (including arbitration and adjudication), legal services
Interest-based	Pay raises and improvements in working conditions	The sense of economic justice	Strikes	Impromptu and discursive mediation, negotiation, dispersion by force

SOURCE: By authors.

labor laws in many foreign-owned enterprises, their workers have begun to seek economic justice beyond codified labor standards. This would have enormous implications for China's labor movement in the years to come, as it might motivate more workers to seek collective rights and generate the state's institutional response.

#### NOSTALGIC FOR THE PAST: MORAL ECONOMY-BASED CONFLICT

The pre-reform labor relations system resembles what Scott calls a "moral economy" of pre-capitalist societies, where patron-client relations dominated.<sup>13</sup> The patron (landlord) trades some of his or her wealth for the peasants' recognition of his or her legitimacy.<sup>14</sup> Peasants derive their conception of justice and equity from the extent to which a minimum standard of well-being is maintained by the patron class. The breach of these minimum terms, mainly

13. James Scott, *The Moral Economy of the Peasant* (New Haven: Yale University Press, 1976).

14. Idem, "The Erosion of Patron-Client Bonds and Social Change in Rural Southeast Asia," *Journal of Asian Studies* 33:4 (1972), pp. 5-37.

caused by the intrusion of capitalist market relations, leads to rural rebellion. Similarly, the labor institution under Maoist socialism was characterized by an all-encompassing dependency of labor on the state enterprise. Under such a system, the state was paternalistic, binding workers to their work units for life but guaranteeing them a wide range of material and nonmaterial resources not readily available through market channels. Socialist paternalism amounted to a tacit social contract between the state and workers<sup>15</sup> in which the latter consented to uphold the political order in exchange for guarantees of lifelong employment, social security, health care, and more or less egalitarian wages.

The disintegration of such an institutional arrangement during market reform, however, deprived workers of the entitlements they had taken for granted. Almost every step along the path of reform amounted to a setback for state workers' social status and livelihoods.<sup>16</sup> Labor and welfare reforms effectively eliminated the entitlements under the pre-reform system. Workers' standards of living were eroded considerably, and a large number fell into the ranks of the urban poor.

As a reaction to the disintegration of such a system, protests by SOE workers were essentially nostalgic for previous socialist practices that ensured them a great deal of privilege vis-à-vis other social groups, notably the peasants. Their claims included a restoration of the previous benefits due and compensation for what they had lost in the SOE restructuring. Viewing their relations with the government in terms of paternalism, workers demanded the government take responsibility for their dire living conditions. Their moral economy protests had two specific but related claims.

The first of these is pertinent to Scott's notion of "subsistence ethics," or the "right to subsistence." In the mid-1990s, the government heavy-handedly enforced an industrial restructuring that led to the closure, bankruptcy, and merger of numerous SOEs. A critical step taken to restructure the state sector was removing redundant workers. As a result, the number laid off soared. In 1998–2004, over 30 million state workers lost jobs.<sup>17</sup> Although the

15. For the social contract approach to Communist societies, see, for example, Linda Cook, *The Soviet Social Contract and Why It Failed: Welfare Policy and Workers' Politics from Brezhnev to Yeltsin* (Cambridge, Mass.: Harvard University Press, 1993).

16. Ching Kwan Lee, "Pathways of Labor Insurgency," in Elizabeth Perry and Mark Selden, eds., *Chinese Society: Change, Conflict, and Resistance* (New York: Routledge, 1999).

17. "Zhongguo Gongren Yundong GuanCha Baogao, 2009–2010" [The report on the Chinese labor movement, 2009–2010], *Zhongguo Laogong Tongxun* [China Labor Bulletin], May 24, 2011, <[http://www.clb.org.hk/schi/files/No.19%20labourmovementreport\(PS\).pdf](http://www.clb.org.hk/schi/files/No.19%20labourmovementreport(PS).pdf)>.

government required the SOEs to take measures to ensure laid-off workers' minimal living allowance, many failed to do so. Statistics compiled by the All China Federation of Trade Unions indicate a sharp rise in the number of SOEs failing to pay wages and pensions. In 1995, 10,780 SOEs were behind in paying wages and pensions, with two million workers and 475,571 retirees affected.<sup>18</sup> By 1996 that number had increased to 24,214 SOEs, and 3.5 million workers had received no pay for several consecutive months.<sup>19</sup> A survey of laid-off workers in 10 cities in 1997 showed that 67% of them lived in poverty, and 31% had no income at all at the time of the interview.<sup>20</sup>

As Scott points out, the subaltern class could tolerate exploitation so long as their subsistence livelihood remained secure. But the loss of such security and a drop in their living standards below the "danger line"<sup>21</sup> could provoke resentment and protest, not only because their "needs were unmet" but because their "rights were violated."<sup>22</sup> As many workers believed that they were being unjustly deprived of the resources required to meet their basic needs, their protests focused on the "right to subsistence" and demanded the government take responsibility for redress. The slogans they shouted pointed to such a claim to the right to subsistence: "We Want Jobs," "We Want Food," "We Don't Demand Fish or Meat, Just Some Porridge," and "Not a Yuan in Six Months, We Want Rice to Eat."<sup>23</sup>

The second variant of the moral economy protest concerns workers' claims on the property rights of SOEs, which were both defensive and restorative. Industrial restructuring opened the door for the de facto privatization of SOEs. In deals endorsed by local governments, numerous state factories across the country were sold to private companies at underestimated values. Workers were totally excluded from the process, even though it adversely affected their employment. However, the generation of workers experiencing this drastic change had been indoctrinated for years with the official dogma that factories were publicly owned and workers were the "masters of enterprises." Moreover, as most workers had spent all their working lives at an

18. *Zhongguo Gonghui Tongji Nianjian* [Chinese trade unions statistics yearbook] (Beijing: Zhongguo tongji chubanshe, 1997), p. 129.

19. *Ibid.*, 1998, p. 139.

20. *Xingdao ribao* [Xingdao Daily], January 11, 1999.

21. Samuel Popkin, *The Rational Peasant* (Berkeley: University of California Press, 1979), p. 8.

22. Scott, *The Moral Economy of the Peasant*, p. 6.

23. *South China Morning Post*, November 18, 1998.

SOE and had contributed to the accumulation of state assets by accepting low wages, they felt strongly that they had a legitimate share in the factory as a piece of property. Privatization, as a process that deprived them of their perceived share, caused moral outrage among the workers and drove them to protest. They demanded the preservation of SOEs as a fair and just economic format in which their interests could continue to be protected.

In a moral economy protest, workers have no clear conception of the difference between interests and rights. The pre-reform socialist system defined workers' economic rights and interests in sweeping and ambiguous terms: constitutionally, the working class was, and continues to be, recognized as the leading class. Rhetorically, workers are called the masters of enterprise. Reflecting such a unique social and political status, the paternalist enterprise system granted state workers a range of "treatments" (*daiyu*), or benefits that were not available to another major social group in Chinese society, the peasants. These treatments, however, were defined socially and politically rather than legally. There was actually no labor law that stipulated that workers had any legal right to them. However, despite the lack of a clear statutory basis, the treatments had become long entrenched as "rights" in workers' perceptions. They took whatever benefits they received for granted as their entitlement in an economic system in which the working class possessed a unique social and political status, and saw their termination as a rights violation. The loss of previous entitlements constituted the core of their grievances.

Moral economy claims were often framed in old socialist rhetoric. SOE workers were immersed in the Maoist ideology that had deeply permeated their lived experience under socialist paternalism. Such an ideological discourse provided them not only with the perspective to define the problems facing them but also the language to articulate their grievances. As some studies show, many protesting workers were very critical of SOE restructuring, viewing it as deviating from socialism and a betrayal of the working class.<sup>24</sup>

Workers' moral economy claims were frequently made through collective action, as there were few institutionalized channels for redressing their grievance. Local governments were usually unresponsive to workers' demands,

24. Feng Chen, "Worker Leaders and Framing Factory-based Resistance," in O'Brien, ed., *Popular Protest in China*, pp. 88–107.

being eager to abandon inefficient SOEs that had become a financial burden. Trade unions played no role in representing workers who suffered from hardship. The legal system was also unhelpful. Although the Labor Law came into effect in 1994, it was thought to be inapplicable to disputes arising from the SOE reforms. As shown in a study by Chen in one Chinese city, workers did try to seek legal settlement of their disputes over privatization or other reshuffle measures such as merger, bankruptcy, etc., but all the courts in the city had been ordered by the municipal government not to take on such cases.<sup>25</sup> In the government's view, SOE reform was a state policy and complaints about its implementation were not legal issues that could be settled in court. To alleviate workers' discontent, eight central governmental agencies, including the Ministry of Labor and Social Security, the Economic and Trade Commission, the All China Federation of Trade Unions, etc., jointly issued a document in 2002 stipulating that any scheme of SOE restructuring that would bring layoffs must be approved by the Staff and Workers' Congress (SWC). However, although this provision provided a means for workers to challenge the reshuffle schemes unfavorable to them, it did not constitute any clear legal basis for their claim on the ownership rights of SOEs. First of all, the provision does not have the status of law and cannot be enforced through legal procedures. Furthermore, like many other directives from the central government, the provision was often ignored or circumvented by local governments and enterprises. Finally, in many enterprises SWCs simply did not function or were controlled and manipulated by management.

However, moral economy-based conflict in SOEs did not take the form of strikes, as do most industrial actions. This is simply because those workers were already out of a job and so could not choose to stop work. Thus, in order to attract public as well as official attention to their condition, they chose to demonstrate in the streets, take petitions to the government, and even block traffic. The most radical action taken by state workers was to occupy factories undergoing privatization.<sup>26</sup> The workers saw themselves as entitled to the factory property, and when it was being appropriated by private companies (with the endorsement of local government), they saw themselves as fully justified in taking it over to protect their interests.

25. Interview by author, January 2004.

26. For the occupation of the factory as a tactic of struggle, see Feng Chen, "Privatization and Its Discontents in Chinese Factories," *China Quarterly*, no. 185 (March 2006), pp. 42–60; idem, "Worker Leaders and Framing."

Workers' collective actions were spontaneous in the sense that they were not organized by trade unions or any other group. Many actions were just "contentious gatherings," leaderless and of short duration. However, evidence shows that some moral economy protests by SOE workers were well-organized and coordinated, demonstrating certain properties of organized movements such as "collective challenge, common purpose, social solidarity, and sustained interaction with opponents and authorities," as Tarrow puts it.<sup>27</sup> Labor activists played a crucial role in such organization. As previous studies by the author show, those activists' familiarity with Maoist socialist rhetoric allowed them to frame their resistance in class language. Their experience with the Cultural Revolution had provided them with organizing and communication skills that were vital to their "micro-mobilization."<sup>28</sup>

The government lacked the institutionalized mechanisms to settle moral economy protests. As mentioned above, legal procedures were excluded for disputes caused by SOE restructuring. Local governments had to take ad hoc measures or improvise schemes for defusing workers' actions. They often attempted to disperse protesting workers through persuasion by union cadres, or by deploying the police.

### SEEKING JUSTICE THROUGH LAWS: RIGHTS-BASED CONFLICT

Rights-based conflicts have predominated in labor disputes since early 2000 or so, when economic protests by laid-off SOE workers began to recede. This type of labor dispute can be distinguished from the moral economy-based type by virtue of including a certain measure of modern, legal-rational traits. As the label suggests, it involves workers who seek to redress grievances by invoking current laws that have explicitly stipulated their legal rights. Of course, employers' rampantly unfair behaviors have contributed to the development of rights-based contentions in the first place. But the rise of this type of disputes is also stimulated, and indeed shaped, by legal reforms emphasizing the rule of law in general, and installation of a labor law system that

27. Sidney Tarrow defines social movements as "collective challenges, based on common purpose and social solidarities, in sustained interaction with elites, opponents, and authorities." See his *Power in Movement: Social Movements and Contentious Politics* (Cambridge, UK: Cambridge University Press, 1998), p. 4.

28. Feng Chen, "Privatization and Its Discontents in Chinese Factories"; idem, "Worker Leaders and Framing,"

TABLE 2. Employees' Individual Rights as Stipulated by Existing Statutes

	<i>Entitlement</i>	<i>Source</i>
1	The right to be employed on an equal basis and to choose an occupation.	Article 3
2	The right to obtain remuneration for one's labor.	Article 3
3	The right to a minimum wage.	Articles 48 and 54
4	The right to economic compensation.	Article 3
5	The right to take rest breaks, holidays, and leave.	Articles 3, 38, 40
6	The right to an eight-hour workday.	Article 36
7	The right to protection of occupational safety and health.	Article 3
8	The right to receive training for vocational skills.	Article 3
9	The right to enjoy social insurance and welfare.	Articles 3 and 73
10	The right to submit applications for settlement of labor disputes and other rights relating to labor as stipulated by law.	Article 3
11	The right to lawfully conclude, perform, change, dissolve, and terminate labor contracts with employing units.	Labor Contract Law, Article 2
12	The right to a labor contract.	Labor Contract Law, Articles 14, 29, and 82

SOURCE: 1995 Labor Law, unless otherwise indicated.

encourages workers to seek justice through legal channels in particular. With official legal propaganda and law-disseminating campaigns directed at society at large, a legal consciousness has begun to infiltrate into workers' mind-set, and gradually disabused society of the traditional bureaucratic philosophy that "no lawsuits" (*wu song*) means good administration. Citizens have become increasingly aware of their legal rights and assertive about protecting them. The systematic development of legislation on labor rights has particularly enhanced workers' legal consciousness and emboldened them to go into battle against abusive employers.

The legal basis of rights-based disputes is constituted by a series of labor legislation and an official labor dispute resolution system. Specifically, there are two major laws—the Labor Law (1995) and Labor Contract Law (2008)—that comprehensively cover workers' individual rights and constitute the building blocks upon which workers make their rights-based claims (see Table 2).

Accompanying these laws is the three-stage mechanism of labor dispute resolution—mediation, arbitration, and litigation. Initially formulated as an

administrative decree in 1993, this mechanism was upgraded to be an integral part of the 1995 Labor Law, providing a legal platform for workers to protect their rights in an institutionalized fashion.

The volume of rights-based conflicts has surged during the past decade and a half. Official statistics indicate that the failure of employers to implement labor contracts is one of the major causes of labor disputes. The “implementation of labor contracts,” as shown in the *Labor Statistical Yearbook 2008*, consists of four subcategories that correspond to related clauses in the labor laws: labor remuneration, social insurance and welfare, work injury, and vocational training. An overwhelming number of dispute cases fall into the first three categories and shape the landscape of rights-based contention. Workers claim what the laws allow them to, and invoke related clauses against employers’ violation of their codified rights.

Most rights-based contentions are launched by workers as individuals. Procedurally, under the current labor dispute resolution system, mediation is the first phase of a challenge. However, as a workplace-based and trade union-directed mechanism that was widely used in SOEs, there has been a decline in the efficacy of mediation since the mid-1990s.<sup>29</sup> This can be attributed to several factors. Labor dispute cases have become so widespread and complicated that enterprise mediation committees are no longer able to handle them. Workers’ distrust of their malfunctioning, crippled unions have also turned them away from this mechanism. More important, in private and foreign-owned enterprises, where labor disputes most often arise, there are few mediation committees or other mechanisms available.<sup>30</sup> With the increasing difficulty in settling disputes through enterprise-based mediation, arbitration, which is supposed to be the second phase of dispute settlement, has often become the first line of defense. Built into the government’s labor bureaus at different levels, labor arbitration commissions are actually the principal administrative agency responsible for dispute resolution. They hear numerous cases and make arbitral awards to workers. However, as an organ of the labor bureau with close ties to enterprises, arbitration commissions’ positions tend to be constrained by the government’s economic concerns, especially in terms of the investment environment. Workers often view the

29. Mary Gallagher, *Contagious Capitalism: Globalization and the Politics of Labor in China* (Princeton, New Jersey: Princeton University Press, 2005), pp. 126–27.

30. See Feng Chen, “Legal Mobilization by Trade Unions: The Case of Shanghai,” *China Journal*, no. 52 (July 2004), pp. 27–45.



amount of an arbitral award granted by the commissions as inadequate and not up to legal standards, and may even question the arbitrator's impartiality. Dissatisfied with the decisions of arbitration commissions, numerous workers have brought their cases to court. A drastic increase in the number of such cases indicates not only the magnitude of labor disputes but also the ineffectiveness of the arbitration system, although it was designed to settle disputes without litigation. Compared with the arbitration commissions, the courts enjoy a relatively high degree of independence in dealing with labor disputes and tend to be less concerned with economics. Thus, they have been more willing than the bureaucracies to apply higher labor standards. The courts' general pro-worker position has produced a high success rate for workers seeking "rights defending" (*weiquan*), which in turn has attracted more workers to strive for judicial solutions to their rights claims.

Rights-based disputes, especially those made by individual workers, sometimes attract legal assistance from union organizations. The All China Federation of Trade Unions (ACFTU), the only legal union organization in the country, has long been criticized for its inability to effectively articulate and represent the interests of the working class. Its institutional embeddedness has inhibited it from acting independently. However, because channeling labor disputes into officially sanctioned procedures is consistent with the rule of law promoted by the government, the ACFTU and its local affiliates have been able to perform an active role in legal mobilization. They have established legal aid centers at different levels, as well as their own legal departments, which disseminate general knowledge of labor laws, provide legal services to workers, and represent claimants in court.<sup>31</sup> Many workers making rights claims have benefited from unions' legal assistance. Rights-based claims have also gained support from labor nongovernmental organizations (NGOs). In the Guangdong area, for example, there are growing labor NGOs that have made tireless efforts to help workers who suffered from industrial injury claim economic compensation from employers.<sup>32</sup>

While most rights-based claims are made by individual workers, they can sometimes be expressed in collective form. Such collective rights disputes often arise when arrears of wage and overtime payments affect entire factories.

31. Ibid.

32. See, for example, Joseph Y. S. Cheng, Kinglun Ngok, and Wenjia Zhuang, "The Survival and Development Space for China's Labor NGOs," *Asian Survey* 50:6 (2010), pp. 1082–106.

In 2008, for instance, when China's coastal economy was severely hit by the world financial crisis, leading to widespread factory closures, some owners absconded with all of the cash in the companies' accounts without paying the workers first. Moreover, the Labor Contract Law that came in effect in 2008 also motivated people to make collective rights claims. It provides that if employers fail to pay overtime, workers then have the right to compensation when they are laid off or resign. During the economic downturn in 2008 and 2009, a large number of laid-off workers who had never received overtime premiums collectively pressed their case for such compensation. For instance, in Dongguan, whose export sector was badly hit by the financial tsunami, the local courts processed 23,044 labor dispute cases in 2008–09, a 159.18% increase on 2007.<sup>33</sup>

Collective rights disputes can also be channeled into legal proceedings. However, a set of unique judicial practices has developed in order to cope with them. Firstly, the courts have entered into collaborative efforts with local party organizations, bureaucratic agencies, public security bureaus, trade unions, law firms, and township authorities to defuse and resolve collective disputes. Judges are often sent to protest “hot spots” immediately following the outbreak of such a dispute, providing legal advice to workers and expeditiously channeling the matter into legal proceedings. Such extra-judicial engagement, denoting the integration of the courts' role into the larger process of conflict management as steered by local governments, has been depicted by some scholars as a “street as courtroom” phenomenon.<sup>34</sup> Second, the courts also mediate collective rights disputes. Flexible and loosely structured, mediation is a quasi-judicial process in which judges can seek resolution of disputes using various means, including persuasion and even intimidation. Sometimes, a divide and rule strategy is used to lure some workers into withdrawing first, which could, in turn, shake the resolve of others to continue. Agreements reached through judicial mediation are binding on all parties. Third, when a collective case does have to go through a formal judicial process (that is, adjudication), the courts will break it down into a series of individual cases based on the number of people involved. For instance, in a collective dispute involving 100 workers, the

33. *Dongguan Ribao* [Dongguan Daily], January 28, 2009.

34. He Xin and Su Yang, “Street as Courtroom: State Accommodation of Labor Protest in South China,” *Law and Society Review* 44:1 (2010).

court will generate 100 separate cases and channel the disgruntled workers, as private plaintiffs, into adjudication. The individualization of collective disputes serves to atomize the participants and thus prevent their actions from escalating.<sup>35</sup>

It is fair to say that the settlement of rights-based disputes has been largely institutionalized over the past two decades. The state's effort to enforce the rule of law in the labor sector has certainly raised workers' legal consciousness as well as their expectations of being able to air and rectify their grievances through officially sanctioned channels. By relegating labor disputes to regularized procedures, the state not only exonerates itself from the accusation that it is ignoring the disadvantaged but also garners a certain measure of legitimacy based on legality. However, the legalization of rights-based disputes also serves the state's purpose of containing labor mobilization by, in effect, pulverizing the army of complaining workers into individual claim makers and emasculating their ability to act collectively. In other words, it turns a "labor question" that is collective in nature into numerous individual- and enterprise-specific cases, and in doing so atomizes a group of workers who actually have a set of shared claims and goals.

#### ASKING FOR MORE—INTEREST-BASED CONFLICT

Interest-based conflict differs from a rights-based approach in that it demands economic remuneration in addition to the legally stipulated minimum, and hence cannot be resolved through judicial processes. The most prominent and typical claim that drives such disputes is for pay raises, an appeal that if heeded can tangibly increase workers' economic benefits. While there is at least a legal minimum wage as a point of reference against which to demand a pay raise, there is also a provision in the Labor Law that "wages should gradually be raised on the basis of economic development" (Article 46, 1995). However, few pay-raise protests have resorted to this provision, given that it is vague and hard to enforce. Theoretically, as one scholar suggests, there are four factors that can form the basis of pay raises: economic growth, as indicated by gross domestic product (GDP); increase in the price of commodities; profit growth of individual enterprises; and accumulated years of

35. Feng Chen and Xin Xu, "Active Judiciary: Judicial Dismantling of Workers' Collective Action in China," *China Journal*, no. 67 (January 2012), pp. 87–108.

work.<sup>36</sup> In reality, however, workers are generally motivated to take action simply by a perception that they are not being paid fairly, although all four factors may variously contribute to this. As some studies show, an intensified labor process and unhealthy working conditions can also trigger strikes.<sup>37</sup> However, a reasonable wage is the key claim underpinning most interest-based disputes.

For instance, the Dalian Development Zone in the northeast witnessed a wave of strikes in the summer of 2005, involving over 20,000 workers in 18 enterprises. The strikers' major complaint was that their salaries were much lower than those of their counterparts in southern China and had been stagnant for years. In an interview, some workers made it very clear that they had joined the strike because "our salaries are too low."<sup>38</sup> In another case, workers went on strike because the city government failed to increase the minimum wage in 2007, which had been expected by workers after two consecutive pay raises in 2005 and 2006.<sup>39</sup>

The latest Honda strike in Foshan, Guangdong, in May 2010 was also motivated by workers' demand for higher pay. The young strikers consciously justified their claim in terms of a fair share of the company's substantial profits. In an open letter addressed to all workers and the general public, the strike organizers stated: "[W]e know that this plant counts its profit in billions every year, and this is the fruit of our workers' hard labor." Hence, they believed that they qualified for a pay raise, consistent with the growing profits of the company. Honda's remuneration system is based on seniority, that is, wage increases are determined by years of employment, calculated in a rigid, lengthy, and complicated annual assessment. The younger workers, who accounted for the overwhelming majority of the Honda labor

36. Wang Lili, "Zhang Gongzi: Falü de Shou Gaishen Duochang" [Pay raise: How long should the hand of law stretch?], *Jiancha Ribao* [Procuratorial Daily], January 14, 2008, <<http://www.jcrb.com/n1/jcrb1534/ca670680.htm>>.

37. See, for example, Pun Ngai, Chris King-chi Chan, and Jenny Chan, "The Role of the State, Labor Policy, and Migrant Workers' Struggles in Globalized China," *Global Labor Journal* 1:1 (December 2009), pp. 132–50; Leung Pak Nang and Pun Ngai, "The Radicalization of the New Chinese Working Class: A Case Study of Collective Action in the Gemstone Industry," *Third World Quarterly* 30:3 (2009), pp. 551–65.

38. Zhan Yanhui, "Dalian Rizi Qiye Lianhe Bagong Shijian Diaocha" [An investigation into the strike incident in Japanese-owned enterprises in Dalian], *Fenghuang zhoukan* [Feng Weekly], February 14, 2000.

39. Ngai, Chan, and Chan, "The Role of the State, Labor Policy, and Migrant Workers' Struggles."

force at Foshan and usually had a short work history with the company, struggled to tolerate such institutionalized wage stagnation. Especially in a time of high inflation, they found it increasingly difficult to afford to live in the city on such low wages. At the same time, the very high pay received by Japanese staff apparently exacerbated workers' feelings of unfairness. The Honda strike triggered a wave of labor actions across the country. Despite the lack of official statistics, various sources indicate that over 20 strikes took place in the two months following what happened in Honda on May 17, 2010, and presumably there were many others that went unreported.<sup>40</sup>

Unlike rights-based disputes, a demand for a pay raise cannot be addressed through judicial processes. At the same time, the enterprise trade unions are incapable of representing workers in collective wage bargaining with employers. Wildcat strikes are therefore the workers' only option. Unions in the enterprises, if any, are often kept in the dark until after the strike has broken out. The fact that the unions were bypassed indicates that workers did not view them as their representatives. A certain micro-mobilization structure exists to create a network and organize the strikers. In the Honda strike, two young men in their twenties played a crucial role in organizing the action. Frequently, too, such actions are coordinated by activists through mobile phone and Internet messaging services. Some more traditional means such as putting up posters and written demands, and rallies, are also used to mobilize and inspire workers.

The essential demarcation between rights- and interest-based disputes lies in whether or not the workers' demands are framed in terms of specific legal provisions. Interest-based claims challenge labor standards based on legal minima, which are viewed as inadequate for a decent life. On the surface, interest-based disputes resemble moral economy protests insofar as both take the form of collective action. However, they differ in two significant respects. Firstly, unlike moral economy protesters, interest-based strikers in China do not resort to the old socialist rhetoric when justifying their demands. Their lack of lived socialist experience makes such ideological rhetoric irrelevant, or even bathetic. Their demand—pay us more—needs no camouflage or subterfuge.<sup>41</sup> Their conception of fairness is intuitive, and purely economically

40. *Yazhou Zhoukan* [Asian Weekly], June 13, 2010; “2010 Nian 5 Yue Yilai Zhongguo Bagong Chao” [The strike wave in China since May 2010], *Gongren Jieji Xianfeng Wang* [Working class pioneer website], <<http://pioneer-worker.forums-free.com/topic-1775.html>>.

41. Ching Kwan Lee, *Against the Law*.

oriented. Second, as far as the form of contention is concerned, moral economy protesters no longer had the option of striking, as many of them were already out of work. They demonstrated in the street, outside government buildings, or more dramatically, occupied a factory in which they saw themselves as having a legitimate share. Their collective actions were intended to draw public as well as official attention to their grievance, but had barely any impact on production, since they were already outside the labor process. In contrast, strikes invoked by interest-based disputes *can* disrupt production. Stopping assembly lines in one factory not only brings its production to a halt but could also break the chain of production across various other enterprises, as actually happened after the Honda strike.<sup>42</sup> The power to disrupt production in this way often compels employers to come to the bargaining table.

The state's handling of interest-based economic strikes is far from having become institutionalized. Legally, the strike is still trapped in an ambiguous situation. The freedom to strike was written into the 1975 and 1978 Constitutions, but revoked in 1982. Thus, trade unions are not positioned to lead or organize strikes. On the other hand, there is no legal statute that specifically forbids striking. Having anticipated unavoidable industrial conflict in a market economy, the state has tacitly recognized the legitimacy of striking and stipulated some methods for resolving collective disputes in several major laws, such as the Labor, Trade Union, and Labor Contract Laws. However, such provisions are general and vague, set forth as principles rather than practice, and are not specific enough to guide the process of settlement. Since interest-based disputes cannot be channeled into the judicial process as yet, they have to be resolved through negotiation, mediated by a third party. Often, and somewhat awkwardly, this will be the trade unions. As *de facto* state institutions, trade unions are supposed to act as mediators in industrial conflict rather than on behalf of workers, though as labor organizations they may have sympathy with them.

42. The Foshan Honda plant is a specialist site for manufacturing car parts. The work stoppage there halted all four of Honda's assembly factories in South China, causing a loss of more than ¥ 200 million in output value per day. See "Bagongmen Yinfa 'Dizhen': Bentian Zaihua Zheng Chechang Quanmian Tingchan, Risunshi Chao 2.4 Yi" [Strike-gate triggered "earthquake": Honda's factory in China stopped production overall, the daily loss exceeds 240 million yuan], *Meiri Jiangji Xinwen Wang* [Economic News Daily Website], May 28, 2010, <<http://old.nbd.com.cn/newsthtml/20100528/20100528163241536.html>>.

In the Dalian strike, for example, the trade union in the development zone performed an effective role in mediating the dispute. The chair transmitted the strikers' demands to the municipal government and convinced top officials that the workers' demands were purely economic and legitimate. He also persuaded the striking workers to refrain from taking any radical actions and scale down the pay raise they had originally demanded. At the same time, the union chair took a strong stance with the employers in terms of their obligation to consider a pay raise. However, although the union successfully brought an end to the conflict, by securing concessions from the employers, its one-off troubleshooting style left no institutional arrangement in place for future disputes. Consequently, in the aftermath of the Honda strike, the Dalian development zone saw another wave of strikes in July 2010, even larger than in 2005, with 70,000 workers from 73 enterprises demanding a pay raise.<sup>43</sup>

In the Honda strike, however, the trade unions in the district and township where the factory is located not only failed to mediate but also attempted to disperse workers by force. In this case, it was individual actors with professional knowledge and social prestige that took part in resolving the conflict. Zeng Qinghong, a deputy of the Provincial People's Congress, persuaded the strikers to go back to work while negotiations went on. Chang Kai, a labor scholar from Renmin University, acted as legal advisor to the strikers and joined in negotiations with management. The collective agreement that resulted from the negotiation stipulated not only a 34% pay raise, but also put in place an article that prevented management from punishing the strikers.<sup>44</sup>

However, local authorities are not hesitant to crack down on strikes if they see them as posing a threat to public order. The KOK strikers in Kunshan, Jiangsu, for example, encountered the riot police when they tried to occupy the national highway. Since the strike site was only 30 minutes' drive from downtown Shanghai, where the 2010 World Expo was underway, the police

43. "Dalian Kaifaqu 73 Jia Qiye 7 Wan Gongren Canyu Bagong, Yaoqiu Tigao Gongzi" [70,000 workers from 73 enterprises in Dalian development zone were on strike, demanding pay raise], *Gongren Luntan* [Workers' Forum], September 20, 2010, <<http://grbbs.net/thread-8124-1-1.html>>.

44. "Chang Kai Jiaoshou Jieru Foshan Bentian Bagong Cujin Shijian Shunli Jiejue" [Professor Chang Kai intervened in the Foshan Bentian strike and fostered its smooth settlement], *Renda Xinwen Zhongxin* [Renmin University of China News Center], July 6, 2010, <<http://news1.ruc.edu.cn/102392/70156.html>>.

were ordered to guard the strikers and prevent them from coming into contact with the Expo and shocking the attendees.<sup>45</sup> Another, more turbulent, episode was the strike of over 500 container truck drivers in the Shenzhen, Guangdong, port in June 2010. The strikers stopped their trucks, blocked the bottleneck of the Xinghai and Nanhai roads, and smashed up passing trucks whose drivers had not joined the strike. Causing a traffic jam almost a kilometer in length, the strike paralyzed the port. Alarmed by the magnitude of the disruption, the local government sent in the riot police with their dogs.<sup>46</sup> The strike was crushed. In both cases, the strikers were only asking for pay increases and better treatment. They invited suppressive interference from the authorities because they were viewed as having crossed the “red line” of social stability. The strike in Kunshan was perceived as a potential threat to a grand exposition intended to earn international prestige. As for the drivers’ action, its locale, which serves as the key transport artery linking the factories in Dongguan with the port in Shenzhen, was too vital to the region’s international trade to be allowed to be disturbed by an explosive and fleeting strike. Swift and tough action by the local authorities to restore economic order was inevitable.

The Chinese state is still struggling with effective methods of handling strikes motivated by interest-based claims. It has attempted to promote the “tripartite mechanism,” and in particular to enforce a collective contract.<sup>47</sup> Several administrative decrees have been issued in order to stabilize employment relations, with an emphasis on regularizing the mechanism of pay raises since 1994. However, although top-down promotion produced a high rate of signing of collective contracts in enterprises, such practices remain largely formalistic and ritualistic, with limited effects on labor relations. Contracts are often formulated by trade unions subject to the control of management. Workers are not consulted before the “negotiations,” nor informed of the

45. “Jiangsu Taizichang Yu Erqianren Bagong, Tejing Ba Yunfu Dacheng Zhuangshang” [Over two thousand workers of a Taiwan-invested factory in Jiangsu on strike, a pregnant woman was beaten up by the Special Police], *Aboluo Xinwen* [Aboluo News], June 8, 2010, <[http://www.aboluowang.com/news/data/2010/0608/article\\_101593.html](http://www.aboluowang.com/news/data/2010/0608/article_101593.html)>.

46. “Shenzhen Nanshan Xibu Gangqu Yu 500 Ming Gangkou Huoguiche Siji Jiti Bagong” [Collective strike of more than 500 container truck drivers in the Western Port, Nanshan District, Shenzhen], *Gongren Jieji Xianfeng Wang*, June 2, 2010, <<http://pioneer-worker.forums-free.com/topic-t841.html>>.

47. Simon Clarke, Chang-Hee Lee, and Qi Li, “Collective Consultation and Industrial Relations in China,” *British Journal of Industrial Relations* 42:2 (2004), pp. 235–54.



content of their contract afterward. Moreover, it is not uncommon for collective contracts to meet only the most minimal labor standards, by copying some clauses from the Labor Law. The surge of wildcat strikes is to a large extent testimony to the failure of formalistic collective contracts that do not reflect workers' interests. After the Honda strike, the Guangdong Provincial Government and Shenzhen Municipal Government called for a collective salary negotiation system to be set up so as to regularize the mechanisms of pay raises through labor-management bargaining. But pushing for collective bargaining on the one hand but imposing a strict ban on independent organizing on the other creates an impasse for the government in establishing a viable and sustainable institutional arrangement for the settlement of interest-based disputes.

## CONCLUSION

This paper has presented a typological analysis of labor resistance based on workers' claims on rights, interests, or a mixture of both. It argues that such an analysis provides a useful approach to understanding variations in labor resistance in terms of basis, framing, form, and government reaction. The typological analysis of labor resistance also provides a perspective on the evolution of China's labor struggles. The three types of labor conflict demonstrate the developmental trajectory of workers' responses to the changing economic relations as well as labor institutions in China. They emerged in sequence but did not replace each other. The wave of moral economy protests first emerged in the mid-1990s, resulting from the agonies of the SOE reform program that had led to massive layoffs and social dislocation. It was the struggle of the traditional working class, once the pillar of China's industrial system and now facing its own disintegration. The Labor Law came into effect in 1994, but it perhaps took some time for workers to become legally conscious and stand up for their rights. Accordingly, there has been a drastic increase in rights-based disputes since the early 2000s, and the subsequent labor legislation has continued to enlarge the terrain of rights defense (*weiquan*) contentions.

The rise of interest-based conflicts is the latest phenomenon, although it had taken place sporadically in earlier times. It reflects workers' growing dissatisfaction with the minimal labor standards in law, and their demand for the decent levels of wages they believe to be necessary to lead increasingly

costly urban lives. It can be argued that such conflicts bring the Chinese labor movement into a new phase, and, indeed, will define a new arena of labor struggles in the years to come. Moral economy resistance faded away with the end of SOE restructuring. Although rights defense efforts sporadically generate collective action, a majority of them have been individualized through specifically designed legal procedures. Workers have to fight for their rights as individual plaintiffs, which hinders the formation of a collective consciousness and class solidarity.

Interest-based resistance, however, is different. It is rooted in distributional conflict in the capitalist economy and so can be recurrent under such a structure. Such conflicts have some important implications for both labor and government. Unlike rights-based claims, most interest-based claims cannot be made individually and have to be articulated in collective form. Their effective expression entails organization. Thus, interest-based resistance may nurture workers' consciousness of collective rights, especially the right to organize. In fact, in the Honda strike, the workers realized the importance of organization and demanded their own trade union.<sup>48</sup> Likewise, interest-based disputes cannot be redressed on an individual basis. Thus, the government must work out some form of institutional arrangement to accommodate workers' collective claims. In many market economies, tripartitism and collective bargaining are the institutions designed for this purpose. For them to work, workers must be given collective rights, and trade unions must be able to act independently to represent them. As China faces more and more interest-based conflicts in labor relations, how to build institutions to channel these energies becomes a profound challenge for the government. In short, the rise of interest-based claims injects a new dynamism into both the labor movement and the government, and more important, the interaction between them.

48. *Yazhou zhoukan*, June 13, 2010.