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The Development of Collective Bargaining in China: From “Collective Bargaining by Riot” to “Party State-led Wage Bargaining”*

Chris King-Chi Chan[†] and Elaine Sio-leng Hui[‡]

Abstract

2010 was a turbulent year for labour relations in China. The wave of strikes sparked by the Honda workers has highlighted the urgent need for trade union reform and workplace collective bargaining. In response to this turbulence, the Chinese government has stepped up efforts to promote the practice of collective bargaining, which had been neglected under the existing “individual rights-based” labour regulatory framework. In the midst of rapid social and policy changes, this article aims to examine the effect of labour strikes on the development of collective bargaining in China. The authors argue that, driven by growing labour protests, the collective negotiation process in China is undergoing a transition, from “collective consultation as a formality,” through a stage of “collective bargaining by riot,” and towards “party state-led collective bargaining.” This transition, however, is unlikely to reach the stage of “worker-led collective bargaining” in the near future.

Keywords: collective bargaining; party-state; trade union; strike; Chinese labour; migrant workers

Prominent scholarly work in China labour studies has been dominated by two distinct approaches. The first is influenced by the tradition of institutional analysis and has made trade unions the centre of enquiry. Studies taking this approach show that after China’s transition from a state-socialist to a market-driven economy, trade unions have been subordinate to both the party-state and enterprise management owing to the legacy of state-socialism and the burgeoning capitalism taking root in the country.¹ The second approach reflects the concerns of

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¹ See e.g. Chen 2010; Pringle 2011; Howell 2008.

sociologists and focuses mainly on the day-to-day processes of managerial control and labour resistance in the workplace. One major focus of this approach is how identity politics, such as the workers' gender or place-of-origin, have influenced their individual and collective resistance.² In recent years, scholars using these two approaches have started paying more attention to common themes, such as the rising patterns of migrant workers' protests. Still, these approaches to China labour studies retain their separate emphases. Scholars taking the institutional analysis approach are primarily interested in the roles of trade unions and state authorities in mediating labour conflicts,³ and those taking the sociological approach introduce the framework of class formation to examine labour protests.⁴ This pair of foci has left an important research gap in the field of China labour studies by ignoring the effect of labour protest on the institutional settings for Chinese industrial relations. We endeavour to fill this gap by combining and applying the insights of both the institutional analysis of trade unions and the sociological analysis of workers' struggles to study a little explored subject – workplace collective bargaining. On the one hand, we assess the extent to which labour strikes have shaped the institutions regulating labour relations, especially the collective bargaining mechanisms; on the other hand, we investigate how trade unions and the party-state attempt to mediate conflicts between labour and management via wage bargaining.

Across China, 2010 was a turbulent year for labour relations. The wave of strikes sparked by the Honda workers in Foshan 佛山 city in Guangdong drew the concern of Chinese policymakers and scholars, and caught the attention of the Western media. These strikes have highlighted the urgent need to carry out democratic trade union reform and implement workplace collective bargaining, or what is more commonly known as “collective consultation” in the Chinese context. In response to the strikes and protests, the Chinese government and the All China Federation of Trade Unions (ACFTU) stepped up their efforts to legalize the right of workers to engage in collective bargaining – a right which is not currently endorsed by the “individual rights-based” labour regulatory framework.⁵

This article examines the effect of labour strikes on the development of collective bargaining in China. It argues that, driven by growing labour protests, collective negotiation in China is undergoing a transition from “collective consultation as a formality,” through a stage of “collective bargaining by riot,” and towards “party state-led collective bargaining.” However, this process is unlikely to reach a stage of “worker-led collective bargaining” in the near future. While collective consultation has been said to exist in China for a long time, it basically remains a ritual, or a mere formality. It is the continuous strike action

2 E.g. Lee, 1998; Pun 2005.

3 For instance, Chan, Anita 2011; Chen 2010.

4 Lee 2007; Chan K.C.C. 2010; Pun and Lu 2010.

5 The distinction between the “individual rights” and “collective rights”-based legal frameworks in the Chinese context has been elaborated by Chen (2007).

by workers that has compelled a new state of collective bargaining by riot⁶ between strikers and management. To forestall this, the government has attempted to promote party state-led collective bargaining via the official trade unions. This kind of collective bargaining, however, is intrinsically different from the worker-led collective bargaining found in many Western countries. While party state-led collective bargaining is built on top-down state authority, worker-led collective bargaining is based on the workers' rights to strike and to organize independently.

The data used in this article were collected via a number of channels. First, we conducted an intensive case study of the Honda strike and its subsequent developments. Many labour scholars and activists view this strike as the starting point for a new stage of working class resistance in China. The authors paid three visits to the Honda workers in their dormitories during the strike and interviewed 40 workers between May and June 2010. Since then, we have maintained contact with their key representatives. In addition, we conducted interviews after the strike with Chinese government officials, scholars, trade unionists, and experts on industrial relations. These interviews were carried out in Beijing and Guangdong, and helped to substantiate our arguments.⁷ Second, we conducted a systematic review of internet materials, media reports, trade union documents and NGO reports. Third, the authors have carried out intensive fieldwork in China since 2005. This fieldwork has involved participant observation in labour NGOs' activities, and interviews with workers and managers. This has allowed us to observe the development of collective bargaining in China over a significant period.

In the next section, we explain collective bargaining in the Chinese context by reviewing the key intellectual discussions on the subject and underscoring their inadequacies in accounting for the Chinese situation. We also review studies on collective consultation in China and examine how this process functions as a mere formality rather than as meaningful negotiation. Section four uses the Honda workers' strike and other strike cases as illustrations to analyse how workers' protests have given rise to collective bargaining by riot. Section five explores how the Chinese government has tried to forestall this by encouraging party state-led collective bargaining. Finally, we discuss the structural limitations of party state-led collective bargaining, and set out our conclusions.

Collective Bargaining in the Chinese Context

Collective bargaining has a long history in the West. As the British industrial relations scholar, Hyman, put it, "both the term, and the practice, of collective bargaining were nineteenth-century British inventions," for "regulating wages

⁶ Hobsbawm, 1952; Clark and Pringle 2009.

⁷ Interviews in Beijing (August 2010; December 2010; April 2011; August 2011); Guangzhou (June 2011; August 2011); Shenzhen (October 2010).

and other core conditions of employment by negotiation between unions and employers.”⁸ In Western societies, collective bargaining is usually conceived as a mechanism to further workers’ interests. Sidney Webb and Beatrice Webb⁹ explained that collective bargaining, supported by the potential mobilization of workers’ collective actions, was one of the major means for trade unions to better their members’ employment conditions. More recently, Flanders criticized the Webbs’ understanding of collective bargaining as having an overly strong economic orientation.¹⁰ Flanders argued that collective bargaining should be “best seen as a political rather than an economic process.”¹¹ However, Fox forcefully defended the Webbs, suggesting that although they saw the importance of collective bargaining to be its economic protection of workers, they “hoped that what were then perhaps its lesser non-economic attractions would come to have greater importance as time went by.”¹² Later, Hugh Clegg tried to construct a comprehensive theory of trade union behaviour in collective bargaining during the 20th century.¹³ He studied the collective bargaining systems in six developed countries and contended that variations in the system, such as the extent of bargaining (i.e. how many employees in a workplace or an industry are covered by the collective bargaining), the level of bargaining (i.e. whether collective bargaining takes place at the plant, regional or national level), or the degrees of control in collective agreements (i.e. how machinery is deployed to oversee the effective implementation of collective agreements), could explain the differences in union behaviour.

Inspired by the Western debate on collective bargaining, we conceive this process not only in economic terms, but also as a socio-political practice to advance workers’ employment conditions. Yet, we are aware that China has a different developmental path from that of the West, and thus particular attention has to be paid to the specific Chinese context against which the discussion of collective bargaining in China should take place.

First, although some have criticized the bureaucratic nature of Western trade unions and their compromising positions,¹⁴ almost all Western studies on collective bargaining and all important international institutions for labour rights (such as the International Labour Organization) have considered trade unions as legitimate units of bargaining. Clegg writes that “It [collective bargaining] is collective because employees associate together, normally if not invariably in trade unions, in order to bargain with their employers.”¹⁵ This Western understanding of trade unions contrasts sharply with the Chinese situation, in which the role of trade unions in representing members’ interests is problematic. Instead of relying on

8 Hyman 2001, 187.

9 Webb and Webb 1897.

10 Flanders 1964.

11 Brown, Marginson and Walsh 1999, 135.

12 Fox 1975, 171.

13 Clegg 1976.

14 Hyman 1984.

15 Clegg 1976, 5.

trade union officials, it is increasingly common for striking Chinese workers to elect their own representatives to bargain with the management.¹⁶

Second, while governments in the West are assumed to be independent from both the employers and trade unions in collective bargaining, the nature of state–society relations in contemporary China calls for a new way to conceptualize collective negotiation there. On the one hand, an intricate network of patron–client relations between the local governments and enterprises has been widely established, which has made the local governments quite indifferent to labour exploitation and violations of labour laws. On the other hand, the party-state must respond to labour unrest sufficiently in order to maintain political legitimacy. This has required that it offers workers more legal protection.¹⁷ As will be elaborated, the dynamics of this state–capital–labour interaction have been reflected in China’s collective bargaining legislation.

Third, the term “collective bargaining” has only recently appeared in China, and “collective consultation” has always been the dominant expression. The term “collective bargaining” was seldom used by the Chinese government because it implies the existence of conflicting labour relations, which are not expected in the Chinese “market-socialist” economy. However, the term has recently become more acceptable to some local government officials, and has become more comprehensible to workers, employers and the public. For example, in 2008, the Shenzhen government was the first local government in the country to adopt the term officially in the amended version of its Shenzhen Implementation Measures for PRC Trade Union Law.¹⁸ In January 2010, while deliberating on the Shenzhen Collective Consultation Ordinance, many standing committee members of the Shenzhen Municipal People’s Congress suggested using “collective bargaining” instead of “collective consultation” as a means to strengthen workers’ confidence in their legal rights.¹⁹

To clarify the ambiguities surrounding the concept of collective bargaining in the Chinese context, and to explain its development over time, we have distinguished four forms of negotiation: “collective consultation as a formality,” “collective bargaining by riot,” “party state-led collective bargaining,” and “worker-led collective bargaining.” While the final form, worker-led collective bargaining, is commonly seen in Western societies, it is rare in China. The first three forms of negotiation, however, can all be witnessed in China, and there is a historical trend of moving from the first to the third form. That said, it is not our intention to suggest that a clear-cut boundary exists between these three forms of collective negotiation. In fact, they may co-exist in different periods and geographical areas, but with one as the leading or emerging form.

16 Chan, K.C.C. 2010.

17 Lee 2007.

18 See http://www.chinacourt.org/flwk/show.php?file_id=130635.

19 See Fang, Xingye. 2010. “‘Jiti xieshang’ gai wei ‘jiti tanpan’” (Collective consultation changed to collective bargaining), *Shenzhen tequ bao*, 19 January.

Collective Consultation as a Formality

The regulations for enterprise collective consultation have existed in China for many years. The Trade Union Law of 1992, the Labour Law of 1994, the revised Trade Union Law of 2001, and the Labour Contract Law of 2008 have all provided legal justifications for collective consultation. In addition to these laws, many administration decrees have been issued to guide the implementation of collective consultation, including the “Provision on collective contracts” announced by the Ministry of Labour in 1994; a joint circular issued by the Ministry of Labour, the State Trade and Economic Commission, the ACFTU and the China Enterprise Management Associations; and the “Trial methods of collective consultation on wages,” released by the Ministry of Labour in 2002.²⁰

Despite all of these legal provisions, collective consultation in China has remained a formality. Based on our fieldwork and a review of the literature on collective consultation in China,²¹ we have found the following points.

Collective consultation as a formality takes a number of forms in practice. For instance, in some cases the trade unions and the management meet without carrying out real bargaining, and the trade unions simply accept whatever is proposed by the management. In other cases, the management does not even meet with the trade unions, and just sends them a collective contract for “approval.” At times, once a collective contract is signed, the management takes no initiative to renew the contract in subsequent years.

Collective consultation has mainly been the result of top-down requirements from the government or higher-level trade unions, instead of “growing out of struggle and a process of institutionalization.”²²

Ordinary workers and trade union members do not actively participate in the process of consultation; neither are they consulted by trade unions. In other words, workers are not properly represented by trade union officials during collective consultation.

There is usually an absence of significant negotiations between the workers and the enterprise’s representatives. Clarke et al., for example, concluded that there was “no evidence to support [that]... any significant wage bargaining [exists in China].”²³

The collective contracts “agreed” upon by both parties rarely involve wage negotiations. Also, the terms and conditions of employment stated in the contracts seldom deviate from the minimum legal standards. This is because trade unions tend to make proposals that they think will be acceptable to the management, and as such, enterprise trade unions are often simply performing a state function “as part of a system of juridical regulation of labour relations.”²⁴

20 Clarke, Lee and Li 2004; Chen 2007.

21 Chan, Anita, 1998; Clarke, Lee and Li 2004; Chen 2007.

22 Chen 2007, 74.

23 Clarke, Lee and Li 2004, 247.

24 Ibid., 251.

Instead of actually advancing their members' interests, the trade unions merely ensure that enterprises do not violate labour laws.

Evidently, collective consultation in China does not fit the Western definition of collective bargaining as it is widely understood in the field of industrial relations. The reasons for such a discrepancy are related to the malfunctioning of the enterprise trade unions, which have an ambivalent institutional identity. On the one hand, all trade unions are under the leadership of the ACFTU, which in turn is subject to the party-state's control. On the other hand, workplace trade unions are often subordinate to the management, and in many cases trade union committee members are part of the management.²⁵ Therefore, representing and protecting workers' interests is never at the top of the unions' agendas, even though they have come under growing pressure from the party-state to mediate the escalating labour conflicts in the country.

Clarke et al. hold that collective consultation does not "provide the framework for a new industrial relations system"²⁶ in China, and that it can only do so when plant trade unions fully rid themselves of control by the management and properly represent their members' interests. These authors further claim that "a change is not likely... until unions at a higher level recognize the need for the change and develop their capacity to support genuine collective bargaining at the enterprise level."²⁷ In recent years, we have noticed some such efforts, however limited, being undertaken by the ACFTU. For instance, in trying to improve the representation of workplace trade unions, the ACFTU has initiated a number of trial schemes for the democratic election of trade union cadres in provinces such as Guangdong, Zhejiang and Shandong.²⁸ However, Howell has suggested that there is no evidence that a democratic trade union model can be sustained and expanded in China.²⁹ Pringle also concludes that there is no solid evidence that "elections can make a radical difference to pay and working conditions, or indeed the overall effectiveness of the ACFTU."³⁰ The structural shortcomings of workplace trade unions in representing workers have made authentic collective bargaining a far-fetched idea in China. As a result, many workers resort to collective bargaining by riot to advance their interests.

Collective Bargaining by Riot

The term "collective bargaining by riot"³¹ was first introduced by British social historian, Eric Hobsbawm, to describe the widespread action of machine-breaking by the British workers in the 18th and early 19th centuries.

25 Taylor and Li 2007.

26 Clarke, Lee and Li 2004, 251.

27 *Ibid.*, 252.

28 Howell 2008.

29 *Ibid.*, 863.

30 Pringle 2011.

31 Hobsbawm 1968.

Hobsbawm argued that such action was taken by workers as “a means of coercing their employers into granting them concessions with regard to wages and other matters.”³² Similarly, Chinese workers in the 21st century who are not protected by democratic trade unionism have resorted to “riot-like” action to force a more efficacious form of wage negotiation upon their employers.

Although official statistics on workers’ strikes are unavailable, ethnographic studies have suggested that there has been a recent increase in migrant workers’ collective actions which bypass the official trade unions.³³ Clarke and Pringle attribute the ACFTU’s reform efforts to the growing labour activism that has usually taken the form of wildcat strikes.³⁴ Chris Chan contends that some of these strikes involve increasingly explicit demands for wage increases beyond the legal minimum standard and for the establishment or reform of workplace trade unions.³⁵ Against this larger socio-political context, we borrow the term “collective bargaining by riot” to help to explain how wildcat strikes, which have become increasingly commonplace in China, expose the defects of collective bargaining as a formality.

The Honda workers’ strike of 2010 perfectly exemplifies how the collective defiance of Chinese workers has forced management to come to the negotiation table, a situation similar to Hobsbawm’s idea of “collective bargaining by riot.”³⁶ The Honda workers did not literally resort to machine-breaking to pressurize their employers, as their British counterparts did in the 18th and early 19th centuries. Nor did they block the highways or fight with the police and security guards, as has been reported in earlier strike cases in China.³⁷ However, the Honda workers’ recalcitrance seriously derailed the operation of their factories.³⁸ Furthermore, violence did occur when a crowd of “trade unionists” came to “persuade” the strikers to return to work. This event was a significant turning point that forced the management to enter into serious negotiations with the workers. The term “collective bargaining by riot” highlights the discontent and heightened rebellion of the Honda workers and other Chinese migrant workers, which placed immense pressure on the employers, driving them to engage in collective bargaining. To be sure, the Honda strike was not the first “riot-like” action that enabled workers to wring economic concessions from management; there were numerous cases prior to 2010 in which workers’ strikes led to collective bargaining by riot.³⁹ However, 2010 witnessed a greater proliferation of such strikes and a higher level of workers’ self-organization. This upsurge resulted from of a number of socio-

32 Hobsbawm 1952, 58.

33 E.g. Chan, K.C.C. 2010; Chan, Anita 2011.

34 Clarke and Pringle 2009.

35 Chan, K.C.C. 2010

36 See Chan and Hui 2012 for the detail of the strike case.

37 See Chan, K.C.C. 2009.

38 Honda incurred a daily loss of 240 million yuan during the 17-day strike. See “Bentian zai hua 5 gongchang tinggong risun chanzhi yue 2.4 yi” (Workers in five Honda factories in China stop working, causing a daily loss of 240 million yuan), *Jingji guanca bao*, 28 May 2010.

39 See e.g. Chan, K.C.C. 2010.

economic developments.⁴⁰ China's growing wealth gap has continued to fuel workers' anger;⁴¹ however, its prompt recovery from the world economic crisis,⁴² the rapid expansion of its automobile industry⁴³ and the re-emergence of labour shortages since late 2009 have strengthened workers' marketplace bargaining power, and thus their confidence in asserting demands. Also, the new generation of migrant workers have been less tolerant of unfairness and injustice, and are more ready to take action to advance their rights.

Compared with previous strikes, the Honda strike had a longer duration, a greater ripple effect and a clearer demand for both trade union reform and collective bargaining. It began in the Honda Auto Parts Manufacturing Co., Ltd (CHAM) in Foshan city, Guangdong, in May 2010. The strike involved about 1,800 workers and lasted for 17 days. The workers' two major demands were a wage increase of 800 yuan for both the regular workers and student interns, and democratic reform of trade unions (*minzhu gaixuan gonghui* 民主改选工会), as the existing trade unions barely represented their interests.

At first, CHAM was reluctant to hold any negotiations with the workers. Instead, it resorted to acts of intimidation, such as firing two activists (who had, in fact, already resigned before the strike). The company also pushed student interns to sign a document pledging that they would not lead, organize or participate in any strikes, while the management mobilized teachers from the company's technical schools to persuade the workers to return to work.⁴⁴ Despite the company's threats, the strike continued. The company did come up with two proposals concerning wage increases during the strike, but the workers rejected them because they fell far short of the demand.

The workers noticed that throughout the strike their enterprise trade union was not on their side, but rather backed the management. One striker noted that:

The chairman of the trade union tried to talk workers into resuming their work. And he maintained close communication with the CEO of the company during his first meeting with workers' representatives on 24th May. He is the deputy head of the business management department (*shiyew guanli bu* 事业管理部).⁴⁵

The failure of the workplace trade union to provide representation was further manifested by the physical confrontation between trade union members and strikers on 31 May. That morning, many workers resumed work after meeting with the CEO of CHAM; the local government representatives; Zeng Qinghong

40 For details, see Hui 2011.

41 Shortly before the Honda workers' strike, China's Gini coefficient had reached a new height of 0.47.

42 China's GDP growth in 2009 reached 8.7% (see *Xinhua Net*. 2010. "Guojia tongjiju jiang 2009 nian GDP zeng su xiang shang xuding wei 9.1%" (National Bureau of Statistics revised 2009 GDP to 9.1%), 21 January, http://news.xinhuanet.com/fortune/2010-07/02/c_12291379.htm. Accessed 29 May 2010.), and growth returned to double digits (10.3%) in 2010 (see *Global Times*, 20 January 2011, <http://business.globaltimes.cn/data/2011-04/614673.html>. Accessed March 2011.).

43 In 2009, the Chinese automotive industry had a 42.1% increase in sales, and surpassed the US to become the world's largest auto market. See Hui 2011.

44 "Bentian bubagong chenluoshu neng jieque jifeng?" (Can "not-to-strike" agreement letter solve the Honda dispute?), *Takung pao*, 1 June 2010.

45 Interview on 31 May 2010.

曾庆洪 (CEO of Guangqi 广汽 Honda Automobile and a member of the National People's Congress); and the student interns' teachers. However, about 40 workers refused to work, gathering on the factory grounds instead. These workers were then beaten by about 200 people mobilized by both the town- and district-level trade unions (Shishan 石狮 town and Nanhai 南海 district). The company management and the riot police stationed outside the factory did nothing to intervene. A few of the strikers were hurt and sent to hospital. The 200 attacking "trade unionists" wore yellow caps and carried "trade union membership cards." Official sources did not announce where the attackers came from, but one reliable source said that they were mobilized by the local government.

This incident put great pressure on the company which later sought to resolve the dispute with stronger initiatives. Later, following the personal intervention of Zeng Qinghong, the company initiated a democratic election in all departments and 30 strike representatives were elected on the evening of 3 June and the morning of 4 June. Wage bargaining took place between the workers and enterprise representatives on 4 June, with the presence of labour bureau officers, local government representatives, the chairman of the enterprise trade union and Zeng himself. In the end, both parties reached an agreement to raise workers' wages from 1,544 to 2,044 yuan (a 32.4 per cent increase), and intern students' wages from about 900 to around 1,500 yuan (an increase of 70 per cent). It is evident that the bottom-up pressure from the strikers pushed the company to loosen its grip concerning workers' representation, and forced the management into collective bargaining by riot.

The CHAM workers' strike has had a significant ripple effect on labour activism in China on an industrial and national scale. Shortly after the Honda strike in Foshan, workers from a Honda factory in Zhongshan 中山, a city next to Foshan, went on strike to request higher wages and trade union reform.⁴⁶ Additional strikes took place in four automobile spare parts factories in Nansha 南沙 district in Guangzhou from 20 June to early July 2010.⁴⁷ Chen Weiguang 陈炜光, president of the Guangzhou Federation of Trade Unions (GZFTU), noted the following events:

The strike at Honda Nanhai and other auto components factories in the Pearl River delta in June and July 2010 triggered a strike wave that involved several tens of thousands of workers. In the city of Guangzhou alone, more than 60 factories had strikes, including Honda Dongfeng and other major auto suppliers.⁴⁸

Like their CHAM counterparts, strikers in Nansha also demanded a wage increase of 800 yuan and enterprise trade union reform. Collective bargaining was held with the mediation of the district- and town-level trade union and government officials. In one of the factories, an agreement was reached between workers and enterprise representatives within four days of the strike commencing.

46 According to an interview with a Honda striker on 12 August 2010, the leader of the Zhongshan Honda strike had contacted worker representatives in CHAM to seek their advice.

47 Lüthje 2011.

48 Ibid.

The negotiators agreed to increase workers' monthly wages by 550 yuan (400 yuan of basic wage and 150 yuan of subsidy) and to give them a bonus equivalent of four months' salary.⁴⁹

In north China, almost at the same time as the Honda strike, it was reported that workers from a supplier to Hyundai in Beijing had also launched a strike to demand higher wages.⁵⁰ Also, workers from two Toyota factories in Tianjin – Atsumitec Co. (a supplier to Honda) and Ormon (a supplier to Honda, Ford and BMW)⁵¹ – followed suite and went on strike at different times in June and July.

Beyond the auto industry, there were cases of strike action leading to collective bargaining by riot instigated by workers in foreign-owned electronics factories. Workers in the Japanese-owned Brother Industries (Shenzhen) Ltd took strike action in September 2010 in response to the management's decision to boost labour productivity by reducing the time for each production process from 44 seconds to 39 seconds.⁵² These workers were also dissatisfied with their low wage, which was 1,200 yuan at the time, and with the company's inadequate welfare allowances. The discontented workers blocked the entrance to the factory and tried to stop the Japanese CEO's car from leaving. Later, following the intervention of the local labour bureau, representatives from the factory and the strikers reached an agreement to raise the workers' monthly basic salaries by 8.3 per cent, restore the production time to 44 seconds, and to increase workers' housing and living allowances.

In north-east China, 70,000 workers from 73 electronics enterprises in the Dalian 大连 development zone (*kaifaju* 开发区) went on strike from May to August 2010 to demand a pay rise of 800 yuan. A wage increase of 300 yuan was agreed by the strikers and the management through collective bargaining during the strike.⁵³

This new pattern of collective bargaining by riot was intrinsically different to the formalities of the collective consultation that previously prevailed. First, while collective consultation was often the result of top-down instructions from the government or higher level trade unions, collective bargaining by riot grew out of the workers' struggles, and as such could exert greater pressure on employers. Second, ordinary workers were not properly consulted or represented by

49 A research collaborator who did fieldwork in the factory shared with us a copy of the written agreement reached by the management and workers' representatives.

50 Li, Jing, and Hu Yanan. 2010. "Strikes signal end to cheap labor," *China Daily*, 3 June.

51 See Iwatani, Takako. 2010. "Honda supplier Atsumitec's China plant suffers strike," *Washington Post*, 15 July; Reuters. 2010. "Workers strike at another auto parts plant in China," 21 July, <http://www.autonews.com/article/20100721/GLOBAL03/100729970#axzz2kPTE3JMx>. Accessed 24 December 2011.

52 See http://tieba.56.com/v/tn-3147619_bn-%E5%85%84%E5%BC%9F_fn-1. Accessed on 19 August 2011. Also, the second author interviewed the strikers in May 2011.

53 *Caixing* net. 2010. "Dalian tinggongchao 7 wan ren can yu boji 73 jia qiye yi gongzi zhang 34.5% gaozhong" (70,000 workers from 73 enterprises in Dalian joined a wave of strikes, which resulted in a 34.5% pay rise), 19 September, <http://finance.ifeng.com/news/special/cxcmzk/20100919/2636845.shtml>. Accessed on 10 October 2010.

trade unions in collective consultation, whereas the foundation of collective bargaining by riot was entirely built on the workers' collective power and class solidarity. Therefore, the workers' commitment was higher. Third, while genuine negotiation seldom took place between the representatives of the workers and the company in collective consultation, it did occur in collective bargaining by riot, owing to the bottom-up pressure from the strikers. Fourth, wage levels were rarely discussed in collective consultation, and the terms or conditions normally "agreed" upon through that process were usually little more than the minimum legal standards. However, collective bargaining by riot often revolved around wage levels and usually produced increases well above the legal minimum wage.

Moving towards "Party State-led Collective Bargaining"?

Subsequent to the spate of strikes in 2010, trade union reform and the establishment of a better collective consultation system appeared to become top priorities for the ACFTU and the government. Regarding the implementation of collective negotiations, the Guangdong provincial government resumed debate on a second draft of the "Regulations on the democratic management of enterprises" in August 2010, after a suspension of almost two years. At the same time, Shenzhen city resumed public consultation on the "Shenzhen collective consultation ordinance (amended draft)," which had been suspended since the world financial crisis. Alongside this, shortly after the Honda strike, 13 provinces issued documents in the name of their CCP branch committees or local governments to promote collective wage bargaining.⁵⁴

Pertinent to this upsurge in trade union reform, on 5 June 2010 the ACFTU issued a document entitled "Reinforcing the building of workplace trade unions and giving them full play."⁵⁵ This document advised that the election of workplace trade unions should be conducted in accordance with the law, and that these unions should ensure effective implementation of the Labour Law, the Trade Union Law, and the Labour Contract Law in all enterprises. In addition, Wang Yang 汪洋, the CCP secretary of Guangdong province, stressed that when handling workers' collective grievances, workplace trade unions should position themselves as the workers' representatives and help to safeguard workers' legal rights.⁵⁶ The deputy chair of the Guangdong Provincial Federation of Trade Unions (GDFTU), Kong Xianghong 孔祥鸿, also confirmed that the federation would speed up the democratization of plant trade unions so that members could

54 *China News.com*. 2010. "13 sheng fen yi dangwei huo zhengfu fa wen tuidong gongzi jiti xieshang" (Party committees or governments from 13 provinces issue a document pushing for collective consultation over wages), 9 June, <http://www.chinanews.com/cj/cj-gncj/news/2010/06-09/2331521.shtml>. Accessed 9 July 2010.

55 ACFTU 2010.

56 "Chongfen tixian yi renwei ben ying zao lianghao yong gong huanjing" (Adopt a human-oriented approach to create a good employment environment), *Yangcheng wanbao*, 13 June 2010.

elect their own presidents in the future. He further announced that a pilot scheme for democratic elections of workplace trade union presidents would be conducted at ten factories, including CHAM.⁵⁷

So, do these official declarations suggest that democratic trade union reform and authentic collective bargaining that serves the workers' interests will materialize in the near future? Do the state and the ACFTU intend that collective bargaining by riot will be gradually replaced by a new form of collective bargaining? And, if this is indeed the case, what shape will this new collective bargaining take? We attempt to shed some light on these questions by evaluating the post-strike developments in CHAM.

In late June 2010, the GDFTU officials went to meet the CHAM workers' representatives. These officials promised trade union reform and collective wage bargaining, but they refused to accept the representatives' demands to remove the existing trade union chair, who had supported the management during the strike. The GDFTU delegates said workers should give the existing chair "a chance to correct himself" (*gaizheng de jihui* 改正的机会).⁵⁸ Trade union elections were subsequently organized at the *ban* 班 (division), *ke* 科 (department) and *chang* 厂 (factory) levels between September and November 2010, with the GDFTU's active involvement.⁵⁹ There were seven departments in CHAM, each consisting of four to five divisions. At the first stage of the trade union reform, workers in each division elected their own division representatives (*gonghui xiaozu daibiao* 工会小组代表). At the second stage, enterprise trade union branches were set up on a departmental basis and elections were held for all workers in that department to elect one branch chair and two committee members. However, the direct participation of workers in the trade union election stopped at this stage, and only the elected branch representatives had the right to nominate candidates or to vote for the 12 enterprise trade union officials. By manipulating candidatedship and isolating the active workers' representatives, who had close contact with civil society organizations during the strike,⁶⁰ the GDFTU and company management succeeded in getting most of the newly elected enterprise trade union officials drawn from the managerial or supervisory levels. While the union chair remained unchanged, two new vice-chairs were elected in February 2011. One of them was a department head and the other was a vice-head. Not much information, if there is any, has been made public regarding the pilot scheme for the direct election of trade union presidents in the other nine factories. However, CHAM's experience suggests that

57 "Nanhai Honda plans to hold democratic election of trade union president," *Takung pao*, 14 June 2010.

58 Interview with a strike representative on 4 July 2010.

59 Our information on the trade union reform in CHAM was provided by a worker in an interview on 12 June 2011. This information was supplemented by Liu, Yang, and Chen Zhigang. 2011. "Shishan gonghui gaige shiyan" (Shishan trade union's pilot reforms), *Southern Metropolitan Daily*, 4 July.

60 We were told by workers that the management had talked to some strike representatives after the strike was settled, to gain direct or indirect influence over them. At least one key workers' leader has been frequently ordered by high-ranking trade union officials to abstain from any outside contact with civil society organizations.

while the direct election of workplace trade union officials has been introduced in the factory (which, undeniably, is a real step forward), the rank-and-file workers are intentionally excluded as candidates, especially the active ones who are distrusted by the company and the trade union officials.

Alongside this trade union reform, progress has also been made at CHAM regarding collective bargaining. From 25 February to 1 March 2011 (almost a year after the strike), new wage negotiations took place between the trade union and the CHAM management, with the facilitation of the GDFTU. The trade union demanded a wage increase of 880 yuan for production workers in 2011 (a 46.1 per cent increase). Rejecting this demand, the management proposed a 27.7 per cent increase of 531 yuan. A stalemate occurred, with none of the parties willing to compromise. At this point, Kong Xianghong, who had been heavily involved in Honda workplace issues in his capacity as deputy chair of GDFTU after the strike in 2010, played a key role in driving both parties to reach a consensus. In the end, both parties agreed to a pay rise of 611 yuan.⁶¹ A provincial newspaper reported that:

The stalemate was broken by the Deputy Chair of the provincial ACFTU Kong Xianghong who rejected any “final” proposal by one side and demanded both the management and the union to use maximum respect for reaching a consensus.⁶²

Kong’s intervention in this collective bargaining reflected the serious intent of the state and the higher level trade unions to prevent a reoccurrence of the events of 2010. The state attempted to pre-empt the CHAM workers’ collective actions by pro-actively facilitating collective bargaining between representatives of the workers and the enterprise through the state organs – the ACFTU, and the provincial- or city-level trade unions. This constitutes what we call “party state-led collective bargaining.”

Kong Xianghong later said that the wage bargaining in CHAM would become an “exemplary case of Chinese trade unions’ model”⁶³ (*Zhongguo gonghui MBA shi de jingdian anli* 中国工会 MBA 式的经典案例). In fact, there were signs that a significant trend of party state-led collective negotiation was emerging, and that the higher level trade unions were forcefully driving this trend in workplace or industrial collective bargaining. Another widely reported wage bargaining case took place in Wuhan 武汉 and became known as the “Wuhan model” (*Wuhan moshi* 武汉模式).⁶⁴ The majority of catering workers in Wuhan had previously earned the legal minimum wage. In early 2011, driven by the Wuhan Municipal Federation of Trade Unions, the Catering Business Association in Wuhan (*Wuhan diqu canyin xiehui* 武汉地区餐饮协会, which represents

61 Huang 2011.

62 IHLO 2011.

63 Huang 2011.

64 See “Heli de gongzi xieshang ‘Wuhan moshi’” (“Wuhan model” forces wage bargaining), *Zhejiang Workers Daily*, 16 May 2011. This kind of sectoral wage bargaining as exemplified by the ‘Wuhan model’ is not completely new; scholarly attention has been paid to the “Wenling model” in Zhejiang province (see Wen and Lin 2011).

employers) and the Wuhan Municipal Trade Unions Federation of Trade, Finance and Tobacco (TUFTFT) (*Wuhanshi shangmao jinrong yancao gonghui lianhehui* 武汉市商贸金融烟草工会联合会, which represents employees) began wage bargaining. In April 2011, these parties reached an agreement that covered 450,000 catering workers.⁶⁵ Wages were increased to 30 per cent above the legal minimum wage in Wuhan city, and workers would be entitled to no less than a 9 per cent wage increase in the following year. This collective contract covered the largest number of workers in the history of China.

At first glance, the Wuhan model appears to emulate traditional collective consultation. When examined closely, however, certain critical differences become apparent. As previously noted, in collective consultation, there is no real bargaining between the representatives of the employers and the employees, and wages and other employment conditions simply adhere to the minimum legal standards. However, in the Wuhan model, real wage bargaining took place and the negotiated wage level was far higher than the legal minimum wage. The vice-chairperson of the TUFTFT disclosed that “[i]t took barely 60 days from our first round of negotiation till the signing of the contract, but our preparation work started two years ago.”⁶⁶

The Wuhan model was evidently based on the new state-led approach to collective bargaining, in which the higher level trade unions played an indispensable role. According to one media report:

For a long time, employers have been unwilling to bargain with workers; [enterprise] trade unions dare not bargain, while workers do not know how to bargain. To many workers, collective negotiation is something which “looks beautiful.” To resolve this embarrassing situation, this collective consultation [in the catering industry in Wuhan] has deployed the strategy of “higher level trade unions representing enterprise trade unions” (*yishang daixia* 以上代下), which means higher level trade unions are responsible for organizing the negotiations with the industrial employers’ associations. This is to avoid a direct dialogue between workers, enterprise trade unions and enterprises.⁶⁷

The state’s active intervention in workplace or industrial collective bargaining, which was often carried out through the ACFTU or higher level trade unions, was also attested to by Ma Xiaoli 马小丽, a researcher on labour and wages from the Ministry of Human Resources and Social Security. In a media report, Ma said:

The trade union organizations in China have three advantages in promoting collective negotiation. First, the trade unions have a top-down structure ... After the Peoples’ Republic of China was founded, the ACFTU was authorized to build up industrial trade unions [*chanye gonghui* 产业工会], regional trade unions [*difang gonghui* 地方工会] and enterprise trade unions [*qiye gonghui* 企业工会]. This has increased the representative power and authority of the ACFTU, and therefore the lower level affiliates should follow the commands from the higher-level trade unions to do something or not to do something. Second, the ACFTU is under the

65 Xiao 2011.

66 See Han 2011.

67 Xiao 2011. (The authors’ translation).

leadership of the CCP. When it encounters problems and difficulties, it is able to obtain immediate support from the latter.⁶⁸

Presently, not much is known about other cases of state-led collective bargaining, as this mode of bargaining is at a fledgling stage of development. However, drawing on the CHAM case, the Wuhan model and other available information,⁶⁹ we can still obtain some hints concerning the role of the state agents (e.g. trade unions) in this process. The higher level trade unions play an important role in bringing employers or employers' associations to the bargaining table, and in putting pressure on the companies to reach a wage agreement with the enterprise or sectoral trade unions. It is important to note that party state-led collective bargaining differs substantially from collective consultation as a formality, despite the fact that in both cases the higher level trade unions and the state play a leading role. The distinction lies in the difference between *bargaining* and *consultation*. The available evidence shows that the new form of party state-led collective bargaining involves more genuine negotiation between workers and enterprise representatives over wages, and the negotiated pay rises are usually above the legal standards. In collective consultation, meaningful bargaining is absent. The negotiated agreement usually adheres to the minimum legal requirement, and discussions seldom cover the wage settlement.

This crucial difference could possibly be explained by the government's intention to curtail strikes by wringing economic concessions from enterprises. In other words, the emergence of party state-led collective bargaining in the private sector involves an effort by the state to address the labour demands that have increasingly been articulated in collective forms. This development seems to match what Michael Burawoy describes in his book, *Manufacturing Consent*. He points out that collective bargaining is a form of class struggle that reduces labour militancy on the plant level by "promoting conditions for the organization of consent."⁷⁰ That said, the Chinese state intervention in collective bargaining should not be completely dismissed, at least not too quickly. After comparing the collective bargaining systems in six Western countries, Clegg also suggests that "state intervention may also be a powerful influence if it comes at a sufficiently early stage in the development of collective bargaining."⁷¹ Such intervention can help to push employers to recognize trade unions and help resolve workplace disputes.

It is important to highlight that although the introduction of a better workplace collective negotiation system has seemingly become an important agenda item for the government and the ACFTU, it has met with resistance from foreign

68 "Gongzi jiti xieshang ying shunshi er wei" (Collective wage negotiation must take precedence), *Zhongguo laodong baozhangbao*, 14 October 2010, http://www.chinajob.gov.cn/LabourRelations/content/2010-10/14/content_569949.htm. Accessed 18 December 2010. (The authors' translation).

69 For example, Shenzhen has also started a pilot project on wage bargaining in a Japanese factory, which has been named as the "Guangdong model" by Yang and Li 2011.

70 Burawoy 1979, 188.

71 Clegg 1976, 10.

capital. Many overseas business associations opposed the “Guangdong regulations on the democratic management of enterprises” and the “Shenzhen collective consultation ordinance.” In Hong Kong, over 40 business associations published petitions of opposition in the newspapers.⁷² Many foreign investors have also voiced their objections to the new collective bargaining legislation in south China through the Associations of Enterprises with Foreign Investment in Shenzhen and in other cities in Guangdong province.⁷³ Through interviews with representatives of the American Chamber of Commerce in south China and the Japanese External Trade Organization in Hong Kong, we learned that these organizations have submitted a position paper to the Guangdong government to oppose the legislation.⁷⁴ As a consequence, discussions of the two proposed laws have been suspended. These developments suggest that, despite the party-state’s determination, one of the key obstacles to the effective implementation of collective bargaining is resistance from private capital.

Can and Should State-led Collective Bargaining Be a Solution?

Although it is too early to predict where the recent collective bargaining legislation and its implementation in China will lead, it is still possible to make a number of observations about the recent development of labour relations.

The individual rights-based legal framework built by the Chinese party-state since its economic reform in 1978 has failed to forestall industrial conflicts, which are increasingly articulated in the form of collective interest.⁷⁵ As Chen points out, post-reform labour regulation in China has been individual rights-based, focusing on workers’ entitlement to minimum wages, social insurance, overtime payments, and so forth. The workers’ collective rights to bargain, organize and strike have been consistently neglected.⁷⁶ The Labour Contract Law of 2008, the Employment Promotion Law, and the Labour Dispute Mediation and Arbitration Law of 2007 were meant as individual rights-based legal responses to growing labour unrest in the country. However, collective disputes did not disappear after the promulgation of these laws and strikes continued to spread. The radicalization of workers’ actions in 2010, as exemplified by the Honda strike and other wildcat strikes, further exposed the incongruity between the individual rights-based legal framework and the collective interest-based nature of industrial disputes. The Honda workers’ demands, including their calls for a pay rise of 800 yuan and for democratic trade union reforms, were collective interest-based. Thus, their labour disputes were difficult to resolve under the existing individual rights-based regulatory framework. For many workers,

72 “Liu Zhan Hao: xue fanyin gangshan youlü” (Lau Jin Ho: keep on reflecting Hong Kong businessmen’s concerns,” *Singtao Daily*, 27 September 2010

73 Interview with a Chinese labour scholar in Shenzhen on 15 June 2011.

74 Interview on 7 June and 20 July 2011.

75 Chan, K.C.C. 2012.

76 Chen 2007.

wages were a key issue that could not be adequately addressed by the existing legal framework.

Burgeoning labour discontent and the phenomenon of labour shortages (*mingonghuang* 民工荒) have prompted many local governments to increase their minimum wage rates dramatically over the past decade. In Shenzhen's industrial areas, for example, the monthly minimum wage was 419 yuan in 2000, but increased to 1,100 yuan in 2010. However, as in many other countries, a minimum wage provides only limited protection for those at the lowest end of the labour market. For skilled labour, supervisory-level staff and well-educated workers (like the Honda strikers), wages were already much higher than the legal standards, and it was obvious that the minimum wage protection could not effectively satisfy their demands. When collective consultation remained a formality and trade unions did not function properly, there was no proper legal mechanism in place through which these workers could articulate and negotiate their demands. Therefore, workers were compelled to further their interests by staging strikes to force collective bargaining by riot upon the management. To stem the workers' collective defiance, the Chinese government saw an urgent need for implementing a real wage bargaining mechanism to displace collective bargaining by riot and impose a less confrontational party state-led collective negotiation system.

It is important to note that the party state-led collective bargaining system is substantially different from collective bargaining in the West (as defined by Hyman and the Webbs), which we describe as "worker-led collective bargaining." On the one hand, because Chinese workers are deprived of the right to freedom of association, their workplace trade unions (which are highly incorporated into company management) and the higher level trade unions (which are closely linked to the party-state) are the only workers' associations that can legally bargain on behalf of workers. Under such circumstances, it is highly unlikely that these trade unions can represent workers' interests in the ways outlined by Hyman and the Webbs. Webb and Webb saw that the pressure for employers to engage in collective bargaining came from the workers' collective actions, of which the most forceful form was the strike.⁷⁷ However, Chinese workers' right to strike has not been positively enshrined by the labour laws, and their strikes can be suppressed by the government at any time. This has meant that when employers refuse to bargain with workers, the workers have no legal means to pursue their claims further. In contemporary China, it is mostly the political power of the party-state, rather than the power of workers' associations, that drives the employers to the negotiation table.

Although party state-led collective bargaining differs from the more powerful form of worker-led collective bargaining, it has met with immense political and structural resistance. First, global corporations and their agencies, such as

77 Webb and Webb 1897.

commercial chambers, have been increasingly engaged in influencing law-making in China. This is best illustrated by the debate surrounding the Labour Contract Law in 2008.⁷⁸ The American Chamber of Commerce in Shanghai and Beijing and the US-China Business Council strongly and openly opposed the Labour Contract Law. At the same time, the European Union Chamber of Commerce and the British Chamber of Commerce in China also expressed concern that the new law would increase labour costs. The American Chamber even threatened that American firms would reduce their investment in China if the law was passed.⁷⁹ Again, after the 2010 strikes, when the Chinese government took collective bargaining in the foreign-owned factories more seriously than at any other time since the reform of 1978, it was global capital that strongly opposed the government's initiative. The power of global corporations in shaping China's labour legislation is down to the country's heavy dependence on overseas investment and on Western markets.

It should be underscored that opposition from capital was not the sole reason for the suspension of collective bargaining legislation in South China. Although the GDFTU played a significant role in facilitating trade union elections and wage negotiations in the Honda plant, this does not mean that the GDFTU or the party-state genuinely supports democratic trade unionism. A number of labour and legal scholars we interviewed said that the party-state has grave concerns about the spillover of worker activism if collective bargaining legislation is passed. Effective collective bargaining, which usually takes the form of worker-led collective bargaining, has to be built upon strong workers' organizations, and so the party-state worries that it will lose control of these organizations and that this will lead to political instability. As Anita Chan has already highlighted, the Chinese government seeks a type of collective bargaining that is "without being confrontational, and without politically independent unionism."⁸⁰ Seen from this angle, the promotion of a party state-led form of collective bargaining that is under the control of the ACFTU is a means of pre-empting collective bargaining by riot. It is doubtful that authentic democratic trade union reform, which is an indispensable foundation for genuine collective negotiation, will be wholeheartedly carried out in China.

Conclusions

In this article, we explicate that collective negotiation in China is undergoing a transition from collective consultation as a formality, through a stage of collective bargaining by riot, and towards a new party state-led form of collective bargaining. However, this transformation is unlikely to reach a stage of worker-led collective bargaining in the near future. Although collective consultation has

78 Santoro 2009.

79 Globalization Monitor 2010.

80 Chan, Anita 1998.

existed for a long time in China, such consultation has usually remained a mere formality or process. It was the recent workers' strike actions, illuminated by the case of the Honda workers' strike, which forced company managements to engage in collective bargaining by riot. To forestall this form of collective bargaining, the government currently seeks to promote a party state-led approach to collective bargaining through the official trade unions. However, this party state-led collective bargaining differs substantially from the worker-led collective bargaining found in many Western countries. One of the major differences lies in the sources of power that back workers' negotiations. The party state-led form of collective bargaining is built on top-down state authority; worker-led collective bargaining is based on workers' rights to strike and organize independently.

We are of the opinion that if collective negotiation and trade union reform are only pre-emptive strategies of the state, then it is unlikely that workers' collective strikes will be reduced. We anticipate that, in the foreseeable future, both collective bargaining by riot and party state-led collective bargaining will co-exist in China. Along with these forms of bargaining, collective consultation as a formality will also continue to take place, especially in areas where labour conflict is less prominent and the bottom-up pressure on the government and trade unions is less severe. The available evidence suggests that the emergence of worker-led collective bargaining will be unlikely in the near future.

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