

Shall We Dance? Welfarist Incorporation and the Politics of State–Labour NGO Relations*

Jude Howell[†]

Abstract

Relations between the state and labour NGOs in China have been particularly fraught. In 2012, they took an interesting turn when some local governments made overtures to labour NGOs to cooperate in providing services to migrant workers. This article argues that this shift is part of a broader strategy of “welfarist incorporation” to redraw the social contract between state and labour. There are two key elements to this strategy: first, a relaxation of the registration regulations for social organizations, and second, governmental purchasing of services from social organizations. These overtures have both a state and market logic to maintain social control and stabilize relations of production.

Keywords: China; NGOs; labour NGOs; welfare; corporations; civil society

During the Hu–Wen period, labour non-governmental organizations (NGOs) mushroomed across China, providing services to injured workers, offering legal advice to migrant workers, advocating labour rights and, in some cases, pursuing ideological goals of class struggle. Operating in a politically sensitive field, labour NGOs – particularly those that adopt a rights-based or ideological approach and/or are funded by external agencies – have been periodically subject to repression by local public security organs. At other times, however, some local governments have tolerated their existence, turning a blind eye to their activism and only occasionally issuing words of caution. In 2012, an interesting twist occurred in the tale of state–labour NGO relations, as local governments and trade union branches in Beijing, Shenzhen 深圳 and Guangzhou made overtures to labour NGOs to cooperate in providing services to migrant workers. These advances were backed with promises of state funding. This marked an important strategic shift in the state’s approach to the previous cyclical pattern of heavy-handed state repression

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† London School of Economics and Political Science. Email: j.a.howell@lse.ac.uk.

or muted state tolerance. How then can this shift in state strategy towards selected labour NGOs be explained?

In this article, I argue that these concerted overtures, implemented by local states in Shenzhen, Guangdong and Beijing with the backing of central government, are part of a broader strategy of “welfarist incorporation” aimed at redrawing the social contract between state and labour and, more generally, state and citizens. There are two key elements to this strategy. The first involves widening the pool of registered social organizations to assist with welfare provision. Although the corporatist features of the regulatory framework governing social organizations remain nominally intact, in practice, welfarist incorporation has required an experimental relaxation of registration rules. The second element is governmental purchasing of services (*goumai fuwu* 购买服务) from social organizations. As the simultaneous repression of labour NGOs in Guangdong province in 2012 demonstrates, welfarist incorporation does not herald the end of repression. Ultimately, these overtures mark a strategic move by the party-state, which is faced with an increasingly conflict-riven and differentiated society, to maintain social control, stabilize capitalist relations of production and sustain the power and authority of the Chinese Communist Party (CCP). The strategy thus has both a state and a market logic.

This article begins by introducing the concept of welfarist incorporation. It distinguishes welfarist incorporation from corporatism and elucidates how it signals the crafting of a new social contract. The second section provides an overview of the rocky development of state–labour NGO relations since the early 1990s and the ambiguous nature of state–labour NGO interactions. The third part traces state moves to “dance with labour NGOs,” and examines the varied responses of the Guangdong local state and labour NGOs to this new strategic direction. Finally, I consider the implications of this strategy for future governance and crafting a new social contract based on welfare without organized politics.

Throughout this article, the term “labour NGOs” refers to those NGOs that orient all or part of their goals and activities towards addressing labour issues such as work injury, conditions of employment, labour rights and worker education.¹ They may or may not be registered (although most are unregistered),² and they vary in terms of goals, origins, size, funding, capacity, functions and degree of independence from state and market. As elsewhere, labour NGOs in China tend to be relatively small and task-oriented, and do not seek mass membership.³ Although the term “NGO” conjures up the image of a legally registered entity with salaried professional staff,⁴ in China, with its tight registration regulations, NGO refers to a looser array of organizations that may or may not be legally

1 Ford 2006.

2 Alex Jingwei He (2008, 9) refers to two labour NGOs in the Pearl River Delta that were able to register in 2007.

3 Ford 2006, 177.

4 Ahmed and Potter 2006.

registered, independent of government,⁵ and which may or may not have professional, salaried staff and volunteers. I focus here on labour NGOs because they lie at the precarious edge of state–civil society boundaries in China, where, like other organizations deemed suspect by the party-state, they are subject to frequent harassment. Observing organizations at this boundary allows us to fathom the politics underlying the shifts in governance strategies towards labour organizing in particular, and towards civil society more generally.

The paper draws on 85 semi-structured interviews, conducted between 2010 and 2014, with the founders and staff of Chinese labour NGOs, Hong Kong labour NGOs, university legal clinics, academics and trade union officials in Beijing, Nanjing, Hangzhou, Suzhou 苏州, Chongqing, Guangdong and Hong Kong. Altogether, 32 labour NGOs⁶ and eight Hong Kong labour NGOs were interviewed.⁷ Apart from semi-structured interviews, the research is also based upon newspaper articles, grey literature published by NGOs, and academic publications.

Welfarist Incorporation and Crafting a New Social Contract

Several scholars have drawn on the concept of corporatism to understand the state's role in shaping associational life in China. Schmitter defined corporatism as follows:

Corporatism can be defined as a system of interest representation in which the constituent units are organized into a limited number of singular, compulsory, non-competitive, hierarchically ordered and functionally differentiated categories, recognized or licensed (if not created) by the state and granted a deliberate monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports.⁸

In deploying the concept of corporatism, scholars have often counterposed it to civil society.⁹ It is beyond the scope of this paper to delve into this debate.¹⁰ Suffice it to say that both approaches to explicating state–society relations have enriched the field of study, but have also proven inadequate in capturing the changing nature of these relations. The term welfarist incorporation provides an alternative concept for understanding the subtle shifts in state strategy towards civil society in China since the late Hu–Wen period.

I define welfarist incorporation, as used in this article, as “a political and economic arrangement between the state and organized society, whereby selected

5 Although the term NGO suggests autonomy from the state, in practice civil society groups in China range from close cooperation to deliberate distancing from the state. Whilst most registered NGOs are quasi-state, quasi civil society-type organizations, the proliferation of unregistered groups since 2000 means that they now far outnumber registered groups, suggesting a more complex civil society landscape.

6 Seven of these were interviewed more than once.

7 I am very grateful to Professor Zhao Wei and research assistants for the labour NGO interviews conducted in Chongqing, Jiangsu and Zhejiang provinces.

8 Schmitter 1979, 93.

9 Unger and Chan 1995a, 1995b; Unger 2008; Howell 2012; White, Howell and Shang 1996.

10 For a fuller discussion, see Howell 2012 and Yep 2000.

civic organizations are invited by the state to assist in the implementation of policy.” It is distinct from the idea of corporatism as first elaborated in Schmitter’s work in several respects. First, whilst classic corporatism à la Schmitter focuses on peak organizations brought into policy-making, welfarist incorporation is limited to processes of implementation. Second, unlike classic corporatism, it is not about the representation of interests, such as the working class, but rather about the servicing of interests. Third, whilst corporatism emphasizes the compulsory and non-competitive nature of selected organizations, welfarist incorporation sets up a competitive process for selecting a plurality of civic organizations to deliver services.¹¹ As with all ideal-types, in reality welfarist incorporation may vary empirically in different political contexts.

Welfarist incorporation forms part of a broader strategy to revise the social contract between the state and workers in China. The transition towards a market economy from 1978 onwards heralded the gradual collapse of the social contract forged between workers and the state during the Maoist decades. Employment in a state enterprise was highly coveted as it offered cradle-to-grave social security and considerable welfare benefits, which varied with the size and wealth of the enterprise, in return for worker quiescence.¹² On an ideological level, workers were proclaimed as the “masters of the enterprise,” and were considered as being at the top of the communist, socio-political hierarchy.

Experimentation with foreign investment in the special economic zones in the 1980s paved the way for the gradual commodification and casualization of labour, as workers became employed on time-bound contracts and rewarded according to productivity.¹³ The extension of these conditions to all urban workers, coupled with accelerated state enterprise reform from the mid-1990s, led to the “smashing of the iron rice bowl” and the subsequent decline of the “work unit” (*danwei* 单位) as a site of reproduction and social control.¹⁴ By the late 1980s, workers were already expressing their dissatisfaction with the new employment terms through attacks on managers,¹⁵ strikes,¹⁶ passive resistance to wage reforms and voting with their feet.¹⁷ Party leaders became increasingly concerned about growing unrest both in rural areas and in China’s export-oriented coastal belt. To appease labour, the party-state began to fashion a new social contract that would guarantee worker quiescence in return for the legal protection of rights, a more effective trade union and social welfare.

There were three elements to this revision of China’s social contract. First, there was the introduction of protective labour legislation such as the 1994

11 This reflects similar neo-liberal processes of sub-contracting to NGOs elsewhere. See Kamat 2004; Howell and Pearce 2001; and Robinson 1997.

12 Walder 1986; White 1987.

13 Crane 1990; Howell 1993; Takahara 1992; Friedman and Lee 2010.

14 Tomba 2006.

15 Sheehan 1998, 209.

16 Wilson 1990b, 59; Leung 1988, 156–171; Howell 1993, 234.

17 Howell 1993, 213, 223.

Labour Law, 2007 Employment Promotion Law, 2008 Labour Contract Law, and 2010 Social Insurance Law. Second, the central government put pressure on the All-China Federation of Trade Unions (ACFTU) to become more effective in averting conflict by establishing grassroots unions in private enterprises, absorbing migrant workers, developing legal capacities and establishing collective consultation.¹⁸ The third element was the creation of a social welfare system to fill the vacuum left by the disintegration of the work unit. It is this third dimension which forms the main focus of this article and within which I position the state's invitation to labour NGOs to dance.

With the acceleration of state enterprise reform from 1994 onwards and the subsequent labour unrest, the party-state began to cast its attention to reforming the welfare system. During the Jiang Zemin 江泽民 period, there were patchwork efforts to experiment with developing insurance systems for medical, social security and pensions provision for urban citizens.¹⁹ However, welfare reform proceeded in piecemeal fashion during the 1990s, with considerable variation and regional fragmentation.

It was during the Hu Jintao 胡锦涛 and Wen Jiabao 温家宝 period (2002–2012), when the political discourse shifted to people-centred development and harmonious society, that a more systematic effort was made to address welfare. This entailed creating policy and regulatory frameworks for private for-profit and not-for-profit welfare providers, reforming community-level institutions, and cultivating a cadre of professional social workers. Together, these reforms were captured in the new-fangled slogans of “social management” and “social construction” that were introduced in the fourth and sixth Plenary Sessions of the 16th Party Congress in 2004 and 2006 and given added weight in the 17th Party Congress in 2007.²⁰ These terms were sufficiently vague to solicit both optimistic and pessimistic expectations about the state's approach to governing society and provided a veil for intra-Party contestation of the issue.

However, developing a professional and effective non-profit civic sector of welfare provision proved challenging. First, the regulatory framework for registering social organizations was highly restrictive, creating a disabling environment for seeding a civic welfare infrastructure. Key limitations related to the corporatist features of regulations such as restrictions on expansion which would give economies of scale, the need to identify a government sponsor, and the prohibition on forming branches.²¹ In addition, the 2010 Foreign Exchange Administration Regulations put additional constraints on social organizations accessing foreign funding.

18 Chen 2004; Howell 2008; Pringle and Clarke 2011; Taylor, Chang and Li 2003.

19 Chan, Chak Kwan, Ngok and Phillips 2008.

20 For a detailed account of conceptual shifts, see He, Zengke 2014.

21 For example, Article 13 stated there could be only one organization for any domain of work in the same administrative area. Article 19 sharply restricted the establishment of branches elsewhere to curb the emergence of any competing national political force. Article 3 required all social organizations to identify an official sponsoring agency (*zhuguan danwei*) so as to maintain control.

Second, there is a deep government suspicion of independent collective action. In particular, central Party leaders fear that a more relaxed regulatory framework for civic organizations would create openings for oppositional groups. This deep suspicion gained further force after President Putin introduced a highly restrictive NGO law in 2006 as a response to his concern that foreign agencies manipulated the Colour Revolutions in Georgia, Ukraine and Kyrgyzstan through their support to local NGOs. In the wake of these revolutions and mounting concern over social unrest, the Chinese party-state became ever more vigilant about monitoring externally funded NGOs.²²

Third, intra-state tensions, and in particular between more open-minded officials in the Ministry of Civil Affairs, backed indirectly by scholars advocating more space for civil society organizations, and public security organs concerned about external threats, have been a prime factor in stalling progress in amending the registration regulations. Furthermore, both sets of institutions have vested interests in increasing their resources and power base. In 2010, public security agencies enjoyed a substantial boost in budgetary revenue to maintain political stability, more than that allocated to defence.²³

Two key initiatives in the late Hu–Wen period signalled a serious attempt to craft a new civic sector of welfare provision. The first was the experimental adjustment of registration regulations for social organizations, initially at a local level, to widen the pool of registered social organizations, including previously suspect groups such as labour NGOs. In particular, certain categories of social organizations could register directly with the civil affairs bureau, forgoing the need for a relevant government sponsor (*zhuguan danwei* 主管单位). Scholars working on social organizations in China and some officials within the Ministry of Civil Affairs had long been advocating for this and other changes in the regulations. Governmental departments were wary of sponsoring social organizations unless they were very familiar with their staff and work, and their risk-averse approach was a significant obstacle to registration. The second initiative was the establishment of processes for governmental purchasing of welfare services from selected registered social organizations.

Experimentation with relaxing the registration requirements for selected social organizations first began in 2008 in Shenzhen, and then in Beijing and Guangzhou. In 2009, the Ministry of Civil Affairs and Guangdong province signed an agreement on promoting reforms in civil affairs, including moves towards relaxing registration requirements and outsourcing service provision.²⁴ In 2011, the civil affairs bureau in Guangdong province was already planning

22 At a Shanghai Cooperation Organization meeting in 2005, President Putin reportedly warned President Hu Jintao about the potential subversive impact of foreign NGOs. See Shambaugh 2010, 91.

23 In 2010, the public security budget increased 15 per cent to 548 billion yuan, which surpassed the national defence budget of 533.5 billion yuan. For the next three years, it continued to exceed national defence. See Forsythe 2011; Buckley 2012; Blanchard and Ruwitch 2013; and Xie, Yue 2013.

24 See IHLO 2011b for a useful synopsis of the key policies and regulations adopted from 2006 onwards in Guangdong province.

to relax restrictions on the registration of civil society organizations.²⁵ This scheme came into effect from July 2012, enabling these reforms to be extended across the province and promoted across China. In the summer of 2012, the Ministry of Civil Affairs released a document announcing that certain social organizations such as charities, industrial associations and public interest groups could register directly with the relevant level of the Ministry of Civil Affairs. In Guangdong, the provincial regulations stipulated eight types of organizations.²⁶ Groups engaged in advocacy, rights work or political issues were not included on this list.

In 2008, the central government selected Shenzhen, Beijing and Guangdong to pioneer the second initiative, governmental purchasing of social services from non-profit providers.²⁷ To this end, the Social Affairs Commission allocated specific sums of money for the sub-contracting of services, either directly to the Ministry of Civil Affairs or through separate channels. For example, in 2012 the Guangdong provincial government allocated 466 million yuan for subcontracting services from social organizations.²⁸

Both of these innovations marked a serious attempt to change the regulatory environment affecting civic organizing to draw “social forces” into providing welfare. To use the metaphor of Chen Yun 陈云 when describing state–market relations, welfarist incorporation allows some opening of the cage housing the bird of civil society, but only to lure it towards a state agenda. On the one hand, these moves are about maintaining the political regime by appeasing migrant workers through the provision of welfare services – albeit a politics of interim appeasement that remains far from any fundamental restructuring of citizenship rights for migrant workers in cities. On the other hand, welfarist incorporation has a market logic to appease workers and so stabilize capitalist production relations. Next, I examine more closely the politics of state–labour NGO relations up until the twist in spring 2012, when the state simultaneously courted labour NGOs and, as in Guangdong province, continued with selective harassment.

State–Labour NGO Relations, 1990–2011

This section examines the contours of state and labour NGOs since the early 1990s, analysing the cycles of contention characterized by periods of selective, intense harassment and more muted tolerance. Such tolerance was muted in

25 See IHLO 2011a, 2011b.

26 In Guangdong, these include industrial associations, trade associations registered in other provinces, organizations serving the living of the masses, charitable organizations, social service organizations, rural–urban grassroots organizations, organizations with a relation/affiliation to foreign organizations, and nexus organizations.

27 On the background to government procurement, see Jia and Su 2009.

28 See “Chinese civil society beneath the glacier,” *The Economist*, 12 April 2014. Also, interviews with: key worker in NGO, Guangzhou, 10 July 2012; leader of workers’ centre, Dongguan, 23 August 2011; leader of CSR institute, Shenzhen, 26 August 2011; lawyer in Dongguan legal advice centre, 29 June 2012; staff member in cultural service organization, Guangzhou, 30 June 2012; and staff member in workers’ centre, Guangzhou, 30 June 2012.

that there was no positive endorsement of labour NGOs by local state agencies, no “invitation to dance,” a situation that was to change from 2012 onwards.

While business, trade and professional associations began to emerge from the early 1980s, it was only from the early 1990s that the first labour NGOs appeared. Two factors played a key part here. First, the expansion of spaces for civic organizing in the run-up to the 1995 Fourth World Conference on Women in Beijing facilitated the emergence of labour NGOs. The other factor was the extension of the open-door policy throughout the Zhujiang 珠江 (Pearl River) Delta in the early 1990s and media exposure of poor working conditions and unsafe practices.²⁹ It was following the horrific fire in the Zhili 致丽 Toy Factory in 1993, in which 87 workers died, that scholars, activists and Hong Kong NGOs began to campaign for workers’ rights and set up labour NGOs, mainly in Guangdong province.³⁰ The regulatory review of social organizations between 1997 and 1998 stymied further growth of labour NGOs. By the late 1990s, there were still only a dozen or so labour NGOs, too few in number, reach and resources to have much impact.

WTO entry in 2002 deepened China’s insertion into global production systems. Continuing reports of serious labour rights violations, along with an expansion of civic organizing, stimulated a further growth of labour NGOs.³¹ As most labour organizations are not registered, some operate underground, and others close down owing to lack of funding or government pressure, it is impossible to estimate their number accurately.³² Interviews³³ and documentary sources estimate there to be anywhere between 40 to 100 labour NGOs in China, and the figures vary according to definitions used and the information available.³⁴ In this study, one-quarter of the labour NGOs were founded in the 1990s and the remainder were formed since 2001.³⁵ Although largely concentrated in Guangdong province and Beijing,³⁶ labour NGOs have spread since the millennium to other cities such as Suzhou, Hangzhou, Nanjing, Chongqing, Wuhan, Yantai 烟台 and Qingdao 青岛.³⁷ This spread points to the increasing acceptance of local governments of the survival capacities of labour NGOs and growing recognition of their role in addressing migrant workers’ issues.³⁸

29 Chan, Anita 2001.

30 Chan, Chris King-chi 2012.

31 Howell 2003.

32 Michele Ford (2006, 181) recounts a similar issue in Indonesia.

33 Interview with director of labour network, Hong Kong, 29 August 2011; interview with labour academic, Beijing, 20 July 2011.

34 Without a register of labour NGOs, figures are never entirely accurate and vary also according to empirical referents included. Interviewees gave estimates that ranged from 30 in the Pearl River Delta (interview with labour NGO, Shenzhen, 26 August 2011), 50 (interview with labour NGO, Hong Kong, 29 August 2011) to 100 in all China (interview with labour academic, Beijing, 20 July 2011). See also Xu 2013.

35 Between 2000 and 2010, 17 were founded, and between 2010 and 2012, four were founded.

36 Xu 2013, 246.

37 Labour NGOs for this study were located in Beijing, Guangdong, Chongqing, Zhejiang, Jiangsu and Shanghai. Tilly et al. (2013, 104) estimate that there were six in the Yangtze River Delta in 2012; our own research found ten.

38 Cheng, Ngok and Zhuang, 2010.

Nevertheless, state–NGO relations have been characterized by periods of harassment and muted tolerance. For public security agencies, labour NGOs are sensitive organizations that need careful watching. There are four issues that are of particular concern. First, China has a long established trade union, the ACFTU, that is supposed to represent workers and forms a key pillar of the Party structure.³⁹ For trade union officials, labour NGOs present a symbolic threat to their legitimacy. Second, independent worker mobilization, labour NGOs and co-ordinated strike action conjure up images of the Polish Solidarity movement and thus a potential regime threat.⁴⁰ The third issue concerns the need to provide a favourable environment for capitalist production. Hence, collective action that impinges on production often triggers a harsh response from local public security agencies. The final concern revolves around the perceived influence of “hostile foreign forces.” Labour NGOs with connections to Hong Kong labour groups or which are supported by foreign funding arouse particular suspicion.

It is only in relation to the fourth issue that there is some possible substance to the perceptions of public security agencies. Most labour NGOs rely on external funding from foreign foundations, international NGOs and embassies to support activities and core costs.⁴¹ In the office of one Beijing labour NGO established by a former worker, the walls were adorned with photos of foreign visitors, international newspaper cuttings and the logos of international organizations.⁴² Most labour NGOs, however, rely on more limited funding, both in terms of sources and amount. Hong Kong labour NGOs have played a key role in fostering labour NGOs in China, particularly in Guangdong province, and have approached this work with considerable commitment.⁴³ In particular, they have been pivotal in mentoring NGO staff, providing organizational, strategic, tactical and analytic advice, building dormitory- and factory-based networks, importing frames and discourses, and creating opportunities to link with international labour movements.⁴⁴ Foreign foundations have also been central in stimulating the emergence of university-based legal clinics which provide migrant workers with legal advice and assistance with legal cases.

It is the perceived risk they pose to national security and regime maintenance that drives periodic state harassment of these labour NGOs. Such harassment has ranged from impromptu inspection visits to cutting off utility supplies, eviction, and outright brutality, often through third parties – the chilling attack in November 2007 on Huang Qingnan 黄庆南, the founder of a Guangdong labour NGO, being a case in point.⁴⁵ Employers and local state officials eager to achieve

39 Pringle and Clarke 2010; Taylor, Chang and Qi 2003.

40 Wilson 1990a, 1990b.

41 There is a very small minority who ostensibly refuse external funding. Interview with labour academic, Beijing, 23 July 2012.

42 Interview with director, labour NGO, Beijing, 17 July 2012.

43 See Chan, Chris King-chi 2012 for a detailed study of the impact of Hong Kong labour NGOs on China.

44 Chan, Chris King-chi 2012; Friedman 2009.

45 Interview with labour NGO, Hong Kong, 29 August 2011.

growth targets often collude in such harassment. However, not all labour NGOs are targeted in the same way; more severe forms of harassment are reserved for groups that local state officials particularly fear, either because of external links or ideologically driven activism. The extent of harassment has also varied regionally, and is reportedly more prevalent in Guangdong province, not least because of the concentration of foreign investment.

In general, labour NGOs have managed to survive not just because they have adroitly reinvented themselves and sought new premises but also because local Party leaders, especially in Guangdong province, have come to recognize that it is impossible to stop their operations through prohibition or the corporatist regulatory framework. To give but one example, a legal assistance labour NGO in Shenzhen, which was founded by a former worker, has repeatedly re-opened in different locations.⁴⁶ Furthermore, the Chinese party-state has been careful in recent years not to close down labour NGOs completely for fear of international pressure. One recent example was the campaign led by the founder of a school for migrant workers' children in Beijing who thwarted local county government attempts to close the school by mobilizing support from parents, academics and donors.⁴⁷ Thus, the state's approach to labour NGOs has subtly shifted as government security officials have realized that they cannot completely prohibit labour NGOs and as civil affairs officials have grown increasingly aware of the benefits that labour NGOs can bring in maintaining social order and providing services.

Paradoxically though, labour NGOs in China are hardly creatures about to foment revolution and seize the barricades. Most are too small in scale and number, too distant from workers, and too focused on meeting perceived practical needs such as service provision rather than strategic needs such as collective empowerment.⁴⁸ Furthermore, given the emphasis in Chinese labour law on individual rather than collective rights,⁴⁹ most labour NGOs funnel workers towards individualized solutions to what are essentially structural problems of power in the workplace.⁵⁰ As Friedman and Lee suggest,⁵¹ they are part of the "rule by law" jigsaw that fosters bureaucratic and judicial means for addressing conflict, propping up an authoritarian, market-oriented system rather than undermining it through collective action.⁵²

Such criticism is, however, perhaps overly harsh given the severe political constraints facing labour NGOs. As Yi Xu notes, this assessment does not give full credit to the contribution of those NGOs engaged in legal awareness training and

46 Interview with labour NGO, Shenzhen, 26 August 2011.

47 Interview with labour NGO, Hong Kong, 9 December 2013; interview with NGO, Beijing, 10 April 2014.

48 Molyneux 1985.

49 Chen 2007, 63.

50 Lee and Shen 2011; Xu 2013.

51 Friedman and Lee 2010, 515.

52 Lee and Shen 2011; Froissart 2011.

fostering organizational skills amongst workers.⁵³ Nor does it acknowledge the more strategic work done by some labour NGOs, particularly those with links to Hong Kong, which are involved in campaigning, research and advocacy, even though their impact is limited.⁵⁴ It thus fails to situate labour NGOs within a broader, historical framework around the potential of building a labour movement.⁵⁵

Most of the labour NGOs in this study, excepting underground organizations or those linked to Hong Kong labour NGOs, do not have a broader ideological vision of social change based on structural power, let alone a strategic implementation plan. Rather, they focus on less ambitious, “within-system” goals such as defending individual labour rights or providing services to migrant workers, not just because of political constraints but also owing to a lack of strategy.⁵⁶ There are a minority of more professionalized labour NGOs with offshoots across the country that have been particularly adept at fund-raising.⁵⁷ However, these NGOs are also the ones least likely to promote wider structural change. Few make links between labour rights violations in the workplace and the broader social exclusion of migrant workers that hinges on the divisive ascribed residency system.⁵⁸ For the most part, labour NGOs do not engage with workers striking or demonstrating, either by initiating action or advising workers on organization and leadership.⁵⁹ With the recent shift towards collective “consultation,” a small minority of NGOs are now planning to work in support of collective bargaining processes.⁶⁰

These periods of harassment are punctuated by periods of muted tolerance as other parts of the party-state view labour NGOs and civil society organizations through a more instrumental and measured lens. In particular, those parts of the state concerned with occupational health and safety, social welfare and community-level governance are more ready to tolerate labour NGOs, which they see as filling a yawning gap in service provision. For local trade unions, with limited personnel and funding,⁶¹ labour NGOs with networks of

53 Xu 2013, 250.

54 Froissart 2011.

55 See Xu 2013, 247. Also Michele Ford (2006) argues persuasively that labour NGOs are more than substitutes for unions and have a longer term role in the labour movement.

56 The ACFTU faces similar political constraints, although as Feng Chen (2004) argues, its positioning as a state agency gives it greater leverage to influence policy.

57 Article 19 in the Regulations on the Management of Social Organizations prohibits the establishment of branch organizations. To circumvent this, in the last five years some larger labour NGOs have established offshoots that register independently as enterprises or operate without registration.

58 Regarding the distinctiveness of the proletarianization process in China owing to the institutionalized rural–urban divide, see Pun and Lu 2010. See Froissart 2011 for an initiative on welfare rights for migrants by several Guangdong-based and Hong Kong NGOs.

59 See Friedman 2009, 200, on strikers consulting with labour NGOs in Shenzhen, and Xu 2013, 252, on the reluctance of labour NGOs to undertake collective action.

60 A Guangdong labour NGO is already planning to support collective bargaining processes. Some Hong Kong labour NGOs are also extending activities in this field.

61 For example, Shanghai General Trade Union’s Legal Advice Centre had only six full-time staff, hence its reliance on a network of sympathetic legal professionals. Chen 2004, 35.

sympathetic lawyers can assist with cases that are not easily winnable.⁶² Lacking capacity, Dongguan 东莞 Trade Union contracted a labour NGO to organize activities for workers and their children.⁶³ Shenzhen Federation of Trade Unions has absorbed labour NGO staff to work in its legal service centres.⁶⁴ Nonetheless, given the restrictive registration requirements, civil affairs bureaus were not able before 2012 to engage systematically with labour NGOs because of their lack of legal status as social organizations. Thus, it is the concerns of public security agencies and the ACFTU that have tended to prevail in directing state strategy towards labour NGOs.

While local government officials approach labour NGOs with considerable caution but also awareness of mutual interests, labour NGOs too seek a variety of relations with the state.⁶⁵ Establishing a connection with the state can lend legitimacy to an organization and provide protection, allowing the organization to conduct activities with minimal interference.⁶⁶ Some labour NGOs studiously ensure that their rhetoric mirrors the slogans of Party leaders and provide advice within the law, thereby ensuring their credibility with the local government.⁶⁷ Enjoying a positive relationship with the state can provide access to resources such as an office or opportunities to access officials through training activities.⁶⁸ A small minority of labour NGOs in this study have close relations with government authorities and the local trade unions. For example, a Chongqing NGO set up by a severely injured Zhili factory worker maintains close relations with the local government, which uses its materials for training. Not only have the local and national governments given her several awards but she has also become a member of the local people's political consultative committee.⁶⁹ This contrasts with the case of a former worker in Shenzhen who initially set up a migrant workers' association, then a legal counselling service for workers, and who later stood as an independent local people's congress candidate. He was harassed repeatedly by the local authorities and eventually withdrew his candidature.⁷⁰

Labour NGOs also seek access to the state in order to influence policy. In 2008, various Guangdong labour NGOs seized the opportunity to participate in a conference organized by the Shenzhen Trade Union to discuss the drafting of detailed implementation regulations for the Labour Contract Law.⁷¹

62 Interview with director, labour NGO, Nanjing, September 2012; interview with director, labour NGO, Guangzhou, 24 May 2012.

63 Interview with key worker, labour NGO, Guangzhou, 10 July 2012.

64 Xu 2013, 255.

65 Hildebrandt 2011.

66 Interviews with: key worker, labour NGO, Guangzhou, 10 July 2012; director, labour NGO, Beijing, 23 July 2012; and staff member, labour NGO, Beijing, 30 June 2012. See also Alex Jingwei He (2008, 15) on Little Bird's tactics of cultivating personal ties with government agencies to gain legitimacy and protection.

67 He, Alex Jingwei 2008, 15.

68 Ahmed and Potter 2006; White, Howell and Shang 1996.

69 Interview with director, labour NGO, Chongqing, September 2012.

70 Interview with director, labour NGO, Shenzhen, 26 February 2011.

71 Interview with founder, labour NGO, Shenzhen, 26 August 2011.

Similarly, Guangdong-based labour NGOs submitted suggestions in the consultation process around the draft Social Insurance Law that was finally issued in late 2010.⁷² Whilst some labour NGOs have maintained friendly, informal relations with the local trade union, others have sought in vain to establish such ties.⁷³ Such informal channels of contact acquire particular importance when the lack of registration as a social organization precludes any formal relation with the state.

Nevertheless, most labour NGOs have carefully avoided any activity that might attract the negative attention of local authorities. As a senior staff member of one relatively professionalized labour NGO commented in relation to its new Shanghai office: “If you start talking about labour rights, the government will consider you to be sensitive.” Similarly, a staff member in a Hangzhou labour NGO stated,

It seems to me that defending rights too much is like fighting to the end and probably there won't be any quality outcome. I have seen that in the Pearl River Delta, all their defending rights work has not come to much and when there is a crisis, not many people stand by them.⁷⁴

Or, as another Beijing labour NGO remarked:

There is no clear regulation saying that you can't work on rights. From the government's perspective they want some people to raise the awareness of workers because then they can resolve quite a few things through the law, but they don't want you to do that to the point where workers might get too strong and start striking and foreigners would see this and see that social order was disturbed.⁷⁵

However, a small number of NGOs with close links to concerned academics and professionals or external labour NGOs take greater risks to build a democratic labour movement through consciousness-raising, leadership-building and worker education.

Up to 2012, state–labour NGO relations have been subject to cycles of contention, with periods of selective harassment punctuated by periods of muted tolerance. Though some labour NGOs and community, city or provincial-level governments were able to establish some very limited forms of cooperation, the disabling regulatory framework and prevailing security concerns stymied systematic formal cooperation. The next section examines the politics underlying the curious twist in this saga as the state “invites labour NGOs to dance.” Although by no means signalling an end to repression, it does point to an important shift in state strategy.

72 Froissart 2011, 20–21.

73 Interview with founder, labour NGO, Shenzhen, 26 August 2011; interview with lawyer, Dongguan legal advice centre, 29 June 2012.

74 Interview with director, labour NGO, Hangzhou, September 2012.

75 Interview with staff member, NGO, Beijing, 2 April 2014.

Let's Dance

In 2012, Guangdong Provincial Trade Union, with the strong backing of then provincial Party secretary, Wang Yang 汪洋, began to prepare for the formation of a hub-style federation of social forces concerned with migrant workers. In April, it convened a seminar to set up such a federation, inviting experts, academics and labour NGOs. The following month, the Guangdong Provincial Trade Union called a meeting of academics, lawyers and labour NGOs to establish the Federation of Social Service Organizations for Guangdong Workers.⁷⁶ In June, it ran training courses in Peking University for senior trade union officials and at the China Labour College for county-level trade union chairs, thereby firmly institutionalizing the policy.⁷⁷ The Federation has 89 members, including 34 labour NGOs and trade union service centres, and 55 individual members such as academics, lawyers, journalists and trade union officers. Its aims are to foster the capacity of labour NGOs to provide labour and legal services to migrant workers,⁷⁸ leaving the trade union to undertake core functions such as representing workers in collective negotiation. Members of the Federation can access government and trade union-funded labour service projects, participate in the mediation of labour disputes, and promote corporate social responsibility. To this end, trade unions have been allocated specific sums of money for the purpose of sub-contracting services.

Already in the summer of July 2011, the Guangdong Provincial Trade Union had started to make informal overtures to selected labour NGOs to cooperate in service provision. The following summer, the Beijing civil affairs bureau commissioned a professional Beijing-based labour NGO to organize a meeting of labour NGOs in Nanjing to encourage them to apply for government service contracts related to migrant workers. Reportedly, around 20 labour NGOs were invited. Although a few labour NGOs were already cooperating with local trade unions in providing services prior to this, mainly at community level,⁷⁹ this meeting was significant as it signalled a systematic shift in approach to labour NGOs, one that went beyond muted tolerance to active and productive welfarist incorporation.

Under the firm leadership of Wang Yang in the run-up to the 18th Party Congress, trade union leaders felt under pressure to demonstrate a more active role in protecting workers, especially given the wave of strikes in 2010 in Guangdong. As one labour academic commented, "If the trade union is talking about service purchasing, then this is not because they want to listen to more voices, but because they are responding to a local government call about doing this more. They have to be seen to be doing something."⁸⁰ It was through this

76 Interview with director, legal advice centre, Guangzhou, 24 May 2012; and IHLO May 2012a.

77 Lin 2012.

78 IHLO 2012.

79 Interview with leader of workers' centre, Guangzhou, 10 July 2012.

80 Interview with labour academic, Guangzhou, 28 May 2012.

hub that the trade union sought to sub-contract service provision to labour NGOs. However, this move did not extend to rights advocacy or collective bargaining; instead it focused on more seemingly apolitical activities such as legal awareness, training in life skills and organizing cultural activities.

It was also a way of putting competitive pressure on the trade unions to improve their performance. The ACFTU has consistently prevented the formation of any “second trade unions.” It has stamped down on attempts to unionize outside of its orbit⁸¹ and, more recently, has incorporated newly formed associations, such as the Domestic Workers’ Association in Xi’an.⁸² However, the party-state has cajoled the ACFTU to be more active in defending workers’ rights as part of a more general effort to reform mass organizations, which the Party increasingly sees as burdensome and ineffective.⁸³ In this spirit, not just the ACFTU but also other mass organizations, for example the communist youth leagues of Guangzhou city and Shenzhen and the Women’s Federation, formed parallel “hub” (*shu niu* 枢纽) federations, which incorporate many unregistered groups under their leadership.⁸⁴

However, whilst the Guangdong government was on the one hand pushing for active cooperation with selected labour NGOs, it was on the other hand also clamping down on some individual labour NGOs in the region from February 2012 onwards. Concerns about “hostile forces,” both internal and external, were a key driver behind the simultaneity of the invitation to dance and the clampdown on certain labour NGOs. In 2007, labour NGOs were already coming under governmental pressure when eight departments of the Shenzhen government prohibited labour NGOs from acting as legal representatives for workers.⁸⁵ An internal report by the Guangdong Communist Party Committee’s Law and Politics Committee, released in early January 2009, castigated some rights-protection labour NGOs as “collecting negative information on our labour and legal issues” and receiving funds from “foreign anti-Chinese forces” as part of a larger plot to “attack our labour system.”⁸⁶ In a speech given in June 2012, the head of the trade union for Jieyang 揭阳 city in Guangdong made explicit reference to the emergence of “migrant workers’ associations and people’s trade unions” (*minjian gonghui* 民间工会), all of which were cast as evidence of hostile forces operating to destabilize China. As he stated: “People’s social organizations are an important front of internal and external hostile forces plotting to Westernize and split China.”⁸⁷

81 Xie, Chunlei 2002.

82 Pringle and Clarke 2011, 64; Howell 2009, 186–89.

83 Chu 2014.

84 The Guangdong Hub for Care of Women and Children, established in May 2012, had 3,628 registered and unregistered grassroots organizations under its leadership. See Li and Lin 2012.

85 Xu 2013, 254.

86 Friedman and Lee 2010, 534; Xu 2013, 254.

87 See “Guangdong province, Jieyang city TU: people’s social organizations and the TU,” 27 June 2012, www.gdftu.org.cn. Accessed on 2 February 2014. See also Document 9, “Communiqué on the current state of the ideological sphere,” circulated by the CCP Central Committee, 22 April 2013, www.chinafile.com.

Although at first sight this contradictory behaviour might suggest that this was just yet another swing in the cycle of repression and relaxation, the formulation of new local regulations marks a formal and significant shift in the state's approach to labour NGOs. There was speculation among several labour activists and scholars that the contradictory moves by Guangdong's leaders might reflect internal conflicts between provincial and local levels in the province which then accounted for more repressive measures in some cities, such as Shenzhen, or that the moves were a ruse to bring quasi-hidden labour NGOs to the surface, creating a wedge between those NGOs that cooperated and those that did not.⁸⁸

The responses of labour NGOs to this new approach have been mixed. Some NGOs have gladly seized the opportunity to stabilize their funding base, secure their legal status and gain legitimacy and protection. Some have been particularly successful in acquiring contracts, whilst others have not been able to register, partly because local-level officials were unaware of the changes in regulations or because they were unfamiliar with the group and thus unwilling to take a risk. For example, in 2011, the civil affairs bureau in Beijing awarded two projects (to organize activities for migrants and health checks for their children) to one professionalized labour NGO, with whose work it was well acquainted. The sums amounted to 30,000 yuan and 50,000 yuan, respectively, which accounted for one third of their funding that year.⁸⁹ In 2012, the bureau awarded the same NGO another contract concerning the health issues of workers' children. Again, this was an area of work for which they had previously established a reputation. One of the first labour organizations in Beijing to organize around female migrant workers and, more recently, domestic workers has also secured community-level government contracts for the care of the elderly, a relatively new activity entrusted to them on the basis of their previous work in training domestic workers.⁹⁰

However, not all labour NGOs have been able to register. For example, the Shenzhen-based Hand-in-Hand NGO encountered several problems, such as not being able to gain the street committee's approval as officials were not familiar with the NGO. Another attempt to register, this time at city level, failed because the defined scope of business did not fit the criteria. In contrast, the Blue Workers' Cooperative was finally able to register, reportedly owing to the support of respected professionals and after following advice to use a different name, the Good Citizens' Social Work Services Centre.⁹¹

But there are those labour NGOs who view cosyng-up to the government as risky and as potentially undermining their autonomy and compromising their

88 Interviews with: Hong Kong NGO, 5 July 2012; director, Hong Kong NGO, 6 July 2012; project officer, IHLO, Hong Kong, 6 July 2012; labour academic, Beijing, 25 July 2012; labour academic, Guangzhou, 24 May 2012; project officer, Hong Kong NGO, 26 May 2012; director, workers' legal clinic, 31 May 2012.

89 Interview with staff member, labour NGO, Beijing, 18 July 2012.

90 Interviews with project worker and worker, women's NGO, Beijing, 18 July 2012.

91 Du, Zhang and He 2012.

goals and activities. Some of the more ideologically inclined NGOs have no interest in tendering for government contracts, even if this would potentially give them greater financial stability. Labour NGOs not invited to dance, or which do not have the capacity to meet the requirements of procurement contracts, risk remaining in a legal limbo and being ever vulnerable to intermittent harassment. There are also labour NGOs that local governments would definitely not invite to cooperate with them. According to a Beijing City Trade Union official, certain labour NGOs are on a “blacklist” of “sensitive” organizations, and NGOs which rely on foreign sources for all of their funding would not be invited to dance on the grounds that foreign agencies have ulterior motives in China.⁹²

Whilst it is too early to assess the effects on labour NGOs of “dancing with government,” there are already some indications that cooperation is leading NGOs to limit their activities to safe agendas and to become adjutants of the government rather than of workers. For example, in 2012 a local trade union in Beijing sub-contracted a labour NGO to provide cultural services, such as organizing dances, to construction workers. When asked whether the labour NGO would still assist workers with disputes over salaries or industrial injuries, its founder explained that, “This is a service purchasing contract. There is a line that cannot be crossed, and to do so would be dangerous.”⁹³ Similarly, in March 2011, Dongguan city trade union contracted with a labour NGO to carry out some of its functions, as their staff were all part-time. The labour NGO, which draws 90 per cent of its funding from government contracts, operated from within the factory to organize activities for workers’ wives and children, set up a workers’ choir and arrange lectures on occupational health and safety. While the NGO benefited from the revenue, the arrangement steered it towards cultural activities rather than strategic work centring on rights and power relations.⁹⁴ In another case, a labour NGO in Shenzhen sub-contracted directly with a transnational corporation to run a hot-line for workers, with plans to extend this to Shanghai.⁹⁵ The interviewee described this as doing “enterprise social work,” reflecting the underlying goal of appeasement and conflict avoidance.

In some cases, labour NGOs have been contracted to provide services to groups other than workers, such as the elderly, thus potentially deflecting them from their original missions. As one interviewee in a Beijing labour NGO stated,

I feel we are moving away from our goals. ... As [foreign money] dries up, we will move more and more away from our original goals. But we haven’t lost these goals altogether. We still have voluntary hotlines and we still have lawyers who work with us so we can still do this work with migrants. We haven’t forgotten it or lost it.⁹⁶

92 Interview with labour academic, Beijing, 12 July 2012.

93 Ibid.

94 Interview with key worker, labour NGO, Guangdong, 10 July 2012.

95 Interview with director, labour NGO, Beijing, 17 July 2012.

96 Interview with staff member, labour NGO, Beijing, 24 March 2014.

Indeed, this organization had already devised a way of continuing with its original goals by running parallel organizations with separate registration statuses, thus enabling it to access both domestic and foreign funds.

Labour NGOs engaged in governmental service provision are unlikely to be agencies of social change empowering workers to organize collectively, challenge government employment policies or consciously build a labour movement. Whilst labour NGOs with a more strategic agenda seek to foster a labour movement through collective action, labour NGOs that come to rely on government funding function effectively as part of a system of welfarist incorporation, containing worker dissent rather than empowering workers, and ultimately stabilizing rather than challenging capitalist relations of production. This is not to dismiss the work of labour NGOs nor to deny their potential to become future agencies of change; instead it distinguishes, as one labour activist stated, between “doing NGO work and doing movement work.”⁹⁷ Indeed, as a result of the harassment in 2012, some labour NGOs have been reviewing their approach and turning towards a more movement practice that focuses on supporting local workers’ groups.⁹⁸

Conclusion

This article sought to explain the shift in the party-state’s approach to labour NGOs in 2012. Specifically, it argued that the party-state’s “invitation to dance” with labour NGOs reflected a broader strategy of welfarist incorporation aimed at re-working the social contract between the state and labour. This broader strategy has both a state logic of maintaining social control and a market logic of stabilizing capitalist production. This strategy required two key adjustments: first, the relaxation of registration regulations for specific social organizations; and second, the creation of a civic infrastructure for governmental sub-contracting of social services. Aware of the services that labour NGOs provided to migrant workers, relevant government departments and local trade unions sought proactively to draw selected labour NGOs into welfare-focused cooperation. In this manner, they could incorporate labour NGOs in a qualitatively different way into the political system, stymie their radical edges by emphasizing services to the exclusion of rights, and wean them off external funding.

Whilst the simultaneous repression of labour NGOs in Guangdong province in the summer of 2012 might seem to contradict the intentions of the invitation to dance, it suggests that this shift does not spell the end of harassment. Labour NGOs have responded in various ways to this invitation to dance: some have seized the opportunity to access resources, legitimacy and influence; others are treading more cautiously; and some are refusing to dance. However, these

97 Interview 79, labour NGO, Hong Kong, 9 December 2013.

98 Ibid.

moves to refashion the welfare contract raise thorny practical and strategic issues. At the practical level, the relative newness of welfare-oriented NGOs means that there are considerable problems of capacity, scale and governance. With contracts signed on a one- or two-year basis in general, there are serious issues of sustainability both for organizational development and welfare provision. Labour NGOs face additional constraints in becoming effective, namely the structural problems of a large, shifting worker population, access to factories, and continuing governmental suspicion. Furthermore, the subsumption of labour NGOs under a trade union-led federation might be the death-kiss of labour activism, as labour NGOs become embroiled in providing services rather than engaging in strategic agendas.

Even if labour NGOs do achieve the tasks laid out in government contracts, it is unlikely that their activities will make a significant difference to the workers' situation and to the development of a labour movement. In the end, ameliorating the workers' situation depends crucially on empowering workers to articulate demands and negotiate with the state and capital. Most historical struggles for improved working conditions and rights have built on concerted pressures from below, involving organized workers' movements and other progressive forces.

There is a broader issue of whether a new social contract can ensure a decent bottom-line of working conditions, dampen worker protest and maintain social order. Although central Party leaders have been discussing universalizing social welfare and removing the residence permit system, these changes will take time and will no doubt vary regionally. Sub-contracting labour NGOs to provide services is an interim measure in this hiatus, pending other systemic reforms for completing the refashioning of the social contract. Much will depend not just on the responses of labour NGOs but also on the willingness of Chinese workers to accept economic improvements in lieu of political rights to organize. As for the future of labour NGOs, the current state overtures are both an opportunity to gain new funding and legitimacy from the state but also a subtle means to separate the "chaff from the wheat" and to dampen the prospects of independent labour organizing. It is welfarist incorporation *de rigueur* and repression by stealth.

摘要: 在中国, 国家与劳工非政府组织的关系一直格外令人忧虑。2012年, 两者关系发生了戏剧性的反转。一些地方政府主动向劳工非政府组织表示, 愿意与之合作为外来工提供服务。本文指出, 这一转变是内容更为丰富的“福利化社团”战略的一部分, 目的是重订国家与劳工之间的社会契约。它包含两大基本要素; 其一、放宽对社会组织登记管理的规定; 其二、政府向社会组织购买服务。这些举措包含着意在保持社会控制和稳定生产关系的国家与市场的双重逻辑。

关键词: 中国; 非政府组织; 劳工非政府组织; 福利; 社团; 公民社会

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