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Introduction

The role of law has always been something to protect the interests of the elite – it is rule by law, not of law. Whilst China is no different, there has recently been much interest in the way workers have used laws. Although, some see this as a part of a movement towards a greater consciousness of rights, rather than see this as a movement towards a more legalistic system we should consider the historical embeddedness of the Chinese system. The worker in China was required to abide by a plethora of regulations and edicts which came down through the management, the union and especially the party secretary into the Danwei but the worker would also complain using these rules and procedures. When the Danwei system was broken up there was absence of conflict resolution procedures and the workers took to the streets. The legal system is a response to this, again not dissimilar to the development of labor law in the UK and US. The essential difference is this – in industrializing Europe, there developed informal but gradually institutionalized mechanism for resolving industrial relations conflicts over a long period of time. In China the time is compressed. In the post Danwei (and commune) era, there were only two possibilities for the CPC to retain control (by maintaining social stability) I think: delegating authority to local governors to manage their provinces, cities and towns with the party structure balancing this autonomy, or to centralize control and rely on laws administered from the centre. In reality, a bit of both exist, but given the historical tensions in Chinese governance it seems obvious that a more legalistic environment would emerge. This is not modernism as such, because some ancient societies relied heavily on laws (e.g. to administer the Roman Empire). The crucial area is whether 'society' uses the laws to regulate relationships between and among groups and individuals or to seek to alter the actions of the state itself[2], or whether laws remain largely irrelevant to ordinary citizens. If workers use the law, we can interpret this as workers either embracing the law as the mechanism to regulate industrial relations, or merely that they have no choice because other forms are impractical or unavailable.

It is undoubtedly true that the Chinese Central Government wishes to develop some notion of a modern industrial relations and employment system: the government wants both a flexible labor market which encourages improved skill formation and avoidance of social conflicts which might threaten communist party hegemony. The debate is between the neo-liberal idea of trickle down resulting from economic development or more critical views of the political economy of

[1] This paper draws on two existing papers written by Li Qi and the author concerning mining accidents and union organising and a third paper by the author related to conflict and class. The author gratefully acknowledges that paper draws on funding from the Fulbright-Hong Kong Senior Scholars Fellowship (2007-08).

[2] For the moment, we are ignoring the process of promulgating laws. In democratic societies, citizens have at last a token influence over this, though other sources of power are more influential. In China, it is relatively recent that draft laws have been genuinely opened up for public comment.

development, which requires greater direction by government. Much of the current debate both within China and overseas focuses on the development of the regulatory environment and capacity building of industrial relations institutions but apart from public pronouncements, such as by Chang Kai, the issue of 'socialism' is a non Sequa, the issue is the form of capitalism that should be encouraged, and in this the form of capitalism which is in the best interests of the CPC maiming overall control. Consequently, although property rights and other areas are important, arranging the industrial relations system has become an urgent task of the government.

New laws, such as the Labor Contract Law (2008) and Arbitration and Mediation Law (2008) are seen as creating a clearer set or rules, but rule making in China is extremely complex. In addition to constitutional law, and national laws, various agencies and ministries pass regulations that have legal standing, or more importantly may be enforced by the organ promulgating such rules. In addition, the government usually provides a separate set of provisions for major laws setting out how courts etc are expected to interpret (and thus enforce) provisions in the laws. The controversy of the new Labor contract Law can be seen not only in the consultation phase preceding enactment but in the long delay in the State Council releasing the interpretive provisions. First expected in February, they were published 19th September, an incredibly long delay, primarily because the business and neo-liberal intellectual lobby has pressured the government to water down provisions. At the same time that labor laws were being debated, with a seeming strong social leaning outcome, the government promulgated bankruptcy legislation that placed financial lenders above employees' claims in the creditor list, a clear move away from socialist principles. It is thus possible to argue that the Chinese government, as in most other countries, is heterogeneous, although critics of China's one party system would be uncomfortable with such an assertion. The problem with this line of argument, as with the pluralist view of industrial relations in general (Fox 1974), is the avoidance of addressing the basic power relations that inform interests. However it is difficult to identify what these interests are when there are so many public statements, inter and intra ministry conflicts and occasional purges of powerful political leaders in China. Examining the implementation of regulations provides a window to examine genuine intentions. [You can express your undying love for your partner – but your actions reveal your true heart!]

Implementation and enforcement are very large issues and imply that to some degree a level of coercion is involved. In any country, implementation of industrial relations regulations is frequently seen as the most difficult area of the regulatory environment. The problems range from inadequate funding of inspectorate and enforcement agents, to lack of knowledge among those affected. Trade unions are crucial in monitoring, but they are often week, and in countries like the US with such miniscule numbers of workers in unionized workplaces, the problems seem insurmountable. In china, the lack of independent civil society and trade unions, further qualifies the ability to monitor there, and thus the government has a fairly clear field to push implement its interests. The two forces that could possibly contradict are capital and labor, and in the industrial relations arena, the government must decide whose interests it wishes to promote or protect. In addition, the government displays its views as to the degree to which the parties are to be allowed to resolve conflicts autonomously, or under state direction. During the 1980s, the emphasis was on autonomy, but gradually, if fitfully, it appear a move to stronger direct regulation has emerged, against employer wishes, but as a direct response to massive worker unrest. Some debate exists around whether the legislative push emphasizes individual labor protections, rather than collective, and thus neoliberal notions of individual contract relations, over more leftist notions of class interests. The new arbitration law has a provision relating to mediation over collective agreements, but much of this and the other laws focus on individual 'rights' and on disputes between individual workers and their employers.

However, it is not in the promulgation of laws, which focus on a singular point of time, in which we can understand the true nature of government's intentions, but in the implementation of these

regulations. It is here we see the unending contestation of industrial relations, and the interests with which the government, and its agencies of enforcement, sides; it is in the implementation phase that the interests of the government become clear. This is especially true in legal systems where there is no tradition of legal precedence, such as China because case outcomes have no formal influence over decision made in subsequent cases. Enforcement reflects not only lays bare where power lies but also informs us of the real intentions or main objectives of those promulgating regulations and polices. China has been hailed for progressive laws on labor but as many of the papers in this conference will illustrate, their impact is more complex.

One can see the problems of legal contradictions, etc in Cooney's 2007 paper and then the apparent solutions of the new law outlined in his postscript (pp. 683-84).

This paper will present three areas in which the central government has promulgated regulations on industrial relations. The first is in the area of implementing health and safety to reduce deaths in coal mines. The regulations are earnestly implemented but no one local to the mines seems to support the central government and the policy conflicts with other objectives which take precedence. Second, establishing trade unions in the private sector will be briefly outlined. This is an intra-government regulation intended to increase union density, but is not related to workers per se. Here is a law that has little to do with workers, although it seems to set the foundation for mechanism, such as collective consultation, to represent workers' collective interests. Conflict resolution is the third area, and here the workers have transformed in Orwell (Man and Superman) or Kurusawa (Autobiography) terms into people of action and they are clearly driving the reforms. Various branches of the government have tried to regulate disputes but it has been very difficult for the government to move away from the direct state-worker relationship. The mediation, arbitration and court system appears to work to some degree as a mechanism for small groups and individuals to seek redress for grievances and resolve conflicts. However, for the area of collective industrial relations and the mass worker groups, these mechanisms are inadequate, and the workers either take to the streets or more often demonstrate directly outside government offices. In this way their grievances are addressed much more quickly than the formal mechanisms.

This paper uses these three examples to illustrate a range of regulatory areas in industrial relations in China, and outline the different responses taken. These three areas illustrate two issues related to implementation:

1. Governments deal with a number of policy areas simultaneously, and sometimes these areas appear to contradict each other. It is important to understand whether the various industrial relations policies support or contradict other policy areas of the government. In the literature it is not unusual to have policy conflicts because governments are heterogeneous and different agencies conflict, using their differing sources of power to push their particular agenda simultaneously. However, although we see similar contestations in China, China does not have separate executive, administrative and judicial parts as the CPC binds them together and thus it is possible to discern a clear party line on important issues. The issue is whether industrial relations issues are important policy areas for the CPC.

2. We can examine who is doing the enforcing of policies. In China, this essentially means the government or the workers. There are no NGOs or other independent forms, and employers rarely have positive volunterist roles in enforcing IR issues (except for FIEs, in the rare cases where home country pressure can have an impact), although some may be emerging.

Mining accidents

The history of development is strongly associated with access to raw fuel resources, and particularly coal. China is heavily depended on coal for electricity generation as well as consumption for steel and other processing industries, as well as a domestic heating fuel for much of the northern part of the country. Mining is dangerous, and traditionally coal mining is particularly dangerous because, in addition to rock falls, coal extraction forms dust which is highly flammable, and the coal bearing rock also frequently produce gases which are either combustible or toxic. The medical profession and labor unions fought hard to improve mine safety in industrialized countries and so accidents are rare in most countries. China produces about 50% of the world's coal but about 80% of its mining deaths. The government took this problem very seriously and has tried repeatedly to reduce the deaths in mines. The government has frequently reformed the monitoring mechanisms for mines because mine owners need a range of licenses and inspections before they can legally mine. With so many regulations, funding of mines inspectorates and heavy sentences for mine owners contravening laws, it appears the desire to reduce fatalities is genuine. The range of problems are discussed in Li and Taylor (2008) but, one particular case will illustrate the problem for our purposes here.

Table 1: mining accidents and deaths

	2000	2001	2002	2003	2004	2005	2006
accidents	2863	3082	4344	4143	3639	3341	2845
loss of life (person)	5798	5670	6995	6434	6027	5986	4746

As can be seen in table 1, the number of deaths rose steeply in 2002 and the government new most of the problems were caused by illegal small mines located in rural areas and invariably staffed by migrants form neighboring valleys and villages. Initially the government ordered a shutdown of any mined that had a death, but then perhaps knowing that a mine owner would just move operations a little way a long the valley, perhaps accessing the same mine through a different shaft, they then ordered all mines in an area to suspend production if deaths occurred in one mine. After a spate of disasters in 2004, caused partly by mines suspending production to await inspections (but several other causes as well), the government ordered the wholesale closure of thousands of unregistered mines, with the intention of reducing not only the number of deaths, but eliminate major accidents. The result was successful – the number of accidents declined and after a lag, so did the number of miners killed. However, a curious phenomenon occurred, as table 2 shows, the number of large scale accidents actually increased 'spiked' in 2005, why?

Table 2: Major accidents

	2001	2002	2003	2004	2005	2006
Very Serious and Major Coal Mine Accidents	57	56	51	41	58	45
loss of life (10 person)	138.8	116.7	106.1	97.9	173.9	97.7

Whist factory inspectors were combing the countryside to close illegal and small private mines, which had been producing about half the coal produced in the country, China continued to export coal to the US and continued to meet power station consumption demands, which themselves continued to increase. In other words, whilst coal supply was being curtailed, demand continued apace. The shortfall in coal came from the state owned mines, which suddenly increased production to unsafe levels, and the deaths in these mines literally exploded. Although this is not the whole story, the implication is that whilst the central government was serious in its desires to reduce mining accidents, it was unwilling to do so at the expense of economic expansion. One can contrast this with the policy of sacrificing production for the political gains reaped by the 2008 Olympic Games, in which thousands of factories were closed down for months to improve air quality.

For their part, workers split in the classic pattern of China, between state worker and migrant. For the state mines, there is considerable investment in upgrading technology and improving mine safety, but even here migrants are increasingly taking up the less skilled jobs, so as to cut costs, partially during the sudden increase in demand from the state owned mines. The private sector in contrast is made up of thousands of unregistered or token registered mines and is literally death traps. All attempts to regulate them appear impossible because local government and miners themselves align with mine owners to usurp or resist regulation. Moreover, the orientation of the migrants does not help develop a safety consciousness which elsewhere has led to employers being forced to improve conditions. Generally migrant miners do not see mining as a career, but often a seasonal short term (2-5) year lucrative job to save money to build a house or invest in improving farming equipment. Even where deaths occur, families of deceased or ill miners resist mine closure because their ability to gain compensation would be jeopardized, and families of miners still working do not want their source of livelihood removed. The blunt instrument of closing the mines, whilst legitimate, has not been perceived in anybodies interests. The informality of the sector outside the state mines is such that educating workers about the dangers of mining is impossible, and evidence for this comes from the fact that around 50% of accidents are due to gas explosions or affixation, a form of death almost completely eradicated in Europe and North America.

In conclusion, the case demonstrates the wait in which government policy evolves in response to crisis (rather than proactively anticipates them) and then when pressured, takes a radical and strong course of action (closing mines wholesale) but without adjusting other areas of policy. We can say that whilst the government wishes to reduce mining deaths, and has invested heavily in resourcing this recently, it has not integrated H&S aspects f industrial relations into overall economic development policy implementation. A major part of this reason, I think, is the continued ambivalence/ prejudice of the urban east to the value of life of a rural peasant.

Union organizing

Despite attempts in the 1980s and occasional rhetoric after June 1989, the ACFTU is a state organ. Unlike most such organs, the ACFTU has suffered dramatically from the economic reform because its organizational base was exclusively among SOEs which were privatized or closed during the 1990s. At the same time the combination of rapid economic and labor market reform with poor safeguards for workers led to a rapid escalation in social conflict. The ACFTU was ‘tasked’ with moving from the traditional transmission belt (really a welfare provider) to ‘union like’ behavior of solving industrial conflicts. Before it could even begin to attempt to carry out this task, the ACFTU needed to establish unions in the burgeoning private sector. There have thus been a number of waves of union organizing; organizing the Fortune 500, of which Wal-Mart was the first, represents the most recent and highly publicized example.

As table 3 shows, from 1993 to 1998 the number of unions ‘grass roots’ unions declined and from 1987 to 1989 the number of members declined. The lag between union and membership decline is likely a product of reporting problems, where unions have incentive to report recruiting figures but have no easy way to know accurately the number of ‘resignations’ in the short term, and no incentive to do so. The figures rise dramatically, so that in this decade membership and unions established more than doubled. Two questions arise from this, how did they achieve such spectacular growth given their week organizational history and does this meet the original objective imbedding a structure of unions to support drives for social stability? The regulations for collective consultation, and latterly, the regulations for conflict resolution certainly assumed the effectiveness of the new organizational base.

Table 3: ACFTU Union and Membership figures

Date	No. of grassroots unions (x1,000)	Membership (x1,000)	Date	No. of grassroots unions (x1,000)	Membership (x1,000)
1990	606	101,356	1999	509	86,899
1991	614	103,891	2000	859	103,615
1992	617	103,225	2001	1,538	121,523
1993	627	101,761	2002	1,713	133,978
1994	583	102,025	2003	906	123,405
1995	593	103,996	2004	1,020	136,949
1996	586	102,119	2005	1,174	150,294
1997	510	91,310	2006	1,324	169,942
1998	504	89,134			

A later paper will explain the procedures for recruiting members and establishing unions, so here I will focus on one example again, new forms of union, other than the traditional workplace union. The methods used to establish the new unions have become increasingly innovative. These methods include:

- United Trade Unions in FIEs (*waishang touzi qiye gonghui lianhehui*),
- United Unions or Union Committees (*lianhe gonghui* or *weiyuanhui*) at town and village levels for those working in TVEs (township and village owned enterprises), POEs and FIEs in rural areas,
- Community Unions (*shequ gonghui*) for laid-off and unemployed workers who 'fall through the cracks' of existing organizing mechanisms
- Shanghai has developed 'Block Unions' (*xiaoqu gonghui*) subordinated to local community unions, and formed a group of buildings where small businesses operate. By March 2003, there were 1066 block unions in Shanghai, and a 'small three-tiered' (*xiaosanji*) trade union network at community (township), block and grass-roots unions[3] had been established in Shanghai (Yang 2006)
- several unions organized to recruit unemployed or job-seeking migrants are being established. These include 'Project Trade Unions' (*xiangmu gonghui*) that organize at construction sites, the 'Market Trade Unions' (*shichang gonghui*) and
- 'Labor Force Market Trade Unions' (*laowu shichang gonghui*) (Liaoning Federation of Trade Unions and Shenyang Federation of Trade Unions. 2005) that act as employment agencies, and
- 'Mansion Trade Union' (*louyu gonghui*) that focuses on a single industrial or commercial building where small POEs operate.

These new union forms generally organized outside the workplace, but still the main form of union organizing is to establish unions in private and foreign invested enterprises. Among the many problems of organizing unions, the most fundamental weakness lies in the implementation policies. Unionizing drives have always been driven by quotas. The ACFTU national headquarters uses a common central planning tool of establishing quotas for important initiatives, and then dividing these up among the provinces and industrial unions, which in turn split their quotas among subordinate organizations. There are no indexes issued for the quality or forms of unions, although

[3] The concept of small three-tiered trade union network is a new one, which is compared the former large three-tiered trade unions network comprised by the headquarter, provincial and county unions.

there are separate regulations for setting up unions. However, there are no enforcement procedures to ensure the regulations are adhered to. Thus, the regulations are bent and broken regularly, from giving union fee holidays to employers, to 'fax in unions'.

In conclusion, these new forms of union continue a pattern of ignoring actually organizing workers, although perhaps in more structurally obvious ways. There are many examples of genuine attempts to organize and represent workers, but these are local unionists or party members acting through their own volition. Systematically, the government is establishing a top-down policy to organize workers in ways which are supposed to first and foremost, inhibit their ability to organize independent union organizations, and secondly to represent their collective interests for them. This method of implementing union organizing polices has little to do with developing a modern industrial relations system, and much to do with completing forms. As such the real intentions of avoiding a Poland type Solidarnose is not assured by such week unionizing methods. For their paper, workers appear largely oblivious to the policy. In all the hundreds of interviews we have done over the past 12 years, no worker has ever volunteered to discuss the union in their plant, every time a response had to be elicited. The change is that nowadays the workers often know what the union is, several years ago they would not have a clue – progress?

Conflict resolution machinery

Many conflicts are resolved outside the enterprise, through the labor market, through strikes and demonstrations, and of late increasingly through there courts. In the early days of reform it was common for police repression of strikes, usually by arresting the strike leaders and then making sure the demands of strikers were largely met. There was no system in practice beyond informal networks to resolve individual disputes and ad hoc appeals to government agencies (no one in the private sector would think of going to the union!). Gradually, the government developed a legal framework to try to contain the conflicts. Conciliation services provided by the local Labor bureau and even trade unions were seen as ineffectual and so workers usually went straight to court. Laws repeatedly said this was not legal, that the conciliation process should precede submissions to court. Only when courts started to refuse cases that did not include proof of a failed conciliation process did the 'proper' procedure take hold. Courts have now become an important part of the conflict resolution process. The current official procedure for conflict resolution involves all four forms of formal conflict resolution procedures used in industrialized countries.

CONSULTATION: Where a labor dispute arises, a laborer may have a consultation with the employing unit or request the labor union or a third party to have a consultation with the employing unit in order to reach a settlement agreement.

MEDIATION: Wherever the parties are not willing to have a consultation, the consultation fails or the settlement agreement is reached but not performed, an application for mediation may be made to a mediation institute. Where the mediation agreement is reached in respect of the payment of labor remunerations, work injury medical expenses, economic compensation or damages in arrears and the employing unit fails to perform the agreement within the time limit prescribed in the agreement, the laborers may apply to the people's court for a payment order in accordance with the law on the strength of the mediation agreement. The people's court shall issue the payment order in accordance with the law.

ARBITRATION: Where the parties are not willing to mediate, the mediation fails or the mediation agreement is reached but not performed, an application for arbitration may be made to the labor dispute arbitration commission.

LITIGATION: Where there is objection to the arbitral award, litigation may be initiated to a people's court unless otherwise specified herein.

These are supposed to take place sequentially as shown in figure 1, although each stage provides opportunity for mediation.

[Figure 1 about here]

The propensity for workers to go to court is a direct result of the absence of alternative means of conflict resolution. In the UK, the courts were a place where (1) rules were tested and (2) as a reflection of failure for internal conflict resolution. So this is why many of us are interested in trade unions in China, because they form the only mechanism for internal conflict resolution available to workers. The problem, as you all know is China does not have trade unions. There are examples of 'union like' behavior, elections, active collective consultation and so on, but they are rare and mostly transitory (see case of Nike). There are also NGOs but they have difficulty operating within an enterprise and should perhaps be seen as another example of employment relationship failure. The recent resurrection of interest in China of pushing the collective contracts system demonstrates the governments desire to move relations back into the workplace. Under current legislation, workers are expected to resolve conflict directly with their employer, and if this fails, contact the local trade union or labor bureau after which a mediation committee will be formed. Table 4 shows that this stage of mediation is not very successful and over the four year period to 2006, of declining success nationally (we will return to the other figures later).

Table 4: **Condition of Grassroots Trade Union Participating in Mediation Labor Dispute**

	Cases Accepted by Labor Dispute Mediation Committee	Cases Successfully Mediated by Labor Dispute Mediation Committee	Percent of Successfully Mediated
National			
2003	192692	51781	27%
2004	192119	54537	28%
2006	340193	63020	19%
Guangdong			
2003	37587	8699	23%
2004	21440	4685	22%
2006	63014	18358	29%
Beijing			
2003	2445	941	38%
2004	2471	696	28%
2006	5027	609	12%
Shandong			
2003	17769	7024	40%
2004	20118	9195	46%
2006	18422	6310	34%

Even though it appears some cases are mediated by the unions, it is probable that many the cases marked as 'successfully mediated' are subsequently appealed to Labor disputes Arbitration Committees (LDAC) established by the local bureau of the former MoL. As can be seen in Table 5, few cases are refused ('cases dealt with by other forms') by the LDAC but the table also shows in the brief four years a near 50% increase in cases.

Table 5: **Cases to arbitration and mediation committee**

Year	Cases Settled by Other Forms	Cases Accepted	Total Cases	Number of Cases Left from Last Yearend
2003	58451	226391	284842	16276
2004	70840	260471	331311	17117
2005	93561	313773	407334	17829
2006	130321	317162	447483	22165

There are collective and individual conflicts, although it can be difficult to differentiate them in China because conflict patterns cut across collective-individual issues. The legal definition is if more than 3 workers are involved the dispute is collective.

Table 6: **Cases Accepted**

Year	Number of Cases Accepted	Number of Collective Labor Disputes	Number of Cases Appealed by Laborers	Number of Laborers Involved	Number of Laborers Involved in Collective Labor Disputes
2003	226391	10823	215512	801042	514573
2004	260471	19241	249335	764981	477992
2005	313773	16217	293710	744195	409819
2006	317162	13977	301233	679312	348714

As Table 6 shows, in the four year period from 2003 to 2006, as with the union mediation services, there was a roughly 50% increase in the number of cases accepted by the LDACs. However, what is significant is that in the same period there was a less than 10% increase in number of collective claims filed over the same period. This confirms our view that the LDACs are not favored by workers in collective conflicts. They continue to seek conflict resolution by demonstrating outside the local government offices. Thus, there conflict resolution system, thus far, are not addressing the primary concern of the government in seeking to dissipate mass social conflicts[4]. Workers in collective disputes prefer direct action it seems for two probable reasons. First, it is usually quicker and more effective to involve the government officials directly in the dispute than waiting for the court procedure. Second, because workers know that leaders are often separated and victimized by the police strikes are now organized to hide the identity of leaders. However, if the participants were to go trough the dispute resolution procedures, the leaders would become easily identifiable to authorities, and whilst probably not arrested during the court proceedings their lives would be more difficult in future.

Table 7: **Disputes Reasons**

Year	Labor Remuneration	Social Insurance and Welfare	Change the Labor Contract	Relieve the Labor Contract	End the Labor Contract
2003	76774	76181	5494	40017	12043
2004	85132	88119	4465	42881	14140

[4] We have no data on strikes. The data stopped at the turn of the century. We used to rely on the police reports but that is no longer clear. However, various NGOs in Hong Kong are constantly contacted by strikers and local media often reports when workers demonstrate in public. We reckon almost every day there are strikes in Shenzhen (just across the border from Hong Kong) for instance. Hutton (2007: 31) claims official statistics reveal 3.7 million public protests in 2004 and about 880,000 workers involved in 22,600 strikes in 2003.

2005	103183	97519	7567	54858	14015
2006	103887	100342	3456	55502	12366

Issues over which conflicts occur are always more complex than simply 'wages' or 'overtime provisions' etc imply but it nevertheless interesting to look at such areas in China. As table 7 shows, the vast majority of cases are either disputes over wages or over social insurance and welfare. The number spit evenly between the two, but if we examine by city, the booming cites, with large migrant worker populations tend to lead to conflicts over wages, whereas the former state industrial towns, particularly inland have conflicts mainly over social security provisions.

Table 8: **Result of Settlement**

Year	Lawsuit Won by Units (employers)	Lawsuit Won by Laborers	Lawsuit Partly Won by Both Parties	Total	Percent of Units Won	Percent of Labor Won	Percent of Both Won
2003	34272	109556	79475	223303	15.3%	49.1%	35.6%
2004	35679	123268	94041	252988	14.1%	48.7%	37.2%
2005	39401	145352	121274	306027	12.9%	47.5%	39.6%
2006	39251	146028	125501	310780	12.6%	47.0%	40.4%

As table 8 shows, workers are also encouraged by the success rates in cases, with over 40% of claimants wining, whereas less around 12-15% are won by employers ('Units' or employing units) win (the rest are mixed decisions, both sides wining something).

At the end of this process either party has a right to take the case to the Peoples Courts (civil law).

Table 9: court of first instance labor cases

	Year	Cases Accepted	Cases Settled	Judgment	Arbitration	Mediation
Shanghai	2004	6903	6973	3463	1725	1645
	2005	6985	6837	3522	1608	1641
Beijing	2004	5496	5196	3340		454
	2005	6652	6917	3886		598

The number of cases in 2004 accepted by union mediation was 192,000 and the number of cases rose to around 261,000 accepted by the LDACs was around 261,000 nationally. There are no national data for labor disputes in courts, but table 9 shows statistics form two cities. In Beijing alone whereas 2471 cases were accepted at the initial mediation stage (see table 4), over twice as many were submitted to court (table 9) in the same year, although this gap is likely declining as courts enforce 'correct procedures' there is an obvious preference among workers to go to court, despite the cost and intimidating atmosphere of the process. They do this because decisions of the courts are always enforceable quickly. The mediation stage is non enforceable and LDACs are slow to enforce, though the new regulations appear to allow for interim awards on matters such as wage payments. The courts can make the employers pay, whereas the earlier stages cannot. This discussion is not really about the rule of law but the rule of courts. Workers (and citizens in contract disputes especially) see the courts as a more viable means to seek redress against employers than other 'industrial relations' mechanisms that exist thus far. Moreover, we think, as with LDACs, mass collective disputes avoid the courts, preferring to focus on the avenue for redress mentioned earlier.

In conclusion, the dispute resolution system has been promulgated as a response to worker unrest, and it is implemented by increasing numbers of workers. However, it does not enforce mass strikes to use the system because such groups of workers prefer their traditional methods of organizing.

Conclusion.
The industrial relations system is not only regulated by laws, but customs and practice, agreements between parties and ever shifting balances between compromise and conflict among the parties. Implementation of government rules in China has a much wider range and nuances than in most 'western' countries because the state maintains control over much of the system. In this paper, we have outlined three sets of regulations, relating to mine safety, union organizing and conflict resolution. In each case, whilst generalizing, the regulations have been earnestly promulgated by the central administration but their implementation and enforcement varies. In the mines, it is only the government that is enforcing safety, and its efforts are undermined by market pressures of demand for coal. In union organizing, again the government promulgates but without enthusiasm, and it is up to local government leaders, often in the local party committees to press for quantity or quality of unions established. In the third, conflict resolution, the workers have driven the system, and still the laws are only partially relevant to their interests and so the state promulgated regulations are not universally accepted (or applied) in conflict resolution. The difference in implementation of these three different types of regulation reflects the interests of the parties concerned and there is little to indicate that China is heading towards a 'western' style of industrial relations. Instead, the government is still feeling its way towards economic prosperity whilst seeking to maintain political and ideological hegemony.

In this context the seeming new shift so welcomed by foreign commentators and trade unions in the promulgation of new employment law (implemented January) and conflict resolution law (implemented May) seems more than a reactionary attempt to shore up social stability. The laws go much further than this – they are the most socialist laws in the world. One of the authors, Chang Kai put forward the argument that a socialist country needs to establish a market economy which emphasizes the rights and interests of workers. Trade union and party officials have repeatedly warned enterprises to obey the laws, and the new guidelines implementing the laws, whilst watering down some elements appear to preserve the overall aim of forcing employers to take more interest in their employment strategies. Nevertheless, it is likely there was both a genuine desire to balance economic development a little more, but also to encourage labor intensive employers to move inland, where enforcement will be more lax. The situation in places like Shenzhen, Pudong etc, have become one of tight labor markets, high labor turnover and desperate actions by employers to meet tight customer deadlines. As a result, excessive overtime, using non payment of wages as a method to hold workers hostage and other forms of control are rife. The problem has become explosive in these areas, and pursing investment to less developed locations in China and overseas (where regulations will be less intensively applied). Employers are worried, and 2008 has seen the debate among employers dominated by discussion over the Labor Contract Law, whereas previous years had been discussions of labor shortages and labor turnover. There is mass fear of this new legislation, not because it imposes new burdens on employers (it doesn't), but because various senior government officials, through a series of speeches and warnings, appear intend on actually implementing the law, and workers are responding by vastly increased numbers of submissions to the dispute resolution process. On the other hand, mine safety is slowly improving through the efforts of mines inspectors and government loans to mine owners wishing to install safety equipment. The east certain area is implementing unionization, where collective contracts are back on the agenda, and the weakness of the unions is being exposed again.

Figure 1: Official conflict resolution procedure