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# **Labour-Management Relations in the People's Republic of China: Whither the 'Harmonious Society'?**

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## **Abstract**

*This study examines the challenges facing China's increasingly complex labour-management relations system vis a vis the new economic, political and social environment it faces and how it is adapting to the new concept of the 'Harmonious Society' – to which the new Chinese leadership now aspires. The paper concludes that the changes of labour-management relations system reflect the impact of globalization on enterprise diversity as well as the increasing important position of trade unions to coordinate labour relations and protect worker's rights and interests. There will be another 'long-march' for both party/state and other civil groups in China to reach a new social equilibrium.*

## **Key words**

*China, economic reforms, globalization, harmonious society, labour-management relations, trade unions.*

## INTRODUCTION

In this article, we undertake an in-depth qualitative overview of the changing labour-management relations system in the People's Republic of China (PRC) vis a vis the new economic, political and social environment it faces and how it is adapting to the new concept of the 'Harmonious Society' - to which the new Chinese leadership now aspires.

Economic reform has been an important factor in shaping the labour-management relations system. The Chinese economy has now been transformed dramatically since 1978. The State now runs much less of economic life than it did in the past. The share of state-owned enterprises (SOEs) in productive output has fallen from 77.5 percent in 1978 to less than 30 percent now, a veritable 'sea-change'. The so-called 'dinosaur' SOEs no longer dominate the economy, either by share of output or employment (see Nolan, 1998; 2003; ADB, 2006; World Bank, 2008).

Given the impact of globalization and the membership of China in the *World Trade Organization* (WTO) signed and sealed in late 2001 (see Wang, 2006), it is not surprising that there appears to be a tension between the market forces now endemic and the institution that seeks to protect Chinese workers against these forces (WTO, 2008:1).

By taking on these commitments, the governments, enterprises, management and trade unions now have to face a wide range of challenges for further opening up the economy with increasing pressures such as external competition and internal instability of a growing *imbalance of wealth-distribution* and conflict of different interests in Chinese society. The *Gini Coefficient* which measures how unequal a nation is, has veered in the direction of greater inequality, up to around 0.47 from 0.25

in *Mao's* day (Shue and Wong, 2007); the lower the value of the coefficient, the more equally household income is distributed. The PRC is probably becoming one of the most unequal societies in East Asia compared with other developed and developing economies in the region, such as Japan with 0.38, South Korea with 0.35, India with 0.37 and Vietnam with 0.37 (CIA, 2008). This seems rather odd for a country officially characterizing itself 'socialist', we may note in passing.

Therefore, this paper attempts to explore the historical, organizational and policy implications of the on-going reform process in general and changing employment relations in particular. The Chinese leadership has sought to promote a policy of seeking a 'Harmonious Society' in order to better accommodate these conflicts and potential instability in the society and we hope to explore the implications of this notion for the country's labour-management relations.

We will hypothesize that this search for 'harmony', built on Chinese cultural values, blending Confucianism with Marxist-Leninism, represents what amounts to what we may conceptualize as a 'coping-mechanism' to deal with the existing and potential conflicts now facing Chinese society.

The implications of the above changes have caused a backlash in Chinese society amongst certain sections of the population, particularly as the 'losers' are opposed to the 'winners' vis a vis the economic reforms. The Party leadership has become particularly sensitive to social dissatisfaction and 'even peasant unrest' and labour protest (see Chan, 2001; Cheng, 2004; Cai, 2006).

## THE 'HARMONIOUS SOCIETY'

In 2006, the Central Committee of the Communist Party of China published a resolution on the 'Building of a Harmonious Socialist Society' (*jianshe hexie shehui*), building on *Hu Jintao's* 'Harmonious Society' vision announced the year previous. This demarche is said to be the driving ideology behind China's broad strategy, with the deadline for achievement set at 2020. The Plenum even enshrined this policy as the 'intrinsic nature of socialism with Chinese characteristics', giving it historical backing as a social aim pursued ever since the Chinese Communist Party was founded. This report, '*A Resolution on the Major Issues Concerning the Building of a Socialist Harmonious Society*', as its full title, adopted at the Sixth Plenum of the Sixteenth CCP Central Committee, 11 October, 2006, sets this out as follows: 'Social harmony is the intrinsic nature of socialism with Chinese characteristics and an important guarantee of the country's prosperity, the nation's rejuvenation, and the people's happiness. The building of a socialist harmonious society is an important strategic task, which was put forward partly under the guidance of *Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory*, and the important thinking on the 'Three Represents' ... (This is along the line of CCP leadership hierarchy from its previous leaders of *Mao, Deng, and Jiang* to the current one of *Hu and Wen*). It continues further: 'No society can have no contradictions. Human society has been developing and progressing amid movements of all kinds of contradiction. The building of a socialist harmonious society is a sustained process during which social contradictions are resolved.' Such reasoning presents a series of ideological somersaults which attempts to reconcile the ongoing economic and social changes with past beliefs and values (see *Quarterly Chronicle and Documentation*, 2007:261ff).

Building such a 'Harmonious Society' covers a wide range of goals: *Hu* described the outcome broadly as achieving 'democracy, the rule of law, equity, justice, sincerity, amity and vitality' (see *Quarterly Chronicle and Documentation*, 2007:261ff). This policy is understood to mean a renewed emphasis on *extra-economic* challenges such as in tackling rural poverty, income inequality, and environmental degradation. These three issues are clearly of considerable importance vis a vis the government's agenda of never ending economic expansion. A national policy of this kind appears to raise these anxieties to the same level of importance as economic growth, reflecting the priority the Party attaches to the threat posed to China's stability by such worries. The Chinese have traditionally feared disorder (*luan*) and this concern has by no means been absent in recent history; it surfaced once again in 1989 when student dissatisfaction fused with popular resentment against corruption and maladministration.

After dealing with ideological and institutional issues, the text moves on to propose the possibilities of ensuring social equality and improving the income distribution system, for example: 'We should strengthen regulation and control over enterprise wages, increase guidance in this regard and bring the guiding role of information about the wage guiding-line, labour-market price, and industrial labour cost into play in the wage level'. It goes on to specify how the Party can act out a greater role in the building of a socialist harmonious society. It continues: 'They should step up the improvement of the party's leadership over trade unions, the *Communist Youth League* (CYL), women's federations, and other mass organizations and support them in playing their role in maintaining close ties with the masses, serving and educating,

and protecting their legitimate rights and interests' (see *Quarterly Chronicle and Documentation*, 2007:261ff). We can see from this quotation that the Party would like to see that the other masses organizations, including the trade unions, are seen as playing a key role in linking the top and bottom sections of Chinese society to re-create such a balance.

It is necessary to have an overview of the evolution of the Chinese labour-management relations system and the development of the trade union movement in order to understand the current relationships among the key players, namely the Party/State, the firms and the trade unions in general, and the tensions and possible obstacle factors for maintaining the harmony in the society in particular.

## **LABOUR-MANAGEMENT RELATIONS**

The Chinese labour-management relations system has, *grosso modo*, evolved through several guises in the twentieth century. However, since the Communists took power in China in 1949, it has been 'part and parcel' of the official power-structure, formerly more authoritarian and now less so, as Market Socialism has become *de rigueur*. Once 'unitarist', the system if not quite 'pluralist', now hinges on an evolving tripartite relationship involving the Party/state, the enterprises and the trade unions (see Warner and Ng, 1998).

In the past, one of these key actors in the labour-management relations system, namely the *All China Federation of Trade Unions* (ACFTU) unambiguously

conformed to the Leninist 'transmission belt' model, given the revolutionary provenance from which it emerged.

From the 1950s onwards, the Chinese labour-management relations system had been anchored in the 'command economy', adopted after the takeover of power in 1949, with its Soviet-inspired state-owned enterprises (SOEs) and their distinctive 'iron rice bowl' (*tie fan wan*) cradle-to-grave employment system and relatively egalitarian wage configuration (Child, 1994). This enterprise-based employment system may be even seen as a paternalistic hangover from pre-communist times and Japanese Occupation (see Warner, 1995). It was characterized by what were called the 'three old irons' (*jiu santi*), that is to say, the pillars of life-time employment (the 'iron rice bowl', *tie fan wan*), centrally administered wages (the 'iron wage', *tie gongzi*), and ministry-based appointment and promotion of managerial staff (the 'iron chair', *tie jiaoyi*). It was a system which was to dominate Chinese economic life for many years, with all its ups-and-downs, until the death of *Mao Zedong* in the mid-1970s. It consolidated employment, provided job security and ensured the welfare of all those working within its confines (Taylor, 2003). However, only a minority of Chinese workers were to be sheltered in the urban 'state-owned enterprise' (SOE) sector where such a system was endemic. Many others were employed in 'collectively-owned enterprises' (COEs) and the majority of the rest worked the land. They did not occupy the privileged positions of those in the SOEs, the latter being regarded as the '*avant-garde* of the working class' and the 'masters of society', with a relatively good percentage in the larger enterprises being Party members, at least on paper (see Ng and Warner, 1998).

Such a system provided rock-solid security for those who were fortunate to be employed within it. One popular saying current at the time was ‘the managers pretended to pay us and we pretended to work’. Once hired, workers kept their jobs for life; dismissals were infrequent. The industrial system was highly bureaucratic and hierarchical, formalized and standardized (see Child, 1994). Top-down Party- and managerial- power was however mitigated by varying forms of worker representation at different times but it was always an uneasy balance. The 1960s even appeared to put ‘worker-power’ further to the fore in the throes of the ‘Cultural Revolution’, but the experimentation fizzled out. After this period of social turbulence, the Chinese trade unions tried to ‘put their house in order’ so to speak and revive their own original organizational role (Taylor, 2003).

After *Mao Zedong* died, *Deng Xiaoping* introduced a wave of economic reforms in the late 1970s, in line with the ‘Four Modernizations’ (*sige xiandaihua*) and the ‘Open Door’ (*kaifang*) policies that were set to transform a wide range of hide-bound institutions and encourage them to be more efficient and learn from the West and Japan (see Child, 1994). Even so, afraid of a Polish *Solidarity*-style reaction, *Deng* tried to sweeten the sometimes bitter pill of reform by encouraging workers-councils parallel to the unions, even as he was creating a ‘nascent’ labour-market that heralded the demise of the ‘iron rice bowl’. But in 1992, managers were finally allowed to manage, hire and fire and so on. This step clearly took years to ‘come to pass’, given the travails of the preceding decades (Zhu and Warner, 2004a. and b., 2008).

Since *Deng*’s economic reforms were introduced in the 1980s, the enterprise-based system of ‘lifetime employment’ and ‘cradle-to-grave’ mini-welfare state (*xiao*

*shehui*) has been gradually cut back: in 1986, for example, the authorities experimented with the introduction of labour contracts for new workers (see Korzec, 1992; Warner and Ng, 1999; Zhu, 2005). In 1992, another important step was the ‘three personnel reforms’ (*san gaige*); this inaugurated *labour contracts*, *performance-linked rewards systems*, and *contributory social insurance* (Warner, 1995). *Pari passu*, access to health-care eventually became less and less equitable. By this time, the labour-management relations system had already become a ‘*hybrid*’ one, mixing what remained of the old one with the newer features (see Warner, 2008b). Once the system hinged on the notion of personnel management (*renshi guanli*) but this was superseded by a new demarche, to be known as ‘*renli ziyuan guanli*’, quite literally meaning ‘labour force resources management’, having the same characters in Chinese as in Japanese, being used as a synonym for (what is in effect) ‘HRM’. Labour-management relations is more often more simply referred to as ‘*laodong guanli guanxi*’. Books began to appear in Chinese in the 1990s using this terminology (see Cooke, 2005; Zhu, 2005).

*Deng*’s consolidation of the economic reforms has continued to the present day and has been added to in detail but not much in strategic terms, by his successors *Jiang Zemin* and his successors. The *Chinese Communist Party* (CCP) continued to dominate the trade unions and the ACFTU in turn sought ways to survive in the changing socio-political climate of the 1980s and 1990s. The philosophy behind the new shift in orientation came to be known in the early 2000s as the ‘*Harmonious Society*’, which represents an attempt by the current Chinese dual-leadership (that is *Hu Jintao* as President, as well as *Wen Jibao*, as Premier) to present an ideological formula which might help to rectify perceived inequities and tensions among the

different interest groups. In fact, the role of trade unions in this new order becomes very important in recent years and it is necessary to review the evolution of the trade union movement in China up until the recent changes.

## **TRADE UNIONS**

Since the Republican Revolution of 1911, which overthrew the Imperial regime which had previously ruled the country for millennia, China has tried to evolve its own political and social institutions appropriate to 'modernization'. Trade unions were to be among these but did not formally appear until the First World War had run its course. The Party had already emerged in the turmoil of those turbulent years but did not formally set itself up until July 1921; the ACFTU was founded a little later, in May 1925, making it now an 'octogenarian', then established as an organization to 'represent' the emergent Chinese 'working-class', concentrated at the time mainly in a few industrialized centres and the major sea-ports, like *Canton* (now *Guangzhou*) and *Shanghai*. Remember China was not significantly industrialized until the late 1950s and had no significantly large industrial working class until the end of the decade. The union movement was soon suppressed by the Nationalist (*Kuomintang*) authorities and went underground in 1927, when the Communists and Nationalists were locked in open inter-factional conflict. Organized labour was not to surface prominently again until after the Second World War and in 1948 it assembled its *Sixth National Congress*. It then was institutionalized as the nation's sole trade union fulcrum after the 1949 'Liberation', with the *Trade Union Law* of 1950, later updated at the *Seventh National People's Congress* in 1992 and amended at the *Ninth National People's*

*Congress* in 2001. This legislation works in parallel with several other key laws shaping both labour-management relations and trade union activities. In this context, the ACFTU has enjoyed a 'monopoly' of representation, as it brooks no rival, even in the new millennium, having been the official Mainland labour movement for over half a century, as in Vietnam and North Korea but unlike the case in the Hong Kong SAR. There may be sporadic outbursts of independent trade union activity from time to time but these are soon suppressed. The PRC does not, for instance, comply with *ILO Convention No.87* (Freedom of Association and Protection of the Right to Organize, 1948), nor *ILO Convention No.98* (Right to Organize and Collective Bargaining) as it has not ratified these Conventions. Even if the *Trade Union Law* (1950, 1992, revised 2001) creates a right to form trade unions (Article 3), and to provide a defined degree of union security (see, e.g. Articles 3, 11, 17, 18, 50-55), it does not allow independent unions to be organized. The 2001 revisions of the legislation confirm that all unions must be subordinated to the ACFTU (Article 2) according to the principle of 'democratic centralism.' According to this formula, it is laid down that 'trade union organizations at a lower level shall be under the leadership of trade unions organizations at a higher level'.

The ACFTU is the world's largest national trade union body in terms of its formal membership, by far, although some say much of its adherence is 'on paper' only. It has more members than the entire population of many European states. By the mid-1980s, the ACFTU membership exceeded 80 million workers, covering some 15 national industrial unions, over 22,000 local trade union organizations and more than 460,000 enterprise unions, employing around 300,000 full-time union officials. By 1990, there were over 89 million members, in 15 national industrial unions, 30

provincial or municipal union councils and more than 560,000 grassroots trade union organizations. By the end of the last century, the size of its membership stood at over 133 million, while the number of grass-roots trade unions registered some 1.7 million. By its 80<sup>th</sup> anniversary, at the end of 2004, the ACFTU was said to have around 137 million members, covering nearly 2 million enterprises. By the end of 2006 (see Table 1), it had even exceeded these numbers. The membership of the ACFTU now totals around 170 million (of which 62 million are women, accounting for over 36 percent of the total number of union members, and over 41 million being migrant workers (*mingong*), accounting for 24 percent of the total), with a membership-rate on paper at least of around three out of four in enterprises where they are eligible to join, a figure of which we must be cautious. This figure was mostly found in large SOEs in past years but these are now less numerous, as the Chinese industrial ownership has become more diverse.

**INSERT TABLE 1 ABOUT HERE.**

The Chinese trade unions organize on *industrial* lines, as well as recruiting on a *locality* basis. There are currently 31 federations of trade unions in all, based respectively on provinces, autonomous regions and municipalities, directly under the Central ACFTU Government and 10 national industrial unions, as set out in Table 2.

**INSERT TABLE 2 ABOUT HERE.**

The organization of workers in the Chinese enterprise remains more bureaucratic than in the capitalist West. It was laid down by legislation, hence was dependent neither on ‘custom and practice’ on the one hand, nor on ‘collective bargaining’ on the other.

Article 10 of the *Trade Union Law* proposed that:- ‘A basic-level trade union

committee shall be set up in an enterprise, an institution or a government department with a membership of twenty-five or more; where the membership is less than twenty-five, a basic-level trade union committee may be separately set up, or a basic-level trade union committee may be set up jointly by the members in two or more work units, or an organizer may be elected, to organize the members in various activities. Where female workers and staff members are relatively large in number, a trade union committee for female workers and staff members may be set up, which shall carry out its work under the leadership of the trade union at the corresponding level; where they are relatively small in number, there may be a member in charge of the female workers and staff members on a trade union committee' (*Trade Union Law*, 1950, 1992, amended 2001). Of the total members, 46 million were to be found in state-owned enterprises, accounting for 45 percent of the workforce; those in the private sector numbered 55 million, making up 54 percent. Chinese official statistics are however often unreliable and it is hard to have impartial confirmation of the numbers and percentages cited above. These numbers appear problematic in that the state sector, where it was more likely to find ACFTU membership, had shrunk proportionately along with dominance of the SOEs over the last two decades and because the unions had experienced great difficulties in expanding their base in the non-state sector which has mushroomed in recent years. Under the new Party/State leadership of *Hu Jintao* and *Wen Jiabao*, the shift towards encouraging union establishment at traditional non-union enterprises, such as foreign-owned and domestic private-owned enterprises, was evident with the example of Union Branches formed at 17 Wal-Mart stores in China since July 2006 (*China Labour Bulletin*, 2006). Multiple reports indicated that such changes were under direct intervention of Party leader *Hu Jintao* as he ordered: 'Do a better job of building

Party organizations and trade unions in foreign-invested enterprises' (see China Labour Bulletin <http://iso.china-labour.org.hk/en> 2006). This support from top leadership created a new and opportune moment for union establishment in foreign-owned enterprises.

In order to implement the Party's call on 'establishing harmonious society', the leadership of the trade unions have developed some initiatives. At the Fifth Session of the 14th ACFTU Executive Committee that was held in Beijing on 12-14 December 2007, the ACFTU Chairman *Wang Zhaoguo* emphasized that 'the broad masses of workers and union cadres should make greater contributions to scientific development and social harmony'. He called on trade unions at all levels to earnestly perform their duty of protecting workers' legal rights and interests, heighten the sense of workers as masters of the country, upgrade the ideological and ethical standards as well as the scientific and cultural qualities of the entire workforce and encourage them to play a major role in the socialist economic, political, cultural and social construction. He also called on trade unions to carry out the principle of "organize the unorganized and fight for labour rights" in real earnest, focus their attention on adjusting labour relations, and try all out to solve issues of immediate interest to workers such as employment, income distribution, social welfare and work safety' (ACFTU, 2007:1). Whilst the rhetoric is somewhat vague, we can see the direction of policy intent.

Yet labour-management relations in China are fast changing (Ding et al, 2001; 2003; 2004; Warner, 2005; 2008a. and b.). The older ways of people-management are now being replaced with newer ones. Notions of human capital and human resources are now increasingly *de rigueur*. The more 'human resource management' replaces

'personnel management' in China, the more of the old ethos of the planned economy goes out of the window. HRM is now more typical of the non-state sector and the trade unions have found it less compatible with their rationale. But it might be argued that this new mode of people-management may be more frequently found in what have been called 'learning organizations', such as those more 'open' Sino-foreign enterprises or Multinational Corporations (MNCs). In such firms, we are likely to find new management practices that have been initially transplanted, for example by the overseas partner, when the joint ventures (JVs) were initially founded. Also in a number of former SOEs, HRM soon appeared in a number of guises, both token and substantial. Leading companies the present writers encountered over the years, like the steel-giant *Shougang Group (Shougang Jituan)*, (see Nolan, 1998 for its back-history) had already formally introduced HRM Departments by the mid-1990s.

But even in such cases, the kind of HRM to be found was often concerned with short-term issues like wages, welfare and promotion rather than long-term strategic ones. A knowledgeable scholar in the field, for example, bemoans the lack of research that systematically explores in detail topics such as appraisal, compensation, planning and staffing (Zhu, 2005:34). Broadly speaking, it is now fairly well-established that it is mainly in larger business enterprises, whether they are former SOEs, Joint Ventures (JVs) or Wholly Owned Foreign Enterprises (WOFEs), that we find the most definitive forms of *strategic* HRM in Chinese enterprises, as is also the case in Vietnam. There is however less research on this *corporate* or *strategic level* of HRM than one would expect but this may be changing (see Gadiesh *et al*, 2007). A good deal of investigation in the field is still nonetheless concerned with HR practices relating to *workplace-level* areas, such as life stress,

organizational commitment, supervisor-employee bonds, psychological contracts and the like (see Zhu, 2005).

*Pari passu* with the above there was a State Council initiative to introduce ‘corporate culture’ (*qiye wenhua*) in large Chinese state-managed corporations. In a recent study, Hawes (2008) has shown how these were urged to take on board such foreign concepts in order to improve their performance and to keep the firms in line with government policy priorities. Such developments (Hawes, 2008:39) are said to directly link into *Hu Jintao*’s drive for a more ‘Harmonious Society’, to be discussed in greater detail later in the article.

In fact, the State sometimes feels the need to compromise with enterprises, mainly due to its desire to minimize discontent and promote economic growth. It has succeeded in that so far economic development in China has encouraged its managers and workers to support the regime since it offered a better standard of living and has thus far delivered. Due to this pragmatic approach, when the government recognises that a policy is not working well, it tries to act quickly to adjust the policy to minimize enterprises’ as well as workers’ grievances coming to a head but does not always succeed. When firms have needed more flexibility in recruiting and training workers, the government has boosted reforms in these areas to give the enterprises more freedom. Sometimes what is conceded to firms does not always benefit employees. From the enterprises’ point of view, firms are more likely to comply with government policy and even compromise their economic interests - if and when the cultural or ideological values embodied in the policy matches their own beliefs.

In more recent years, the government's emphasis on reducing workplace conflict by addressing the importance of respecting workers' rights and improving working conditions has been as one of the approaches towards 'social harmony' under the current leadership. This new shift towards more 'pro-labour' policies may have an influence on how Chinese enterprises implement their human resources policies. The new *Labour Contract Law* might be seen as a good example of the government's efforts to create a reinvigorated 'social contract', by enhancing job security and so on, of which more later.

## **CORPORATE CITIZENSHIP**

The Party leadership hope that the move to a more harmonious set of social relationships will meaningfully change not only labour-management relations but also China's business environment, and that CEOs and top managers who wish to prosper in contemporary China will now need to make sure where they stand on 'corporate citizenship'. The 'Harmonious Society' policy will eventually, they hope, influence businesses in China in the guise of 'corporate citizenship' concepts. The goals sought by Hu's clarion call for a 'Harmonious Society' appear potentially to link closely to the objective of corporate citizenship as understood in the West. A bolder emphasis on the impact of extra-economic concerns can be viewed as a parallel goal in corporate citizenship where companies are urged to consider the wider impact of their economic activities on stakeholders, be they workers or customers.

But the role of the business community in contributing to a 'Harmonious Society' has yet to be made more precise, limiting the influence of the changes so far. Building a 'Harmonious Society' is still viewed as the specific responsibility of the State and an

official high-level policy explicitly linking corporations and ‘Harmonious Society’ has yet to be enunciated, nor has the role of the trade unions been robustly defined here and spelt out in detail. The precise actions that social actors involved should take to contribute to this vision have yet to be agreed upon and made public by the government. Chinese managers have, for example, mentioned that the lack of measurement tools tracking their contributions, or clearer guidelines about their roles, result in bounded actions on their part. With the lack of clarity, many organizations, whether public or private, have taken to dubbing any and all corporate actions as contributing to a ‘Harmonious Society.’ But one spelt-out route to greater harmony has been in the labour legislation sphere to which we now turn.

## **NEW LABOUR LEGISLATION**

The most important changes in the labour-management architecture in recent years potentially leading to the ‘Harmonious Society’ include the introduction of new legislation, such as the *Labour Contract Law*, which was passed in June 2007 and which became effective in January 2008. This demarche provides a highly detailed regulatory framework in eight chapters and 98 sub-articles (*Labour Contract Law*, 2007). The eight chapters of the law cover the issues of general provisions, establishment of labour contracts, implementation and amendment of labour contracts, termination and ending of labour contracts, special provisions (including collective contracts, labour hire and dispatch, and non-full time labour contracts), monitoring inspections, legal liability, and supplementary provisions (see *Labour Contract Law*, 2007). Under the general provisions, the fundamental principles were stipulated, such as the proposal to improve the labour contract system, to specify the

rights and obligations of the parties to labour contracts, to protect the lawful rights and interests of workers and *to build and develop harmonious and stable employment relationships* (Article 1, *Labour Contract Law* of 2007). In many respects, the *Labour Contract Law* is a distinct improvement on the existing legal framework regulating employment relations. Security of employment is now reinforced, much to the consternation of employers in foreign-owned firms and their Chamber of Commerce spokespersons but to the relief of the unions. As the *International Hong Kong Liaison Office* (IHLO) for the worldwide trade union movement claimed: ‘As many know, the ACFTU, while not playing a particularly strong role in defending worker rights to say the very least, has had a history of some success in terms of legislative influence) (both the *Labour Contract Law* and the *Trade Union Law* show this clearly). It has had a strong input into the drafting of the new *Labour Contract Law*. While the final version certainly watered down many more pro-union aspects, it remains a potential tool for both ACFTU internal goals of strengthening its footing within companies and for the ACFTU to help campaign rights such as collective bargaining and the drafting of (good) collective contracts’ (IHLO, 2008:1). The new law is being hailed as a breakthrough in labour legislation in the PRC context but it can certainly not be regarded as a panacea for all China’s labour ills (Details of the final draft of the *Labour Contract Law* have been translated in full into English and is available on the IHLO web-site, on <http://www.ihlo.org/LRC/W/290607.html>).

In fact, the process of establishing this new *Labour Contract Law* demonstrates how to move towards civil society and citizenship, with different voices representing different interests. It may be also seen as a good example of how to use legislation to manage conflict in order to create the so-called ‘Harmonious Society’. For instance, in March 2006, the *Standing Committee of China’s National People’s Congress*

published a draft of the *Labour Contract Law* on its website and asked for feedback. The level of public response was unprecedented (see Cooney et al., 2007: 789). Around 200,000 people are said to have sent in comments and contributions. Participants in the arguments over the first official draft of the Law were said to include individual workers, union leaders, NGOs, management of SOEs, officials from labour bureaux, academics in the labour law and industrial relations areas, owners of domestic private enterprises and representatives of MNCs, including the *American Chamber of Commerce* in Shanghai, amongst others. If it works as intended, the legislation will greatly enhance employee rights across a range of issues. But approving laws is one thing; enforcement is quite another matter. Labour inspection in China very often leaves a great deal to be desired. As Wu and Zheng (2008) point out:

‘Compared with former Chinese President *Jiang Zemin*, who emphasised economic growth, efficiency and political participation by newly rising social classes, especially private entrepreneurs or capitalists, the new leadership of *Hu* and *Wen* since 2002, have been trying to improve the livelihoods and basic rights of Chinese farmers and workers. Amongst others, the new labour contract law is a key battlefield for China’s new leadership as it is closely tied to the country’s poor labour standards. Without the change of leadership in Beijing the new law would not have been passed within such a short period of time, with such a high rate of agreement and without demand for further compromises’ (Wu and Zheng, 2008:1).

The major argument from a business perspective was underlined by opposition to measures which would limit the capacity of corporations to structure their employment arrangements as they chose (Cooney et al., 2007). For example, they targeted the provisions requiring union or employee representative consent to changes

to general working conditions, articles requiring interpretations in favour of the employee in the event of ambiguity, clauses restricting dismissals and requiring substantive severance payments, and provisions converting fixed-term contract to permanent employment after the passage of certain time periods (*ibid.*). In opposition, workers and union organizations see these criticisms as simply designed to further business interests at the expense of workers. These debates had been on-going, in particular at the recent *National People's Congress* with representatives of both employer and employee arguing for further amendment of this new *Labour Contract Law*. There have been reports of many firms packing-up and leaving the PRC for cheaper South-East Asian economies. Hard evidence of this on any significant scale has yet to be presented, however.

More recently, a new, less controversial *Labour Arbitration Law* has been passed into law and implemented in early 2008. The draft bill aims to strengthen the system of mediation and arbitration, so as to help fairly resolve labour disputes - without going to the courts and thus protect employees' legitimate rights and help promote social harmony. A labour mediation committee may be set up in enterprises to tackle the labour disputes, so as to resolve disputes at grassroots level. The corporate labour mediation committee should consist of both employees and representatives of managerial levels (see *China Daily*, 27 August 2007). However, numerous problems that remain in China's labour arbitration and court system confront workers seeking redress for violations of their rights. A recent report by China Labour Bulletin (<http://www.clb.org.hk/en> 2008) identifies major problems such as arbitration committees are ill-equipped to deal with the recent dramatic rise in the number of

labour disputes, are influenced by powerful corporations and individuals in their decision making, and have become overly bureaucratic.

## **DISCUSSION**

Trade unions in emerging economies in East Asia, as elsewhere, carry the legacy of the past on their shoulders. The historical background of these trade unions has been closely linked with the history of the Communist Party in fighting against ‘capitalist exploitation’ in China, and ‘Western domination’ in Vietnam. The unions therefore, on paper at least, share the State’s view vis a vis the role of a socialist government in protecting working class interests from ‘capitalist exploitation’ (see Warner, 2008a). Even in the new business environment, union leaders’ ideological beliefs still remain the same, so they do not see any need to replace the traditional union model and are happy to co-operate with the government, as is the case with the *All-China Confederation of Trade Unions* (ACFTU) or its Vietnamese counterpart the *General Confederation of Labour* (GCL). In addition, management has found that the ‘socialist’ union-structure serves the businesses well in terms of maintaining harmony and minimizing conflict and bargaining at the workplace. It in turn makes the labour force easier to control. They therefore support this type of union structure and role and as a result this is the structure practised well in both China's and Vietnam’s enterprises.

Since the original Soviet stereotype has now been largely diluted, the main Leninist ‘transmission-belt’ unions that remain are to be found in residual ‘hard-line’ communist regimes such as in Cuba, North Korea, and so on, compared with the few

‘soft-line’ ‘transitional’ economies such as China and Vietnam. Here, trade unions are on a ‘longer leash’, although not as much as in the Overseas Chinese community. By the term ‘longer leash’, we mean where unions that have been part of the reform process have been given enhanced but still limited ‘devolved powers’ and new roles that enable them to better adjust to the market forces now more generally driving the economy. Trade union roles have changed during the transitional economic phase, some faster than others. But nonetheless most worker representative institutions have undergone a process of renewal (see Warner, 2008b).

The ACFTU has been no exception to this general proposition: ‘With the socialist market economy surging ahead in China, trade unions have made every effort to protect workers’ labour and economic rights and interests, democratic and political rights, spiritual and cultural needs as well as social rights and interests, participated in adjusting labour relations and regulating social contradictions in a bid to boost economic growth and ensure long-term social stability’, as its official website has recently noted (see ACFTU, 2008). It is clear from the evidence available that Chinese trade unions have exercised a mainly ‘reactive’ rather than ‘proactive’ role vis-a-vis the economic reforms they have had to face; this is because they have traditionally been set in a ‘defensive’ mode.

The recent effort to manage existing and potential conflict and crisis through building a ‘Harmonious Society’ by the new Party/state leadership *Hu* and *Wen* may be the first steps towards a ‘civil society’ model, through engaging in public debate on new regulations and legislations (i.e., as in the case of the establishment of a new *Labour*

*Contract Law*). It is no long taboo that either capitalist representatives or workers/union organizations feel restrained in raising their concerns on behalf of their classes' interests but the right to strike or form independent unions is another matter. We can see, on the other hand, that at the recent *National People's Congress*, representatives were elected with multiple social and economic backgrounds, including Party members and non-Party members, capitalists, intellectuals and workers, even migrant workers' representatives. Certainly, after three decades of economic reform, the 'winners' have gained huge benefits from the fruits of economic development. In order to reconcile a so-called 'socialist' market economy with a vaguely Confucian 'harmony' in society, it is the time to think, they might argue, about how to do something for the 'losers' and to help the 'poor' to 'get rich' - by following the initial reform path designed by *Deng* in 1978 and continued by his successors. Only time will tell if the contradictions of contemporary Chinese society may be played out both constructively and peacefully.

## **CONCLUSION**

China's thirty years of economic reforms have passed quickly; the PRC is no longer the same society it was in 1978. Whilst not a 'pluralist' society, there is more 'social space' than there was a few decades ago. Once a 'command economy', it is now a 'socialist market' one, even becoming a 'consumer society'.

China's rapid development has generated a more unequal society and the sources of potential conflict and crisis may be hard to dampen down. Therefore, developing a 'Harmonious Society', to become a 'coping mechanism' as we initially hypothesized,

has become a priority, in particular to enhance ‘harmony’ between different interest groups, between human and natural environments, between China and the international community and between current and future generations. But the recent emergence of the ‘Tibetan crisis’ and the controversy surrounding the Olympic Torch and resultant media war between China (including its citizens in China and outside China) and the West indicate the need to tread carefully.

On the labour-management relations front, much has changed, reflecting the impact of globalization on enterprise diversity, as a nascent labour market emerged and matured (see Taylor et al, 2003; Warner, 2005). As the ACFTU official website states: ‘Chinese trade unions are committed to establish a new socialist labour-management relationship that is standardized, equitable, mutually beneficial and harmonious, urge enterprises of all types to establish and improve the labour contract system, equal consultation and collective contract system and various other democratic management and supervision systems with the workers’ congress as their basic form. These systems are an important means through which trade unions coordinate labour relations and protect workers’ rights and interests’ (ACFTU website, 2008). As Chan (2008) indicates that the trade union movement has reached a crucial turning point in Chinese history through openly claiming the union should represent the workers and no one else by the trade union officials and placing ‘collective bargaining’ to replace the old version of ‘collective consultations’ in Shenzhen’s new legislation. The expectation on the trade unions to take practical steps to create a successful bargaining model is high. On this, we must retain an open mind but at the same time a critical, even sceptical stance. Clearly, it will be another ‘long march’ for both

Party/state and other civil groups in China to reach a new social equilibrium – one which will do justice to all parties involved.

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**Table 1: Trade Unions in China (end of 2006)**

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**General statistics**

**Number of unions**                      **15 national industrial unions in single federation**

**Number of union**

**members (end of 2006)**              **170 million**

**male**                                        **64%**

**female**                                      **36%**

**migrant workers**                      **24%**

**Level of Collective**

**Bargaining**                                **Low to medium**

**Main union type**                        **Party/state control**

**Main union structure**                **ACFTU – official union body**

**Extent of unity of**

**Peak organization**                      **High to medium**

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*Source:* State Statistical Bureau (2007) China Labour Statistics Yearbook,  
Beijing: State Statistical Bureau.

**Table 2: The Organization of the ACFTU**

1. *National Committee of the Chinese Educational, Scientific, Cultural, Medical and Sports Workers' Union;*
2. *National Committee of the Chinese Seamen and Construction Workers' Union;*
3. *National Committee of the Chinese Energy and Chemical Workers' Union;*
4. *National Committee of the Chinese Machinery, Metallurgical and Building Material Workers' Union;*
5. *National Committee of the Chinese Defense Industry, Postal and Telecommunications Workers' Union;*
6. *National Committee of the Chinese Financial, Commercial, Light Industry, Textile and Tobacco Workers' Union;*
7. *National Committee of the Chinese Agricultural, Forestry and Water Conservancy Workers' Union;*
8. *All-China Federation of Railway Workers' Unions;*
9. *National Committee of the Chinese Aviation Workers' Union;*
10. *National Committee of the Chinese Banking Workers' Union.*

**Source: ACFTU, 2007**