

State Power and Labor-Capital Relations in Foreign-Invested Enterprises in China: The Case of Shandong Province*

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Primarily based on fieldwork conducted in Shandong province, this paper attempts to explore the social and political implications of the presence of foreign-invested enterprises (FIEs)—particularly those funded by entrepreneurs from other East Asian countries—in China and specifically the impact that these enterprises have on the role of the Chinese state in the field of labor. Major findings are as follows. The presence of FIEs has changed the landscape of Chinese industrial relations by introducing a new and typical wage labor relationship, which has been characterized by conflict between labor and management. Such conflict has helped reshape the state's role in the field of labor relations. Instead of relying on direct arbitrary administrative intervention as it did in handling labor relations in the pre-reform years, the Chinese state has since been compelled to establish and use new labor institutions such as labor laws and trade unions to regulate labor relations in FIEs. With new labor institutions emerging, the state gradually came to play the role of referee rather than player or intruder in the domain of labor-capital relations.

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Since the early 1980s, when China formally adopted the opening-up policy as a part of overall economic reform, foreign investors have shown increasing interest in doing business in China and their investment in the country has been growing. At the end of 1997, total registered foreign-invested enterprises (FIEs) amounted to 304,821, 145,000 of which were in full operation.¹ The impact of the presence of FIEs on China has been wide-ranging and profound. Undoubtedly, foreign investment has both helped reinvigorate China's economy by injecting capital, advanced technologies, and superior managerial expertise and has eased the pressure of unemployment by creating millions of jobs for the Chinese.² Equally important is the effect of foreign investment on Chinese labor and state power. Specifically, such questions as what are the conditions of labor relations in FIEs, how the Chinese state handles such relations, or how the presence of FIEs affects the state's role in the sphere of labor remain to be explored. This study attempts to shed some light on these issues.

FIEs in China can be classified into various categories based on different criteria. In terms of forms of investment, FIEs include equity joint ventures (合資企業 *hezi qiye*), contractual joint ventures (合作企業 *hezuo qiye*), and wholly foreign-owned enterprises (獨資企業 *duzi qiye*). According to the character of the economic sectors in which they are involved, FIEs fall into two major categories: labor- and capital/technology-intensive. These enterprises can also be distinguished by their different national origins. For the purpose of this study, this author puts these enterprises into two main groups: one consisting of enterprises funded by entrepreneurs from other East Asian countries or regions (South Korea, Japan, Hong Kong, Macau, and Taiwan) and the other including those invested in

¹ *Zhongguo jingji nianjian 1998* (Almanac of China's economy 1998) (Beijing: Zhongguo jingji nianjian she, 1998), 340.

² Chinese employees in the FIEs numbered 17,500,000 by the end of 1997, accounting for 10 percent of the entire nonagricultural labor force. Ibid.

by entrepreneurs from the Western countries, particularly those from North America and Western Europe. These two groups sometimes overlap across categories: for instance, most East Asian-invested enterprises engage in labor-intensive industries, especially in the 1980s and early 1990s, while Western-invested enterprises are largely capital/technology-intensive.

The following discussion will primarily focus on labor relations in those enterprises which are labor-intensive and involve investment from East Asian countries or regions. This focus is based on two considerations. First, enterprises of this type appeared in China earlier and have constituted the vast majority of foreign businesses in the country.³ Second, labor relations in these enterprises have been more strained than in Western-invested enterprises and therefore have more social and political implications. The information for this study is mainly derived from China's coastal areas, particularly Qingdao of Shandong province,⁴ where most FIEs have been concentrated. This paper finds that the labor-capital relationship in East Asian-invested enterprises has been characterized by constant conflict; and such conflict has helped reshape the state's role in the field of labor relations in China. Instead of relying on direct arbitrary administrative intervention as it did in handling labor relations in the pre-reform years, the Chinese state has been forced to establish and sponsor new labor institutions such as labor laws and trade unions to regulate labor relations in FIEs. With new labor institutions emerging, the state gradually came to play the role of referee rather than player or intruder in the domain of labor-capital relations in FIEs.

³Enterprises of this type accounted for more than 80 percent of all FIEs in China. *Ibid.*, 717.

⁴Qingdao has been an important site for foreign investment. As of the end of 1996, FIEs in full operation in the city numbered 2,435, employing 250,000 Chinese workers. As in other parts of China, especially southeastern coastal regions, most FIEs in Qingdao involved investment from East Asian countries. What makes Qingdao unique is that a large proportion (approximately half) of foreign investment was made by South Koreans because of the geographical proximity of South Korea to Shandong province (or Qingdao) and due to the cultural and ethnic connections between the two regions (many Chinese Koreans have traced their origins to Shandong). By the end of May 1997, there were 1,121 registered South Korean enterprises in Qingdao, employing nearly 140,000 Chinese workers. Sources: Interviews at the Foreign Investment Service Center of Qingdao in 1997.

Conflict: Foreign Capital and Chinese Labor

The labor relationship in East Asian-invested labor-intensive enterprises has been strained, as demonstrated by increasing cases of labor dispute and labor unrest which often involve work stoppages, strikes, and petitions to the state authorities and distribution of handbills or posters by workers to voice their grievances and complaints. In Qingdao, cases of labor dispute that were handled directly by city- and district-level arbitration agencies alone numbered 750 in 1994 and increased to 1,251 in 1995 and 1,426 in 1996. About 80 percent of these disputes occurred in FIEs. In 1993, work stoppages and strikes occurred in more than ten FIEs in the city. In January of that year, hundreds of Chinese workers in a Japanese-owned electrical machinery plant staged a strike for better treatment, which lasted eight days and aroused "sympathetic" strikes in two others.⁵ In Guangdong province in 1995, there occurred 3,042 "collective visits to government agencies" (集體上訴 *jiti shangsu*) and work stoppages, each involving at least thirty workers; and hundreds more followed in 1996. More than 75 percent of these cases happened in FIEs.⁶ The tense labor relations in FIEs resulted from the interplay of multiple factors, including cultural differences, management misconduct, labor immaturity, lack or ineffective enforcement of labor policies, and above all the divergence in interests between workers and employers characteristic of capitalist industrial relations.

FIEs introduced into China a typical wage labor relationship unknown to Chinese workers under the socialist system of the Mao years and absent from Chinese state-owned enterprises (SOEs) in most of the post-Mao reform era. Compared with its socialist counterpart, the labor rela-

⁵The number would be much larger if cases of labor disputes settled by lower-level agencies such as township- and enterprise-level mediation committees were included. Union leaders, workers in the FIEs, and scholars of labor studies in Qingdao all acknowledged that the labor-management relationship in FIEs had been fraught with tensions. Sources: Interviews with officials of the Federation of Trade Unions in Foreign-Invested Enterprises in Qingdao's Economic and Technological Development Zone, the Foreign Investment Service Center of Qingdao, and the General Trade Union of Qingdao in July and August 1997.

⁶"Would Indentured Laborers Reemerge in China," *Dubao cankao* (News References), 1997, no. 10:17-19.

tionship in FIEs had two salient characteristics. First was the sharp division between labor and management (or employer) as two distinct entities, both attempting to respectively maximize their own interests—wages and profits. Second, the formation of labor relations in FIEs was based on the working of market mechanisms or the principle of demand and supply, with employers enjoying the right to hire or dismiss workers and the latter the right to choose their employers. The labor relationship in FIEs can be understood as a contract between workers and employers and bears a strong resemblance to its counterpart in modern Western (capitalist) countries.

On the other hand, the labor relationship in FIEs in China differed significantly from that in modern Western countries. In the Chinese context, labor relationship was marked by the overwhelming power of foreign employers over Chinese workers and accordingly the precariousness of the interests of Chinese workers. The advantages of the employers derived not simply from their ownership of properties, but also from unique Chinese circumstances: the abundance of surplus labor, the appeasing attitude of Chinese officials (particularly at the local level) toward foreign investors, and the lack or ineffective enforcement of labor legislation particularly in the 1980s and early 1990s.

The market-oriented economic reforms in the post-Mao years brought about large numbers of surplus labor and massive unemployment in both urban and rural areas. In the cities, with SOEs being increasingly restructured (or rationalized and privatized), millions of workers were laid off.⁷ In the countryside, agricultural productivity greatly increased because households became the basic units of production. Moreover, because arable land shrank, many rural laborers became redundant.⁸ Hence the situation arose in which the supply of labor far and persistently exceeded the demand for labor. The existence and availability of large numbers of surplus laborers benefited foreign employers, allowing them room to maneuver in dealing

⁷Laid-off workers amounted to 8,147,998 at the end of 1996. See *Zhongguo laodong tongji nianjian 1997* (Labor statistical yearbook of China 1997) (Beijing: Zhongguo tongji chubanshe, 1997), 406.

⁸The number of redundant rural laborers was estimated to be 150,000,000 in 1991. See Chen Naixing, ed., *Zhongguo laowu shichang de zuzhi yu guanli* (The organization and administration of labor markets in China) (Beijing: Jingji guanli chubanshe, 1993), 303.

with or controlling their Chinese employees, especially in holding down wages and enforcing labor discipline. Employers could easily find replacements for undesirable workers.

At least in the 1980s, the power of foreign employers in the workplace almost remained unchecked by the Chinese state. As Chinese local bureaucrats vied vigorously with one another to attract foreign investment, thereby promoting local economies and improving their own performance records, they were prone to appease foreign employers and to show more favor to them than to Chinese workers. Obsessed with creating and preserving a favorable investment environment, local officials tried to forestall labor unrest that would offend foreign investors. To speed up the introduction of foreign investment projects, local bureaucrats stressed simplification of registration procedures and tended to eschew bargaining with prospective investors by lowering standards for sanitation and safety in the workplace. More often than not, local officials remained inactive with regard to the misconduct of foreign employers. In settling labor disputes, the officials either sided with foreign employers at the expense of worker interests or left employers to make settlements on their own terms.⁹ Some local officials even sent in police to arrest "troublemakers"—workers who aroused labor unrest or became involved in disputes with foreign employers. There were also cases in which local security officers accepted appointments as deputy managers by foreign employers.¹⁰ The appeasing attitude on the part of local officials served to reinforce the power position of foreign employers over workers and even encourage employer belligerency in dealing with workers. Unsurprising is that South Korean investors in Qingdao developed the strategy of submitting labor dispute cases directly to city officials. If their request for help was turned down, they would threaten to withdraw investment or to shift their investment projects to other localities. South Korean employers usually succeeded in gaining expected support from the city authorities in persuading or forcing workers to

⁹ Interviews with workers in Qingdao in 1997.

¹⁰ Zeng Xiaoming, Tian Jie, and Ding Guoyuan, "Report on the Situation of Employees' Rights and Interests in Some Foreign-Invested Enterprises" (Part 3), *Gongren ribao* (Workers' Daily), November 11, 1993.

compromise. Their success in this regard was, in turn, due partly to their use of two other tactics—cultivating personal connections with Chinese local bureaucrats, often by bribery (gifts and banquets), and collective action. South Korean investors in Qingdao organized themselves into the Federation of South Korean Enterprises and formulated unified policies and techniques in dealing with both Chinese workers and local officials, particularly on such matters as wages, welfare, labor contracts, and the formation of trade unions. When one South Korean enterprise got in trouble (labor unrest or conflict with local government), all others lent their support by jointly filing complaints or protests with local authorities.¹¹

The power position of foreign capital can also be accounted for by the weakness or inefficiency of China's legal infrastructure particularly in the 1980s. In that decade, labor legislation was almost nonexistent. Only from the beginning of the 1990s was labor legislation stressed. The enforcement of labor laws, however, remained inefficient due largely to the inadequacy of law-enforcing institutions and personnel. The weaknesses in China's legal system meant that foreign employers could cope with Chinese workers on their own terms without or with little consideration of legal stipulations.

In short, foreign employers enjoyed a unique power position in their relations with Chinese workers. Some foreign employers, as will be borne out in the following pages, were ready to take advantage of this position in order to maximize their own economic benefits. In so doing, they often infringed upon labor's interests and rights, which turned out to be the direct and major source of labor disputes in FIEs. While violations of worker interests may occur in any enterprise, such violations—including arbitrary extension of work-hours, random deduction of wages, neglect of worker welfare, poor working conditions, failure to sign or abuse of labor contracts, and personal insults—were most frequently found in East Asian-invested labor-intensive enterprises.

Arbitrary extension of work-hours: This was a major technique that foreign employers used to enhance their enterprise profitability. In Qing-

¹¹ Interviews with officials of the Federation of Trade Unions in Foreign-Invested Enterprises in Qingdao's Economic and Technological Development Zone in 1997.

dao, many East Asian-invested enterprises neglected the nine-hour work-day system and extended daily work-hours to between twelve and fourteen hours. In one electronics company, workers each had to work one hundred extra hours monthly in 1993. In some enterprises, monthly extra work-hours were as long as two hundred. In 1993, workers in a knitting mill were forced to work seventy-two hours at a stretch and many of them collapsed with exhaustion at their machines. Some foreign employers often demanded that workers labor through weekends and legally sanctioned holidays.¹² There was still a disguised form of extending work-hours, namely increasing worker production quotas, which often proved so high that workers were required to be on overtime.¹³ Many foreign employers failed to pay workers overtime pay. According to Chinese labor policies, overtime pay should be one and a half times as much as normal weekday wages and double-time for working during holidays. However, this rule was by and large ignored. Workers were generally underpaid for working overtime. In some of Qingdao's toy and footwear enterprises, workers only earned 1.5 *yuan* for an extra work-hour, even lower than their normal hourly income (between 2.1 and 2.5 *yuan* per hour, which was the wage level in Qingdao in 1997).¹⁴ In some cases, overtime pay was long overdue and workers had to resort to such militant means as strikes or protracted negotiations to get their pay.¹⁵ Extension of work-hours was in most cases arbitrary and against the workers' will. Some employers threatened to impose fines on workers or cancel normal bonuses as penalties for refusing to work overtime. Others stipulated that a worker's attendance at work could not be considered as full unless he/she worked certain extra hours.¹⁶

¹²Interviews at the Foreign Investment Service Center of Qingdao and the Federation of Trade Unions in Foreign-Invested Enterprises in Qingdao's Economic and Technological Development Zone, July and August of 1997. Cases of this sort also frequently occurred in other coastal regions. For details, see Liu Jinghuai and Zeng Mingzi, "The Worrying Labor Protection Conditions in Foreign-Invested Enterprises," *Liaowang* (Outlook Weekly), 1994, no. 5:26-29; *Gongren ribao*, August 1, 1994 and November 3, 1997.

¹³Interviews with workers in Qingdao in 1997.

¹⁴*Ibid.*

¹⁵*Gongren ribao*, November 3, 1997.

¹⁶Interviews with workers in Qingdao in 1997.

Random deduction of wages: When FIEs made their first appearance in China, people eagerly sought to join these enterprises based on expectations for high pay. Those who worked in capital/technology-intensive industries or in offices indeed found their aspirations fulfilled. As far as workers in labor-intensive industrial enterprises were concerned, however, their income fell far short of their expectations: wage levels ranged from 200 to 300 *yuan* in the early 1990s and 400 to 600 *yuan* in the mid-1990s, which many workers believed was incommensurate with their workload. A 1994 survey of the conditions of 2,800 female workers in Shandong province revealed that 80 percent earned less than 300 *yuan* monthly and 10 percent brought home less than 100 *yuan*. According to Chinese labor policies, the minimum wage level for Chinese employees in FIEs should be 20-25 percent higher than that in SOEs of the same industry. In reality, however, wages for some workers only reached 50-70 percent of the stipulated minimum wage level.¹⁷ A 1994 survey of seventy-five FIEs in Guangdong's three special economic zones (SEZs) revealed that 55 percent of these enterprises failed to meet the minimum wage requirements.¹⁸

Worse still, workers frequently found their meager wages subjected to arbitrary deductions under various harsh and often unreasonable rules set by foreign employers. In some cases, deductions were imposed on workers for sickness or sick leave, refusal to work extra shifts, talking while working, and even for going to the washroom (in one case, a 10-*yuan* fine was imposed for exceeding five minutes in the washroom). Sometimes, workers could only receive half of their wages due to various deductions. In 1993, a female worker in Qingdao had only 16 *yuan* left as her February's wages after various deductions.¹⁹ Some foreign employers deducted large proportions of worker wages as securities for worker loyalty or good performance and refused to return the securities to workers under various pretexts.²⁰ Most hurtful to workers was the default of wage payment, which

¹⁷Interviews with workers and union leaders in Qingdao and Jinan in 1997.

¹⁸*Gongren ribao*, November 19 and December 9, 1994.

¹⁹Interviews with union leaders in Qingdao in 1997. Also see note 6 above; Liu and Zeng, "The Worrying Labor Protection Conditions in Foreign-Invested Enterprises."

²⁰The employer of a knitting mill in the city of Nanhai of Guangdong province, for example,

occurred frequently and constituted a major cause of labor disputes in FIEs.²¹

Neglect of worker welfare: Many foreign employers refused to pay the "two insurances" (old-age pension insurance and unemployment insurance) for workers as required by Chinese labor policies. According to a survey conducted by the city authorities of Suzhou in Jiangsu province, about 75 percent (7,383) of the Chinese employees (totalling 9,887) in thirty-eight FIEs were not provided with insurance benefits. Some enterprises provided no medical care benefits for workers and arbitrarily limited the maternity leave period for female employees.²²

Poor working conditions: In some East Asian-invested labor-intensive enterprises, workplaces were suffocating due to overcrowdedness and lack of ventilation facilities. In Qingdao, for instance, some South Korean enterprises maintained a "prison-like" (in the words of some union leaders) working environment. Once entering workshops, workers were not allowed to leave for the entire workday except for trips to the washroom which were limited to twice a day and ten minutes each time. Lacking cafeteria facilities, workers ate their lunch on the shop floor. Despite the lack of ventilation facilities, windows were closed and covered to prevent workers from being distracted. In the summer of 1994, the workshop temperature in one textile firm once reached 42 degrees. In a Japanese-invested enterprise in Yantai of Shandong province, the workshop doors

withheld 300 *yuan* of each worker's 400 *yuan* monthly wages as deposits, while setting very high production quotas which workers had to fulfill by working overtime. Later, the employer raised the production quotas which proved beyond the capability of many workers, particularly female workers. Then the employer confiscated the deposits under the pretext that workers had not lived up to the mill's rules on work efficiency. See note 6 above.

²¹ About 80 percent of the labor disputes occurring in the FIEs in Guangdong province in the mid-1990s were related to defaults of wage payments. In 1996, a female Korean employer fled after defaulting on the payment of 292 workers' wages (920,000 *yuan*) and securities (56,000 *yuan*) for six months. In the same year, a Hong Kong businessman left the mainland secretly, unable to pay the wages of 2,100 workers (3.2 million *yuan*) for three months. Another foreign investor was four million *yuan* in arrears on wage payments and was captured when trying to flee. See note 6 above.

²² A food company in Yantai, for instance, limited the maternity leave to only one month. Sources: Interviews with workers and union leaders in Yantai in July and August 1997. Some foreign employers in Zhejiang province restricted the maternity leave to between forty-five and fifty-six days and only paid female workers 50-75 percent of their wages during maternity leave. See *Gongren ribao*, August 1, 1994; December 9 and 19, 1994.

were locked during working hours so that workers were not able to go to the washroom without the permission of workshop supervisors.²³ An FIE in Wuxi of Jiangsu province only allowed workers to go to the washroom once in the morning.²⁴

Some foreign employers in labor-intensive industries neglected labor safety and health, particularly failing to take precautions against gas, dust, fire, and noise, which resulted in the prevalence of occupational diseases and high frequency of work accidents. In the 1980s and early 1990s, most labor-intensive FIEs were in the category of the so-called "sunset industries"—such as shoemaking, toymaking, plastics, printing and dyeing, painting, and chemicals—which produced high quantities of toxic pollutants. In some of these industries, no or insufficient gas- and dust-proof equipment was installed; and workers were not even provided with gloves and gas masks (or gauze masks). Having been long-exposed to harmful materials, many workers incurred occupational diseases and even poisoning.²⁵ In addition, workers in some FIEs often fell victim to accidents caused by fire and lack of protective devices on machines. Some died of electric shocks, while others suffered amputation.²⁶

Failure to sign and abuse of labor contracts: Some foreign employers refused to sign labor contracts with their employees so that they could eschew their obligations to workers. An investigation conducted by the Suzhou City Labor Affairs Bureau between April and July 1994 revealed that 6,337 (64 percent) of the 9,887 employees in thirty-eight FIEs were denied the right to sign labor contracts, while other workers found their contracts invalid because the contracts were not reviewed and approved by the local authorities and were hence without binding force. According to surveys conducted in 1992 and 1994, 70-90 percent of FIEs in Shantou and

²³Interviews with workers and union leaders in Qingdao and Yantai in July and August 1997.

²⁴*Gongren ribao*, December 19, 1994.

²⁵For details concerning the situation in Dalian, Qinhuangdao, Zhuhai, and Shenzhen, see Liu and Zeng, "The Worrying Labor Protection Conditions in Foreign-Invested Enterprises"; and Zeng Xiaoming, Tian Jie, and Ding Guoyuan, "Report on the Situation of Employees' Rights and Interests in Some Foreign-Invested Enterprises" (Part 2), *Gongren ribao*, November 10, 1993.

²⁶For details regarding these accidents, see *ibid.* and *Gongren ribao*, December 26, 1993.

Zhuhai and 90 percent of Taiwanese-invested enterprises in Xiamen did not sign labor contracts.²⁷

Some foreign employers resorted to various techniques to evade their obligation to sign labor contracts. In Qingdao, for example, the foreign employer of a toy assembling factory set a six-month probation period for all newly-hired workers and stipulated that labor contracts would be signed only when these workers proved qualified at the end of this period. It turned out that none of these workers (about one hundred in number) were allowed to pass the probation and hence had to leave their jobs. In turn, the employer recruited another group of new workers for another six-month probation period. The point was that the work in the toy factory did not require any sophisticated expertise and new workers could become skilled within days. By using probationers, the employer could save much money because he only had to cover their basic living expenses (120 *yuan* monthly), instead of being obliged to provide welfare benefits including labor insurance and old-age pensions as required under labor contracts. Another foreign employer only signed labor contracts with ten of his three hundred employees and intended them to be a showcase to stall off government inspectors.²⁸

Although some foreign employers did sign contracts, they put one-sided emphasis on workers' obligations rather than rights. An FIE in Shanghai, for instance, stipulated in labor contracts that workers should not consider marriage or making friends with the opposite sex and warned that workers failing to work extra shifts as required would be fired. These contracts also set limits on washroom time. There were still some foreign employers who terminated contracts before the due date without employee consent or legitimate reason.²⁹

Personal insults and corporal punishment: Personal insults and even corporal punishment occurred to workers in East Asian-invested labor-intensive enterprises. Such abuse took various forms including name-

²⁷*Gongren ribao*, August 1, 1994 and April 24, 1995.

²⁸Interviews with union leaders in Qingdao in 1997.

²⁹Zeng, Tian, and Ding, "Report on the Situation of Employees' Rights and Interests in Some Foreign-Invested Enterprises" (Part 2).

calling, beating, forced kneeling, and body-searching. The following are some cases of this kind of personal abuse. The employer of a synthetic fibre company in Qingdao usually forced workers to run around the company's compound or to stand facing a wall as a penalty for being late for work. A South Korean employer assigned to each workshop a foreman armed with a stick to patrol the workshop and beat workers if they were found to be slow with work.³⁰ A South Korean employer in Tianjin punished a young female worker for breaking labor rules by forcing her to eat seven hundred grams of cake and seven eggs and drink two cups of water all in one sitting. On March 7, 1995, a South Korean employer of the Ruijin Electronics Company in Zhuhai forced her 120 employees to kneel on the ground for roughly ten minutes, since she found that the workers breached her rule that they should "leave the workshop row-by-row for breaks" (only one worker refused to kneel). A foreign employer in Guangdong adopted the so-called "responsibility system," forcing all workers in a work group to kneel on the ground even though only one of them committed an offence. A shoemaking company in Fujian forced workers to expose themselves to the sun and rain and to imitate frog-jumping as penalties for breaking rules or disobedience. A foreign manager in Fuzhou penalized a female worker for stealing two pairs of shoes by first tying her up and beating her, then hanging the shoes on her neck and parading her, and finally locking her in a dog shed with two dogs.³¹ On November 26, 1996, a senior manager of a foreign-invested firm in the city of Zhongshan beat with his leather shoes three female workers for suspected theft, forced them to kneel on the ground for one hour, and then paraded them around the workshop for half an hour.³²

Some labor-intensive FIEs used body-searches to prevent theft. Ac-

³⁰Interviews with workers and union leaders in Qingdao in 1997.

³¹See note 6 above; Liu and Zeng, "The Worrying Labor Protection Conditions in Foreign-Invested Enterprises."

³²Later, two hundred workers in the company protested via collective resignation, almost paralyzing production. Local security authorities responded by imposing a 200-yuan penalty on the manager and requested him to apologize to the workers. This event led to a three-day discussion in Guangdong's media on why personal insults of workers by foreign investors occurred so frequently. See note 6 above.

According to an investigation conducted by the Guangdong Provincial Federation of Trade Unions in 1993, 17.6 percent of employees in twenty FIEs had been body-searched or witnessed their coworkers being body-searched. In Qingdao, Tianjin, Lianyungang, Suzhou, and Guangdong, some FIEs hired male guards to body-search female workers.³³

Victimization of female workers: Female workers prove particularly vulnerable to the arbitrariness of foreign employers or management. Women constitute the vast majority of the work force in East Asian-invested labor-intensive enterprises, especially in such industries as shoe/toymaking and textiles. In some of these firms, female workers account for 70-80 percent of total employees. Compared to their male counterparts, female workers face more challenges.

In addition to the abuses described in the preceding pages, they were often victims of sexual discrimination and harassment. For instance, some FIEs only hired young unmarried or childless women and were ready to dismiss them if they got married or pregnant. In Shandong and Guangdong provinces, sexual harassment and even rape of female workers by foreign employers or managerial personnel have occurred.³⁴

It is thus clear from the above description that some employers or managerial personnel of East Asian-invested labor-intensive enterprises behaved rudely in dealing with their employees. To these employers, workers were nothing more than cheap and convenient instruments for generating profits and thus deserved no respect.³⁵

Not all violations of worker interests and rights in East Asian-invested labor-intensive enterprises were committed by foreign employers, however. Instead, in some cases, the violations were caused by a group of white-collar native Chinese employees who served as the agents for foreign employers. Chinese foremen, middle-level managerial personnel, interpreters, and personal secretaries or assistants can all be brokers or intermediaries (between

³³Interviews with union leaders in Qingdao in 1997. Also see *Gongren ribao*, August 1 and December 19, 1994.

³⁴*Gongren ribao*, December 9, 1998.

³⁵As a South Korean employer in Qingdao once derided to his Chinese employees, "We are heaven, you are earth," meaning that he was superior to workers and entitled to trample upon them at will. Sources: Interviews with union leaders in Qingdao in 1997.

foreign employers and ordinary Chinese workers) similar to compradors in function in pre-1949 China. These people, familiar with local conditions and culture, are indispensable to foreign investors in running businesses and particularly in dealing with ordinary Chinese workers. This indispensability brought them relatively high wages and good treatment from foreign employers and indeed has made them a privileged social group within FIEs. On the other hand, these brokers were not necessarily well-educated. Foremen (or group leaders), for example, were chosen from the rank of workers primarily based on their proved loyalty or submissiveness to employers. As for interpreters, some have not received any formal language training. In Qingdao, for instance, interpreters in most South Korean enterprises were recruited from the ethnic Korean Chinese community in the northeast of China, especially in Jilin province. They were usually young women with middle/high school education and spoke both Chinese and Korean. These Korean Chinese women tended to identify themselves more with their South Korean employers than with Chinese workers not only ethnically but also culturally, a trait highly valued by South Korean employers.³⁶ Once hired, their functions were not limited to working as interpreters, but extended to other areas as well: some of these interpreters often accepted the role of their employer's mistress or sexual partner.³⁷

With the trust of foreign employers and correspondingly more benefits, the Chinese brokers are a proud group of people who consider themselves above ordinary Chinese workers. Subservient they may be to their foreign employers or managers, they are disposed to be harsh and arrogant to ordinary workers, often abusing their intermediary role. Some foremen keep close watch on workers at work and are ready to punish workers for anything they consider improper. These supervisors report in detail to employers on worker performance, sometimes even offering false reports in revenge for personal problems. For instance, some female interpreters in

³⁶The Chinese Koreans in Jilin have become exposed to the influence of South Korea since the early 1990s with the establishment of diplomatic relations between China and South Korea and the expansion of trade, South Korean investment in China, and particularly the exchange of visits between Chinese Koreans and their relatives in South Korea. Sources: Interviews with scholars in Jinan in 1997.

³⁷Interviews with workers and union leaders in Qingdao in July and August 1997.

Qingdao's South Korean enterprises made slanderous remarks before their employers against certain female workers out of jealousy. Sometimes, they distorted, purposely or by mistake, their employers' instructions or messages when transmitting them to workers, which usually resulted in mutual misunderstanding between workers and employers. These brokers were unpopular with ordinary workers and have been labeled by the latter as "Chinese traitors" or "fake foreign devils." Indeed, these intermediaries have become both a source of and a target for labor unrest.³⁸ Ultimately, the brokers' unprofessional behavior could be traced to the negligence on the part of foreign employers who failed to discipline their "privileged" employees.

Although foreign employers and their Chinese agents should bear the primary responsibility for tensions in labor relations within labor-intensive FIEs, Chinese workers cannot be regarded as completely innocent in this respect. In reality, some labor problems can be attributed to the workers themselves, specifically to their immaturity as an industrial labor force. Most Chinese workers in East Asian-invested labor-intensive enterprises are of the first generation of industrial workers, female, and have a rural background and low educational level. For example, in Qingdao's Economic and Technological Development Zone, which was established in 1984, 80 percent of the thirty thousand workers in two hundred FIEs were from rural areas and 80 percent were young women around twenty years of age. The vast majority of these types of workers came from suburban areas of Qingdao. Some entered foreign enterprises immediately upon graduating from school, while others once worked as agricultural hands and only joined the rank of industrial workers as their farmlands shrank or ceased to exist due to rapid industrialization and urbanization. There are also some young workers who were recruited from remote rural areas and who had almost never been exposed to urban—not to mention foreign—culture. In terms of education, only 30 percent of these workers have received education at or above the high-school level.³⁹ Therefore, Chinese workers in

³⁸Ibid.

³⁹Interviews with union leaders in Qingdao in July and August 1997.

these labor-intensive enterprises can be classified as unskilled labor.

These Chinese workers were, to a large extent, undisciplined and lacked professional ethics at least in the early days of their career as industrial workers. They tended to be reckless with the rules or regulations laid down by foreign employers, as manifested in such cases as lateness to or absence from work without reason, talking while working, theft of industrial raw materials (e.g., plastics and rubber) or finished products (e.g., shoes and toys), and quitting jobs and leaving without notifying their employers. They were also inclined to overstate their grievances, raise exaggerated demands, and take excessive actions against management sometimes over trivial matters or without sound reason.⁴⁰ In some cases, workers hastily staged strikes for increases in wages and other benefits before formally raising their requests and negotiating with the management or while negotiations were already under way between union leaders and the management. This kind of behavior has even been criticized by local trade union leaders as unreasonable.⁴¹

Partly due to their ignorance, some workers were unwilling to sign labor contracts with their foreign employers. They misunderstood labor contracts as being only beneficial to capital by binding workers to the enterprise and restricting their actions. Some workers from remote rural areas did not intend to stay in foreign enterprises for long. Instead, they were ready to return to their native places as soon as they accumulated a certain amount of money. These workers also worried that labor contracts would require them to pay labor insurance and unemployment insurance fees, unaware that their employers are the ones who are obligated to pay the

⁴⁰Workers in a Japanese-owned company in Qingdao, for instance, went on strike on the grounds that the management failed to distribute cakes for the Mid-Autumn Festival and "holiday goods" (gifts) for the Chinese New Year. This case was solved when the management paid 60 *yuan* to each worker. In another Japanese-owned enterprise in Qingdao, work clothes were issued according to the needs of different types of work in production, with certain workers receiving two suits and others one. Those who received (and needed) only one suit became irritated with the "unfair treatment" and pressed the management for one more suit, threatening that they would otherwise go on strike. Sources: Interviews with workers and union leaders in Qingdao in 1997.

⁴¹Interviews at the Federation of Trade Unions in Foreign-Invested Enterprises in Qingdao's Economic and Technological Development Zone and the Foreign Investment Service Center of Qingdao in 1997.

larger proportion and that workers are the beneficiaries in the long run. In this regard, workers often succumbed to what a union leader identified as the shortsightedness of the traditional peasantry who would rather sacrifice their long-term interests for short-term gains. Without the restraint of labor contracts, both labor and capital proved more prone to arbitrary or irrational practices and accordingly labor disputes were more likely to arise.⁴²

All in all, Chinese workers in labor-intensive FIEs are far from being a mature, modern industrial labor force in view of their inability to adjust themselves to the new environment of foreign businesses and their lack of sound professional ethics. This immaturity cannot but contribute to the exacerbation of labor-management relations in FIEs in China.

The above discussion has identified conflict as the essential characteristic of labor-capital relations in East Asian-invested labor-intensive enterprises and traced this conflict to the combination of multiple forces, particularly to the unreasonable practices or behavior of foreign employers and their Chinese agents and, to a lesser extent, to the immaturity of Chinese labor. The unreasonable practices on the part of capital in these enterprises were attributable not so much to the evil character of the employers as to the labor-intensive nature of their businesses and the increasing competitive environment of the world economy within which they operate. Foreign businesspeople have come to invest in China at a time when the process of the integration of the world economy is speeding up. International economic competition has intensified as more and more nations and enterprises are brought into the world economy and have become involved in the world market. Businesspeople everywhere face the enormous challenge of enhancing competitiveness and thus attempt to mobilize all resources at their disposal. Foreign employers of labor-intensive enterprises in China are no exception. The most prominent character of these enterprises, in comparison with technology-intensive enterprises, is their use of large quantities of cheap labor. From the employers' perspective, maximum exploitation of cheap labor is the most direct and convenient way to maximize enterprise profit and to gain competitiveness in the world mar-

⁴²Ibid.

ket. Here lies the fundamental rationale for many of the unpopular practices by employers of East Asian-invested labor-intensive enterprises in China.

Institutionalizing Labor Relations in FIEs: The Role of the Chinese State

The labor-capital conflict in FIEs has posed a serious challenge to the Chinese state, for the conflict has threatened to disrupt the normal operation of foreign businesses, which are a main source of state revenue; and, if unchecked, such tension could spill over to other types of enterprises including SOEs and cause widespread social instability, which in turn could undermine the state's legitimacy. With state interests at stake, the Chinese government saw the need to intervene in order to ensure harmony and stability of the relations between Chinese labor and foreign capital. Yet the Chinese state deemed direct intervention by administrative means—as it did in the pre-reform years—to be unwise. After all, the state was facing a different business environment which now involved foreigners. Within FIEs, there was no established presence of state power; and any direct intrusion into the FIEs by the Chinese state would arouse the suspicion of foreign investors, who had been used to operating businesses in the environment of a free market economy. Meantime, having committed itself to building a market economy, the Chinese state tended to refrain from direct interference with the management of enterprises. Therefore, it was both necessary and possible for the Chinese state to tackle the issue of labor-capital conflict in FIEs by indirect ways, namely by creating and using new labor institutions compatible with principles of the market economy and international conventions.

Labor institutions are understood in this study as being composed of two parts: formal labor rules and organizations relating to labor issues. Formal labor rules refer to labor laws and regulations that constrain both labor and capital and provide a framework within which labor-capital interaction takes place. Labor rules are by nature impartial to any side—either labor or capital. Labor organizations involve agencies that are particularly

designed to handle labor-capital relations and to solve labor disputes according to formal rules. These organizations include such institutions as trade unions, labor mediation committees, labor arbitration committees, labor supervisory committees, and legal offices. These organs can be seen as intermediaries between labor and capital and between society (including labor and capital) and the state, with the mission to facilitate reconciliation and harmony between workers and employers. Both types of labor institutions primarily resulted from the intervention by the Chinese state and were intended by the latter as the main instruments for regulating labor relations. Due to the creation of such institutions, Chinese state power has not been forced to directly intervene into the sphere of labor relations or to bear the brunt of the pressure from both Chinese labor and foreign capital. The following pages will focus on the state's role in the process of labor legislation and unionization.

Labor Legislation

Before delving into the issue of labor legislation in the reform years, useful is to first briefly review the labor legislation situation in the pre-reform era between 1949 and the late 1970s. This era can be divided into two periods with 1956 as the line of demarcation. During the first period (1949-56), the Chinese regime attached enormous importance to labor legislation and created various labor laws and regulations which covered a wide range of labor issues including labor contracts, wages, work-hours and vacation, labor safety and sanitation, protection of female workers, labor insurance, trade unions, and settlement of labor disputes.⁴³ The regime's interest in labor legislation was to a large extent shaped by the realities of the contemporary business world, whose main characteristic was the existence of large numbers of private enterprises. Within these

⁴³ Among these laws and regulations were the "Provisional Measures on Handling Labor-Capital Relations" (1949), "Provisional Measures on Signing Collective Agreement Between Labor and Capital in Private Industrial and Commercial Enterprises" (1949), "Trade Union Law of the PRC" (1950), "Regulations Concerning Procedures of Settling Labor Disputes" (1950), and "Regulations on the Organization and Functions of Urban Labor Dispute Arbitration Committees" (1950). See *Laodongfa quanshu* (A complete book of labor laws) (Beijing: Yuhang chubanshe, 1994), 109-10.

enterprises, labor and capital constituted two distinct interest groups and frequently became involved in disputes with one another. Keenly concerned with consolidating its power by restoring the urban economy, the communist regime was anxious to maintain a stable industrial labor relationship. While claiming to be the representative of the working class, the regime had to accommodate private businesspeople (particularly the so-called national bourgeoisie) whose managerial expertise was indispensable for operating modern enterprises yet whose suspicion of the new regime was strong. Such realities compelled the regime to handle labor relations with great caution—by using labor legislation rather than administrative power.

A turning point in the history of labor legislation came in 1956 with the establishment of the socialist command economic system, which remained intact until the late 1970s. Under this system, the previous labor-capital relationship was replaced by the labor-state relationship. The state owned and managed all major industrial and commercial enterprises and regarded all workers as its employees, resulting in what Andrew Walder identifies as workers' "organized dependency" on the state.⁴⁴ Within these enterprises, egalitarianism prevailed and effectively precluded social differentiation among workers. Accordingly, labor disputes no longer constituted a major problem; party ideology and orders came to function as the ultimate criteria for handling labor issues. Under such circumstances, labor legislation was no longer considered as necessary and indeed was neglected. Legislative bodies on labor issues either ceased to function or were dismissed and many labor regulations were declared invalid.⁴⁵

The situation began to change in favor of labor legislation in the late 1970s, after market-oriented economic reform was initiated. SOEs gradually became independent economic entities under the doctrine of "separation between enterprises and government." Within these enterprises, a relatively clear division emerged between labor and management as dis-

⁴⁴ Andrew G. Walder, *Communist Neo-Traditionalism: Work and Authority in Chinese Industry* (Berkeley: University of California Press, 1986); and "Organized Dependency and Cultures of Authority in Chinese Industry," *Journal of Asian Studies* 43, no. 1 (1983): 51-76.

⁴⁵ *Laodongfa quanshu*, 110.

tinct interest groups and labor disputes became inevitable. More important were the emergence and flourishing of private businesses including FIEs, which were basically outside state power and within which a typical wage labor system prevailed and labor disputes occurred much more frequently and intensely. All these combined to convince the Chinese regime of the necessity of labor legislation and prompt the government to take actions in this field. Up to 1994, more than 160 labor laws and regulations were promulgated and put into effect by the national authorities, with even other rules being enacted by the local authorities. Some laws and regulations were particularly concerned with labor relations in the FIEs.⁴⁶ Rules particularly directed at labor relations in the FIEs have also been enacted at the local (provincial and municipal) levels since the late 1980s.⁴⁷ Local regulations were based on the principles laid down in their national-level counterparts, but more specific and comprehensive.

The labor laws and regulations addressed all major aspects of the labor relationship in FIEs. Aimed at protecting the "lawful" interests of both labor and capital, these laws and regulations nonetheless put overwhelming emphasis on labor's rights and interests.⁴⁸ In addition to these

⁴⁶The first national-level labor rule that particularly concerned FIEs was the "Regulations Concerning Labor Management in Chinese-Foreign Equity Joint Ventures of the PRC," promulgated by the State Council in 1980. Rules of this type also included "Measures on Implementation of the Regulations Concerning Labor Management in Chinese-Foreign Equity Joint Ventures of the PRC" (1984), "Regulations Concerning the Autonomous Power over Employment and Wages, Insurances, and Benefits of Employees in Foreign-Invested Enterprises" (1986), a "Circular on Improving and Strengthening the Work on Labor Issues in Foreign-Invested Enterprises" (1993), and "Regulations Concerning Labor Management in Foreign-Invested Enterprises" (1994). Similar national-level rules were also scattered in such legal documents as the "Law on Chinese-Foreign Equity Joint Ventures of the PRC" (1979), "Law on Foreign-Owned Enterprises of the PRC" (1986), and "Law on Chinese-Foreign Contractual Joint Ventures of the PRC" (1988). See *Laodongfa quanshu*.

⁴⁷For instance, the city of Qingdao promulgated "Provisional Regulations on Labor Management in Foreign-Invested Enterprises in Qingdao" (1988) and "Regulations on Labor Management in Foreign-Invested Enterprises in Qingdao" (1993). The province of Shandong passed "Regulations on Labor Management in Foreign-Invested Enterprises in Shandong Province" (1994) and "Regulations on Trade Unions in Foreign-Invested Enterprises in Shandong Province" (1996). See *Qingdaoshi difangxing fagui guizhang huibian 1987-1988* (Compilation of local laws and regulations in Qingdao 1987-88) (Qingdao: 1989), 88-96; *Zhonghua renmin gongheguo difangxing fagui huibian 1992-1994* (Compilation of local laws and regulations of the PRC 1992-94) (Beijing: Zhongguo falu chubanshe, 1995), 1118-22, 1162-67; *Dazhong ribao* (Populace's Daily), May 13, 1996.

⁴⁸The "Regulations on Labor Management in Foreign-Invested Enterprises in Qingdao"

labor rules particularly relating to FIEs, a series of general laws and regulations were passed by the national authorities in the early 1990s and applicable to all enterprises within China, including FIEs. The two most important are "Regulations on Handling Labor Disputes in Enterprises within the PRC" (1993) and the "Labor Law of the PRC" (1994) promulgated respectively by the State Council and the National People's Congress. The former particularly focuses on the two main kinds of agencies for settling labor disputes, namely the enterprise mediation committee and the city/district (county) arbitration committee, including their composition, functions, and working procedures. Important is that labor was given a greater say than capital in the labor dispute-solving process. Both types of agencies were tripartite: representatives from labor, trade unions, and capital formed the enterprise mediation committee while representatives from government, trade unions, and general economic administrative organs formed the arbitration committee. Thus, trade union representatives were an integral part of these organizations and, in the case of enterprise mediation committees, even served as directors. In addition to being represented by trade unions, workers were given a direct voice in the enterprise mediation committee.⁴⁹

The Labor Law is China's most comprehensive national-level legislation on labor relations. In addition to all the main points covered in other labor regulations, the Labor Law also contains new provisions, particularly concerning women's interests. Chapter 7 stipulates that during their periods female employees cannot be asked to work high above the ground, under low temperatures, and in cold water, or to do jobs of high labor intensity (above grade three); female workers pregnant for seven months may not be asked to work overtime and on the night shift; and their maternity leave

(1993) is one example. This document consists of eleven chapters: (1) general provisions; (2) recruitment of workers; (3) labor contracts; (4) wages; (5) work-hours and vacation; (6) social insurance and benefits; (7) labor training; (8) labor safety and sanitation; (9) labor disputes; (10) labor supervision; and (11) legal responsibilities. For more information, see *Zhonghua renmin gongheguo difangxing fagui huibian 1992-1994*, 1118-22, 1162-67.

⁴⁹"Regulations on Handling Labor Disputes in Enterprises within the PRC" (1993), in *Zhonghua renmin gongheguo falu quanshu* (A complete book of statutes of the PRC) (Changchun: Jilin renmin chubanshe, 1993), 690-93.

should be not less than ninety days. Like all other labor regulations, the Labor Law almost puts one-sided stress on workers' rights/interests and employers' obligations.⁵⁰ The rationale for such a legislative orientation is that labor is too weak and vulnerable vis-à-vis capital and hence needs more protection. Within a year or so after the passing of the Labor Law, a set of more specific national-level labor regulations were drafted or promulgated to supplement the law and all were applicable to the FIEs.⁵¹

FIEs in China were thus subjected to two sets of labor legislation, one particularly related to labor-capital relations in these enterprises and the other generally concerned with both Chinese and foreign enterprises. This dual labor legislation applicable to FIEs reflected the overriding concern the Chinese regime had over labor-capital conflicts in these enterprises. The conflictual labor relations in FIEs created enormous pressures on the Chinese regime and forced it to seek the help of labor legislation. However, passing labor laws and regulations was one thing, effectively implementing them was another. A major obstacle to legal implementation lay in the lack of "legal consciousness" (法律意識 *falü yishi*) or "consciousness of the rule of law" (法治觀念 *fazhi guannian*) among the workers. Many were even unaware of the passing and existence of labor laws and regulations, let alone aware of the possibility to use them to protect their own interests. Coupled with such ignorance on labor's side was the unfamiliarity with or contempt for Chinese labor laws on the part of many foreign (especially East Asian) employers, which resulted in frequent breaches of labor laws in FIEs. To tackle these problems and ensure that labor legislation would not remain ignored, the Chinese regime adopted a variety of measures, including the promotion of legal education among workers and the expansion of the labor supervisory system. Legal education was aimed at "awakening" workers in regard to their rights and obligations as stipulated in labor legislation and enhancing their willingness and ability to resort to

⁵⁰"Labor Law of the PRC," in *Laodongfa quanshu*, 3-9.

⁵¹These supplements include "Regulations on Minimum Wages," "Regulations on Employee Work-Hours," "Labor Contracts Law," "Social Insurance Law," "Unemployment Insurance Law," "Safe Production Law," "Regulations on Employee Injuries during Work in Enterprises," and "Regulations on Labor Supervision." See *Zhongguo laodong nianjian* (Chinese labor yearbook) (1995-96), 155.

laws for self-protection. In cities such as Qingdao and Nanjing, city- and district-level trade unions often organized legal study, discussion, and advisory sessions among workers. Workers with relatively sound legal knowledge were encouraged to form voluntarily legal consultative groups designed to assist their fellow workers. These groups sometimes even represented workers in proceedings against employers.⁵² While primarily intended to equip workers with the legal weapons necessary for self-protection, legal education also had the effect of reminding workers of their obligation to abide by labor laws and refrain from any illegal activities.

If the legal education campaign focused on acquainting workers with labor legislation, the labor supervisory system was designed to check and redress breaches of labor legislation by employers. In Qingdao, this system was initially put into practice on a trial basis in 1993 and vigorously expanded since 1995. Under the labor supervisory system, local authorities set up labor supervisory agencies composed of full- and part-time personnel known as "labor supervisors"; the latter were dispatched regularly to enterprises to check whether labor laws and regulations were followed by employers. These supervisors would impose sanctions such as fines on those law-violating employers and demand the redress of the violations within a certain period of time. Sometimes, labor supervisors even go to check up on an enterprise based on letters of accusation from workers. It seems that foreign employers have been a primary target of the labor supervisory system. In Qingdao in 1996, for example, 90 percent of the FIEs and 80 percent of Chinese private enterprises were subjected to checking by labor supervisors, while only 30 percent of the SOEs and collective-owned enterprises were checked.⁵³

Labor Unionization

Although FIEs made their appearance in China in the early 1980s, labor unionization in these enterprises did not get under way until a decade later. In the 1980s, FIEs were by and large exempt from the intrusion of

⁵²Interviews at Qingdao General Trade Union in 1997; *Gongren ribao*, August 22, 1995.

⁵³Interviews at Qingdao General Trade Union in 1997.

trade unions due to opposition from the foreign employers, lack of Chinese official commitment, and ignorance on the part of Chinese workers. Foreign employers were inclined to view Chinese trade unions as the same as the unions in their homelands, namely as adversaries of capital, and hence did not desire to see unions emerge and exist in their enterprises. As a precaution, some foreign employers took the initiative to set up such apolitical organizations as recreation or welfare societies among workers in order to divert worker attention from issues relating to trade unions. Others uprightly objected to any attempt to form unions in their enterprises. Once detecting signs of union activities in their enterprises, foreign employers would demand Chinese local authorities intervene or the FIE would suspend their investment project(s). Initially, foreign employers seem to have succeeded in such efforts primarily due to the cooperation from the local authorities in China. Putting one-sided emphasis on creating favorable conditions for the operation of foreign businesses, local officials responded sympathetically to foreign employers by discouraging the establishment of trade unions.

Labor unionization in FIEs rapidly gained in strength from the early and particularly mid-1990s onward. In this process of labor unionization, the Chinese state authorities, both central and local, played a key role. The government came to realize that the presence of certain Chinese organizations in FIEs was necessary to ameliorate the strained labor-capital relations, and that the most appropriate form of organization should be trade unions. If properly guided, trade unions would help improve rather than disrupt the investment environment. Moreover, union formation was an internationally-accepted practice, which foreign employers would have no legitimate reasons to reject. Thus, in October of 1994, the CCP Central Committee and the State Council approved the circulation of a report prepared by the All-China Federation of Trade Unions (ACFTU), urging local authorities to place on their agenda the building of trade unions in FIEs.

Later in that year, the ACFTU and five ministries under the State Council jointly issued a notice on speeding up union formation in the FIEs.⁵⁴ The

⁵⁴*Gongren ribao*, October 21 and November 2, 1994; April 4, 1996.

push for unionization by the center found parallels at the provincial and municipal levels. For example, the People's Congress of Shandong Province passed the "Regulations on Trade Unions in Foreign-Invested Enterprises in Shandong Province" on April 17, 1996. The regulations confirmed the workers' right to organize trade unions in FIEs and systematically outlined trade unions' rights and functions.⁵⁵ Henan and Jiangsu provincial authorities promulgated similar regulations. In the case of Henan, the regulations required that trade unions must be established in FIEs within one year of the start of enterprise operation.⁵⁶ In 1993, the Qingdao City Party Committee stipulated in a document that trade unions be set up and begin to function at the same time that the FIEs go into operation. Such policies worked to facilitate labor unionization in FIEs, particularly by overcoming the opposition from foreign employers.⁵⁷

Labor unionization in FIEs was not only facilitated by state policies, but also by direct state participation in the union-organizing process. The Qingdao City Party Committee established a leading group consisting of members from the committee's Organization Department, the city's General Trade Union, and the Labor Affairs Bureau and Foreign Economic Commission of the city government. The General Trade Union particularly designed a responsibility system under which district- and township-level unions were required to organize a certain number of unions each year in FIEs.⁵⁸

Under the vigorous push of the state, the pace of labor unionization in the FIEs quickened. In Qingdao, trade unions in the FIEs numbered only

⁵⁵ *Dazhong ribao*, May 13, 1996.

⁵⁶ *Gongren ribao*, October 13, 1994.

⁵⁷ Interviews with union leaders in Qingdao in July and August of 1994.

⁵⁸ The typical way of setting up a trade union in an FIE involves the following steps. The city or urban district-level party committees or the city's general trade union dispatch a cadre to an enterprise. The cadre first explains China's trade union policies to the foreign employer and seeks the latter's permission to organize a trade union in the enterprise. Then the cadre calls a meeting of Chinese workers, persuading them to form or join a trade union. Lastly, the cadre presides over the election of president and vice-president of the trade union and of union committee members. Some workers mistook trade unions as an instrument of employers rather than as labor organizations. Others worried that they would have to pay union fees and that union activities would waste their work time and therefore reduce their income. Only with the passage of time did workers gradually develop a positive attitude toward unions. Sources: Interviews with union leaders in Qingdao in 1997.

101 in 1993 but had increased to 1,076 (involving more than half of the FIEs) with a membership of 152,000 by August of 1997.⁵⁹ Other coastal regions also speeded up the formation of trade unions in FIEs. In Jiangsu, 2,025 such trade unions were set up in 1993 (covering 90 percent of the province's FIEs). In Quanzhou of Fujian province, trade unions numbered 207 at the end of 1994 and increased to 1,486 by the end of 1995, operating in 92 percent of all FIEs.⁶⁰

The primary function of trade unions in the FIEs was to protect Chinese workers' interests and stabilize relations between workers and foreign employers. Union leaders in Qingdao particularly stressed the protection of workers' "four basic rights" of fair pay (a wage rate 20 percent higher than that in the SOEs of the same industry, overtime pay, and bonuses), rest (breaks and days off), welfare (old-age pension and unemployment insurance), and labor protection. Trade unions were empowered to protect these rights through such systems as collective bargaining, the collective contract system, and attendance at meetings of the board of directors of the enterprise. Under the collective bargaining system, union leaders (in the capacity of workers' representatives) met with managerial personnel at regular intervals, expressing worker concerns and raising suggestions over how to redress violations of worker interests and improve labor relations. Essentially a component part of this system, the collective contract system required that the trade union negotiate on behalf of all workers in a foreign firm with the management and sign a collective contract on the rights and obligations of both workers and the employer. The contract would go into effect after being approved by a general meeting of workers and then registered with the local authorities. The city of Qingdao began to experiment with this system in six FIEs in 1994 and decided to expand the experiment in 1996. By July 30, 1997, collective contracts were signed in 44 percent of the city's FIEs. The collective contract system was binding on both workers and employers, but was found particularly useful in curbing the arbitrariness on the part of employers. In addition, trade union leaders had

⁵⁹ Interviews with union leaders in Qingdao in 1997.

⁶⁰ *Gongren ribao*, November 14, 1994; March 21, 1996.

the right to attend meetings of the board of directors of the enterprise and could thus gain access to information on the enterprise's operation and gain another opportunity to articulate the interests of the workers.⁶¹

However, trade unions were by no means biased against foreign employers or management. Union leaders in Qingdao conceived of their duty as protecting the "lawful rights and interests of both labor and capital." Defending the interests of the workers was only half of their job. The other half was to act as a partner of management, cooperating particularly in helping foreign employers understand local cultures, explaining enterprises' labor policies to workers, maintaining labor discipline, modifying unreasonable demands from certain workers, and tackling thorny and exhausting labor disputes, especially strikes. Trade unions could also provide employers with suggestions or information on how to enhance productivity and help solve difficulties faced by the enterprises. In settling labor disputes, trade unions worked as a mediator and attempted to reconcile labor and management and to prevent some minor disputes from evolving into such serious labor-management confrontation as strikes. The work of trade unions as mediators in the FIEs proved to be constructive. Most major labor-management disputes occurred in those enterprises without trade unions.⁶² The role of trade unions in safeguarding labor's interests and mediating labor disputes in the FIEs also was acknowledged by workers.⁶³

However, not all trade unions in the FIEs were able to conduct their work effectively and hence to fulfill their functions or duties as either worker representatives or mediators between labor and capital. In fact, many trade unions were subject to various constraints and thus remained inactive. One major constraint was the lower quality or incompetence of union leadership. Some union presidents and vice-presidents even lacked

⁶¹Interviews with union leaders in Qingdao in 1997.

⁶²Ibid. Also see Ding Xiuyin and Sun Xizhong, "The Trade Union Work in Foreign-Invested Enterprises in Yantai," *Gongren ribao*, May 19, 1995; Zeng, Tian, and Ding, "Report on the Situation of Employees' Rights and Interests in Some Foreign-Invested Enterprises" (Part 3); and Sheng Mingfu et al., "Inspirations from Trade Unions in the Shekou Industrial Zone," *Gongren ribao*, November 30, 1994; December 1, 5, 6, 7, and 8, 1994.

⁶³For the findings of a survey report, see *Zhongguo gonghui tongji nianjian 1995-96* (Chinese trade unions statistical yearbook) (Beijing: Zhongguo tongji chubanshe, 1997), 409-19.

the basic knowledge and expertise regarding union work and were inept at bargaining with employers on the workers' behalf. Sometimes, union leaders were outmaneuvered by management. The effectiveness of union leaders was further compromised by appeals to their personal interests from management. Enterprise-level union leaders were first of all employees of enterprises and only worked for unions concurrently or part-time. This placed union leaders in a dilemma. As employees, they had to succumb to the authority of their employers; yet as union leaders, they were obligated to speak for workers, an action which was usually against employer wishes or interests and could thus easily incur revenge, including dismissal. On the other hand, union leaders would risk alienating workers and even being blamed by the latter as siding with employers if they shied away from expressing concern over worker welfare. On balance, union leaders seemed more worried about potential retaliation by employers, especially about being fired.⁶⁴

To combat such constraints on trade unions in the FIEs, the city authorities of Qingdao adopted a series of measures. First, the authorities organized regular study sessions aimed at training or educating enterprise-level union leaders particularly on labor laws and policies as well as techniques to handle labor-capital relations. Second, the local authorities attempted to professionalize enterprise-level union leadership. In 1994, the Qingdao City Party Committee decided that in wholly foreign-owned firms with a staff of more than two hundred, trade union leaders should be full-time, chosen by the relevant Chinese authorities (party committees or city/district-level trade unions), and paid by the Chinese state rather than by foreign employers. By August of 1997, about 280 full-time union leaders had been appointed and placed in wholly foreign-owned enterprises. It was expected that union leaders of this type, less restrained by foreign employers and with the full backing of local authorities, would be more dynamic in conducting union activities and particularly in voicing worker concerns. As a further step, the city authorities founded the Federation of Trade Unions in Foreign-Invested Enterprises in June 1997 and charged it with the task

⁶⁴Some union leaders complained, "We are to protect workers' rights and interests, but who protects ours?" Sources: Interviews with union leaders in Qingdao in 1997.

of coordinating union activities in the city's FIEs. One of the Federation's specific duties was to protect the "lawful rights and interests" of enterprise-level union leaders and to help them solve problems beyond their capability.⁶⁵

Trade unions in the FIEs enjoyed a degree of autonomy higher than their counterparts in the SOEs. Truly, these trade unions were formed under the aegis of the Chinese state. This did not necessarily mean, however, that unions functioned merely as the state's agency or instrument. The state, preoccupied with attracting foreign investment, was initially ready to take a *laissez-faire* attitude toward the FIEs and their relations with workers. Later on, the state intervened, as indicated above, primarily in response to the increasing tensions and conflicts between labor and management in the FIEs and, particularly, to the needs of workers for protection and of foreign businesspeople for a stable investment environment. Chinese workers were largely first-generation factory workers with rural backgrounds and had little knowledge about how to organize and use formal and legitimate organizations such as trade unions to defend their interests. In this regard, workers seem to need assistance from the state. Foreign employers, for their part, required some mechanism to deal with workers and deemed trade unions as more acceptable than party organizations. Therefore, despite the state's sponsorship, trade unions actually functioned in the interests of both workers and foreign employers. Having secured a stable source of revenues in efficient FIEs less disturbed by labor unrest, the state also was a winner.

The state's intervention primarily took the form of sending cadres to help establish trade unions in the FIEs and help appoint trade union leaders. In most cases, however, the state tended to allow workers to choose trade union leaders through elections. In Qingdao, the majority of enterprise-level union leaders were chosen via election. In the Shekou Industrial Zone of Shenzhen, the direct election system was first introduced in 1987 and extended, by 1993, to three hundred FIEs (accounting for 99.8 percent of all such enterprises). During the election, candidates had to reply to inquiries

⁶⁵Ibid.

from workers. Another way of choosing union leaders was "publicly inviting applications" based on examinations. To ensure their effectiveness, union leaders were subjected to annual evaluations by workers.⁶⁶

The relative autonomous status of trade unions in the FIEs can also be understood in terms of the weak presence of party organizations in these enterprises. Due to strong resistance from foreign employers, local party authorities found penetrating the FIEs quite difficult. Some foreign employers were so suspicious of the party's presence that they did not hesitate to fire workers with leading party status such as secretaries or members of party branch committees. Such party organizations, if in existence, had to go underground and to conduct their activities indirectly. Even ordinary party members were forced to conceal their membership. Only lately (roughly since late 1995) did foreign employers begin to tolerate the presence of party organizations within their enterprises, discovering that the "communists"—far from being subversive—were actually cooperative.⁶⁷ Compared to their counterparts in the SOEs, party organizations in the FIEs were less intrusive and domineering, primarily because they did not have the necessary resources. These organizations had to come to terms with foreign employers, who were the real masters of enterprises, rather than vice versa. To workers, the authority of party branch committees was negligible because the workers directly relied on foreign employers for their livelihood and trade unions for protection, not the party. Therefore, the presence of party organizations in the FIEs was more symbolic than substantial. Such a weak party presence, in turn, cannot but mean more free space for trade unions.

Conclusion

Based on the above analyses, the following conclusions can be drawn. The presence of foreign-invested enterprises has changed the

⁶⁶Ibid. Also see *Gongren ribao*, December 1, 1994.

⁶⁷Interviews with union leaders in Qingdao in 1997; *Gongren ribao*, May 23 and July 21, 1995.

landscape of Chinese industrial relations by introducing a new and typical wage labor relationship. This relationship has been characterized by tension and conflict between labor and management. Keenly concerned with maintaining the stability of production in the FIEs, the Chinese desired to help improve labor-capital relations in these enterprises. Yet the state became aware that the traditional way of handling labor issues by direct party-state intervention or control was not applicable in the FIEs. Foreign employers would not accept such intervention in the first place, and any abrupt intrusion of state power into the FIEs would undermine foreign investor confidence in doing business in China and hence jeopardize China's economic growth. Under such circumstances, the Chinese state was compelled to establish and use new institutions that were compatible with international conventions and acceptable to foreign employers. As defined in this study, the new institutions included labor rules (laws and regulations) and trade unions. In short, the presence of the FIEs has spurred the Chinese regime to pursue labor legislation and labor unionization.

Important to note is that the process of labor legislation and labor unionization in post-Mao China was by and large indigenous. The process originated from the Chinese regime's need to build a market economic system under which the SOEs were to be transformed into independent economic entities and the government could relinquish direct management over these enterprises. Changes in this direction began in the late 1970s and early 1980s. With the receding of state power, enterprises gained more autonomy in operation. Meantime, labor relations in these enterprises underwent a transition from a labor-state relationship to a contract between labor and management, both as relatively independent entities. In other words, labor relationship gradually became marketized and took on more of the traits of the wage labor relationship that prevails under the capitalist system. These changes meant that it was no longer desirable or possible for the state to directly wield its power over labor issues within the enterprise, thus requiring new mechanisms be designed for coping with such issues. The new mechanisms that would be in agreement with the regime's general orientation of building a market economy could be none other than such institutions as labor laws and trade unions. Here lies the fundamental rationale for the state efforts of promoting labor legislation and unioniza-

tion. These remarks by no means contradict the arguments made in this study about the critical influence of the FIEs on the process of labor legislation and unionization. My point is that this process sprang from the very logic of China's economic reforms, and specifically from changes in labor relations within the SOEs; yet this process was greatly accelerated or given new impetus by the presence of the FIEs. The strained relationship between foreign employers and Chinese workers gave rise to a sense of urgency among Chinese policymakers to quicken steps in formulating labor laws and building trade unions.

This study has placed considerable emphasis on the efforts of the Chinese state in developing new labor institutions (labor laws and trade unions). Indeed, the state was indispensable in this regard. Undoubtedly, labor legislation should be within the jurisdiction of state as in any other country; China desperately needed such legislation during the period under discussion. Far more controversial was the state's role in union building. In theory and from the viewpoint of Western developed countries, the forming of trade unions should be the sole privilege or right of the working people and beyond state power. In the Chinese context (low level of industrialization, lack of a sound legal system, immaturity of many industrial workers, etc.), however, the situation seemed rather complex. Workers, particularly those in the FIEs, faced a variety of constraints such as hostility to unionism from powerful employers, worker ignorance of the necessity of trade unions, and union leader incompetence. Such constraints could not be overcome in the short run without state support. In addition, workers and union leaders, especially those at the factory level, needed to be educated to behave as law-abiding and responsible citizens who would have a good understanding of the balance between rights and obligations and be willing to give proper consideration to the interests of the general public while campaigning for their own rights. In this respect, the state equally had a positive role to play.

This emphasis on the state role is based on the assumption that state power is not necessarily hostile to trade unionism and that state participation in union building would not necessarily lead to direct state control of unions. The Chinese regime's primary concern in the realm of labor relations was to reduce labor disputes to a minimum and to increase labor-

capital reconciliation or harmony to a maximum. One best way to accomplish these goals was to promote some kind of power-sharing between labor and capital and self-management in the enterprise. Given that the labor-capital power balance generally tilted in favor of capital and that most labor disputes were caused by the abuse of power on the part of the employer, the regime deemed it necessary to strengthen workers' power within the enterprise by encouraging workers to organize unions that could deal with management on an equal footing. On the other hand, the Chinese regime preferred allowing unions some autonomy. Direct state control would run counter to the regime's reform goal of building a market economic system in general and would pose a threat to the autonomy of enterprises in particular. Direct control would also force the regime to directly bear the brunt of labor unrest. The alternative to direct state control was self-management, which meant that relatively autonomous trade unions and employers solve labor disputes by themselves according to law. This was what the Chinese state attempted to achieve by founding or expanding new labor institutions including trade unions. With the emerging of such self-management, the necessity for direct state intervention with regard to labor relations at the enterprise level naturally diminished. What remains for the state to do is, first, to further develop or improve new labor institutions, especially to strengthen legal infrastructure, and ensure their effective functioning. Second, the state can play the role of referee in the contest between labor and capital and see that the two sides follow the rules.

