

MADE IN CHINA



A Quarterly on Chinese Labour, Civil Society, and Rights

ISSUE 3, 2016



WHAT WORKING
CLASS IN CHINA?
William Hurst

CHINESE WORKERS
AND THE LEGAL
SYSTEM
Aaron Halegua

FOCUS ON CHINESE
LABOUR AND
INVESTMENT IN
AFRICA

PARADISE UNDER
CONSTRUCTION
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WHY MADE IN CHINA?

In the last few years, the Chinese labour movement has witnessed significant developments, not only with the occurrence of some of the largest strikes in decades but also the emergence of grave challenges for workers and activists. Made in China springs from the belief that this calls for more serious analysis from both scholars and practitioners, as well for a critical engagement with a broader international audience interested in forging international solidarity.

HEART OF DARKNESS?

Questioning Chinese Labour and Investment in Africa

We are pleased to announce the third issue of *Made in China*. As usual, we open with a series of **Briefs** where we provide an overview of notable stories that occurred over the past three months. Undoubtedly the most important development is the conviction, but suspended sentences, of labour activists Zeng Feiyang, Zhu Xiaomei, and Tang Huanxing, while a fourth activist, Meng Han, is still awaiting trial. In the midst of an oppressive political climate, a suspended sentence comes as a relief to Chinese labour NGOs, which are already struggling to survive due to government repression and increasing financial constraints.

In the China Columns, we present two essays. In **The Chinese Working Class: Made, Unmade, in Itself, for Itself, or None of the Above?**, William Hurst invites our readers to consider the fractured and segmented history of the Chinese working class, as well as its rapidly homogenising present, and emphasises the need to refrain from too-facile comparisons with other foreign experiences. In **China's Workers and the Legal System: Bridging the Gap in Representation**, Aaron Halegua delves into the challenges that Chinese workers face when they seek to enforce their rights through the legal system.

We dedicate the core of this issue to a special section on Chinese labour and investment in Africa, offering a series of thought-provoking pieces with a focus on two countries—Zambia and Ghana—where conflicts related to Chinese capital and labour inflows have recently emerged. In **Fighting the Race to the Bottom: Regulating Chinese Investment in Zambian Mines**, Mukete Beyongo Dynamic examines the claim that Chinese investment

in copper mines in Zambia have led to a 'race to the bottom' in labour standards. In **There and Back Again: Conceptualising the Chinese Gold Rush in Ghana**, Nicholas Loubere and Gordon Crawford investigate the media discourse and popular depiction of Chinese miners in Ghana as stealing resources from marginal sectors of local society. Finally, in **A Chinese Empire in the Making? Questioning Myths from the Agri-Food Sector in Ghana**, Jixia Lu draws from her fieldwork in the country's agricultural sector to challenge the dominant narratives of China's presence in Africa.

In the Window on Asia section, you will find an article by Tom Barnes on possibly the largest strike in Indian history, which took place in September. In this issue, we also launch a new cultural section with Christian Sorace's **Paradise under Construction**, an essay on Zhao Liang's *Behemoth*, a recent documentary on the environmental and social tragedy behind China's economic miracle. We conclude with the Academic Watch, which introduces the edited volume *Legal Reforms and Deprivation of Liberty in Contemporary China* through a conversation with co-editor Elisa Nesossi.

This journal is hosted by *Chinoiresie.info*. In the final pages of this issue, you can find some highlights from the website. If you would like to contribute a piece of writing, please **contact us**; to receive this journal regularly by email, please **subscribe** to our mailing list. We welcome any feedback and we hope you will consider sharing this journal with your friends and colleagues.

The Editors,
Ivan Franceschini, Kevin Lin,
and Nicholas Loubere

JUL/SEP 2016

Walmart Workers on Strike

In July, the struggle of Walmart workers in China entered a new stage. Early that month, Walmart workers at retail stores in Nanchang, Chengdu, and Harbin staged wildcat strikes against the company's new working-hour system (see Anita Chan in *Made in China 2/2016*). Dozens of workers from each of these stores participated in the strikes, holding signs, and chanting slogans inside the Walmart premises. The strikes were coordinated via workers' online networks facilitated by the Walmart Chinese Workers Association, an informal group led by former employees of the company. *The Financial Times* reports that there were forty such WeChat groups with about twenty thousand members, roughly a fifth of Walmart's workforce in China. The All-China Federation of Trade Unions (ACFTU) neither organised nor intervened in the strikes. Workers ended their protest only after management promised a response, but so far the company is still pushing for the new working hour system to be adopted in its retail stores. These strikes represent a rare instance of cross-regional labour organisation leading to work stoppages. Since July, individual Walmart workers have taken the company to arbitration on issues related to the new working-hour system.

(Sources: **China Labor Bulletin, The Financial Times, Xinjing Bao**)

Second Anniversary of Zhou Jianrong's Suicide

On 17 July, Chinese labour activists commemorated the second anniversary of the death of Zhou Jianrong, a 49-year-old worker at a Hong Kong-owned footwear factory in Shenzhen. Two years ago, Zhou committed suicide by jumping out of her dormitory after being fired for her role in organising a strike. Since May 2014, Zhou and her co-workers had been struggling with the management over the issue of compensation following the company's ownership restructuring. They were concerned they would lose out. In the protracted struggle, more than one hundred workers were fired by management. On 16 July, the day before the suicide, the company had fired another sixteen activist workers, including Zhou. In Shenzhen, it would have been extremely difficult for female workers over the age of forty to find any factory work, and the loss of her job deeply distressed Zhou. Two years later, her death is not forgotten. A candlelight vigil was held in the office of a labour NGO in Guangzhou with more than a dozen former worker representatives and activists from Zhou's factory. They proposed to mark 17 July as the 'Day of Suffering of Chinese Workers.'

(Sources: **Caixin, Radio Free Asia**)



Mounting Concerns about the Impact of the Economic Slowdown on Wage Growth

In mid-July, China's National Bureau of Statistics issued a report warning that sustaining economic and wage growth will be a challenge in the second half of 2016. In particular, the report cited industrial overcapacity in the state-owned coal and steel sectors, and declining agricultural prices as contributing factors. In the first half of this year, inflation-adjusted disposable household income rose 6.5 percent, barely keeping pace with economic growth at 6.7 percent. However, in anticipation of slowing economic growth, the Chinese government has taken measures to moderate wage growth. The deputy director of China's Bureau of Social Security and Human Resources, Xin Changxing, maintains that if Chinese companies are to remain competitive, the frequency and scale of wage adjustment should be slowed. In the first half of 2016, only six regions in China increased their local minimum wage, compared to thirteen regions in 2015. The average minimum wage increase is also slower: only 11 percent compared to 13.5 percent in the previous year. Mirroring the minimum wage adjustment, local governments' annual guidelines for workplace salaries similarly propose slower wage growth. In addition, in August, the powerful National Development and Reform Commission released a document that described the relatively large amounts provided by the social insurance scheme as undermining the competitiveness of China's manufacturing industry. This comes after sixteen provinces slightly reduced the percentage of social insurance contributions in the first half of 2016 in an effort to drive down labour costs.

(Sources: **Caixin**, **Jinghua Shibao**, **The South China Morning Post**, **Zhongguo Jingji Zhoukan**, **21 Shiji Jingji Baodao**)



PC: SCMP

Wukan Sieged and Conquered

On 19 June, hundreds of residents in the southern fishing village of Wukan, Guangdong province, returned to the street five years after protests had flared up against official corruption and land grabbing. The protesting villagers demanded the release of Village Chief Lin Zuluan, who had been detained on 18 June for his persistent advocacy for land rights. Lin had been elected as chief of the village committee and Party secretary after he and others led a massive village protest in 2011 that secured a concession to hold democratic village elections. The land issue at the heart of the protest, however, had become increasingly difficult to resolve. Frustrated, Lin attempted to mobilise villagers to collectively petition the government, but he was detained shortly afterwards. Following the detention of his grandson and having been denied access to his lawyers, Lin confessed to bribery charges. After his confession was taped and broadcasted on state television, he was sentenced to thirty-seven months in prison. For almost three months, villagers held daily public demonstrations. On 13 September, riot police broke into the village to detain thirteen villagers accused of inciting a mob and disrupting public order. The police were met with resistance by villagers, and with many injured; however, since this time the protest has subsided.

(Sources: **The Initium**, **The New York Times**, **BBC**)



PC: YOUTUBE

Flurry of Legislative Activity on Civil Society Organisations

After the passing of the Charity Law and the highly controversial Foreign NGOs Law earlier this year (see Ivan Franceschini and Elisa Nesossi in *Made in China 2/2016*), over the summer, the Chinese authorities have continued to move forward with the revision of legislation related to the management of civil society organisations. Since June, the Ministry of Civil Affairs has issued draft registration and management regulations for public comment for all three types of social organisations legally recognised in China: foundations (*jijinhui*), social service organisations (*shehui fuwu jigou*), and social association (*shehui tuanti*). As long-time observer of Chinese civil society Shawn Shieh has pointed out in his blog *NGOs in China*, ‘these three sets of regulations form the heart of the regulatory system governing the registration and management of social organisations—China’s equivalent of not-for-profit organisations.’ Complementary administrative regulations in either draft, provisional, or final form have also been concurrently released. The rationale behind the new legislation is spelled out in an ‘Opinion’ jointly released by the General Office of the Communist Party’s Central Committee and the General Office of the State Council on 21 August. According to this document, the overall goal of the reform is to see that by 2020 China will have achieved ‘the complete and sound building of a Chinese-style social organisation management system that features unified registration, with each undertaking their own duties, coordination and cooperation, responsibilities according to level, and oversight on the basis of the law.’ In the new legal and political environment, ‘government and social organisations [will be] separate, powers and obligations [will be] clear, and self-regulation [will be] practiced in line with the law,’ but at the same time ‘Party organisations [will be] playing a more obvious role.’

(Sources: **China Law Translate 1**, **China Law Translate 2**, **NGOs in China**, **Central Government Website**)

Panyu Labour Activists Sentenced, Lu Yuyu Beaten in Jail

On 26 September, the Panyu district court in Guangzhou held separate hearings for labour activists Zeng Feiyang, Zhu Xiaomei, and Tang Huanxing. Zeng was sentenced to three years imprisonment, suspended for four years, for ‘gathering a crowd to disturb social order’, while Zhu and Tang received prison sentences of eighteen months, suspended for two years, for the same charge. The case of Meng Han, another activist who refused to cooperate with the judicial authorities, was sent back to the police for further investigation (he already had a previous conviction back in 2014 for organising hospital security guards). All activists worked for the Panyu Migrant Workers Centre, an outspoken labour NGO based in Guangzhou that has, over the past few years, distinguished itself for taking on several high profile collective cases. After being arrested in a coordinated crackdown against labour activists in early December 2015, Zeng and his colleagues were formally accused of ‘gathering a crowd to disturb social order.’ While Zhu and Tang were released on bail after a few weeks, Zeng and Meng remained under detention without trial for almost ten months. Worrying news has also emerged about blogger Lu Yuyu, chronicler of protests in China, and his girlfriend and collaborator Li Tingyu who have been detained since 15 June. On 31 August, Lu met his lawyer at the Dali Bai Autonomous Prefecture Detention Centre, and told him that he had been beaten by officers and was suffering from sleep deprivation after having been exposed to strong light at night. Amnesty International has called for urgent action in support of Lu and Li.

(Sources: **Amnesty International**, **China Labor Bulletin**, **The New York Times**)





CHINA COLUMNS

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The Chinese Working Class

Made, Unmade, in Itself, for Itself, or
None of the Above?

William Hurst

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Chinese Workers and the Legal System

Bridging the Gap in Representation

Aaron Halegua

The Chinese Working Class:

Made, Unmade, in Itself, for Itself, or None of the Above?

William Hurst

China's working class has undergone several rounds of momentous and wrenching change over the past hundred years. But what has this all meant for interest intermediation or political representation for labour in China? In order to address these questions, we must accept and understand the fractured and segmented history of the Chinese working class, as well as its rapidly homogenising present. We must also refrain from too-facile comparisons with European or other post-socialist or developing countries.

China's working class dwarfs those of all other countries. It has undergone several rounds of momentous and wrenching change over the past hundred years—from early industrialisation and urban growth, through the Japanese invasion and the Second World War, to the 1949 Chinese Communist Party (CCP) takeover and Maoist Era mobilisation, the advent of reform and 1980s growth, globalisation since the mid-1990s, and adjusting to a 'new normal' in the aftermath of the world financial crisis of 2008. But what has this all meant for interest intermediation or political representation for labour in China?

In order to address these questions, we must accept and understand the fractured and segmented history of the Chinese working class, as well as its rapidly homogenising present. We must also refrain from too-facile comparisons with European or other post-socialist or developing countries, if we are to make the most accurate possible predictions about what might emerge in terms of class compromise or incorporation, and how far and in what directions any such model might travel.

From Segmentation to Homogenisation

Conventional wisdom has always held the Chinese working class to be among the most profoundly and multiply segmented in the world. Divided in the pre-1949 period by cleavages of native place, skill

Zhao Jiancheng,
Mining Brightness: The Real Story of Migrant Workers.



level, and urban versus rural status—as well as region—the proletariat began life as a kind of compound organism. During the Maoist Era, the cellular boundaries of the work unit (*danwei*) system and the relatively impregnable ramparts dividing city and countryside that the household registration (*hukou*) system provided, helped reify and intensify this segmentation. With more than a touch of irony, the world's largest workers' state managed to eviscerate its working class as a unified political and social actor. Following the advent of reform, changes have been more complex.



Zhao Jiancheng.
Mining Brightness: The Real Story of Migrant Workers.

During the 1980s, workers began to stream into cities from rural China, at first on temporary assignments, but gradually as longer-term migrants and residents. At the same time, new industrial sectors sprung up, notably in small-scale manufacturing and services, as well as newly resurgent rural enterprises. By the mid-1990s, when monetary reform opened the Chinese economy in earnest to globalisation, there were at least three distinct and important sectors employing significant numbers of workers outside rural areas (where local enterprises had already begun to wane): old-line state-owned enterprises (SOEs), export-oriented manufacturers

(both domestic and foreign-owned) employing mainly rural migrants, and smaller self-proprietorships and local firms concentrated in services and some smaller manufactures. Each of these sectors was to experience its own form of crisis in turn.

As early as the 1980s, but especially in the years after 1997, the state sector lost roughly **half of its workforce** to attrition, early retirements, lay-offs, and firm bankruptcy. Just as SOEs were beginning to stabilise and new and improved social welfare and assistance programmes for the unemployed were being rolled out in a meaningful way, the 2008 world financial crisis hit, causing Chinese exports to plunge sharply. Export processing manufacturers laid off as many as thirty million migrant workers in a little over six months, precipitating massive social and economic disruption across the countryside. Much of this sector has yet to fully recover as of late 2016. Other countries in South or Southeast Asia or in Africa are proving cheaper destinations for off-shoring from advanced industrial economies, or even from China itself. Labour-intensive manufacturing on the scale that appeared so ascendant in the late 1990s and early 2000s may never revive. Throughout, depressed incomes and lack of job security have precluded the rising consumption necessary to boost services to a higher level.

As I have outlined **elsewhere**, what had long been one of the world's most fragmented working classes—in terms of how it came into being, the conditions of work, forms of incorporation into the polity, etc.—has since 2008 become increasingly homogenised. While SOE workers enjoyed rising fortunes from the government's massive injection of capital aimed at forestalling recession, migrants' prospects declined. As state sector employment has become much less secure and benefits have continued to erode, basic social protections and job security for those in the private sector (including

migrants) have improved markedly.

Though their historical origins and ‘conditions of proletarianisation’ may remain strikingly different, the various segments of China’s working class have come to share rhythms of working life, similar places on the social ladder, precarious economic livelihoods, and political mobilisation in the face of repression to a remarkable degree. On the one hand, we may see this change as a decline for a once-vaunted leading element in Chinese society. But, on the other, we must recognise recent shifts as having produced a far more unified and potentially assertive Chinese proletariat than has existed for at least the last several decades.

Quo Vadis, Chinese Proletariat?

A simplistic knee-jerk answer to this question might be, ‘to be crucified again’. But such an answer would assume that China’s continuing economic development and social change must rely upon maintenance of working classes repression if the CCP is to achieve political stability. It also assumes that the fragmentation and quiescence that has characterised much of the Chinese working class in recent years will endure. Recent structural shifts undermine both assumptions, and suggest that the road ahead may well be paved with greater mobilisation and potentially even seismic changes in the forms and functions of workers’ interest representation across the Chinese economy.

Indeed, it may well be that the only way to cement the sort of changes Xi Jinping and the rest of the Chinese political leadership have called for—especially a bold move into higher value-added industries and toward a greater reliance on consumption, as opposed to exports, for boosting GDP—would be for China finally to break out of its ‘**insurgency trap**’ in labour relations. As Eli Friedman

has explained, the lack of genuine representation by independent unions or other vehicles for workers’ interest intermediation has left China vulnerable to an **incomplete double-movement**. Unable to provide institutionalisation and genuine political incorporation to workers left socially dislocated by the advance of the market, the CCP and the Chinese state are forced to contend with workers’ ongoing mobilisation and increasingly radical activism. In such a context, progress up the product cycle or toward a more consumption-based economy appears unlikely.

This places Chinese workers in a potentially powerful yet uncertain position and leaves the state with unpalatable and risky response options. Workers can choose to continue with disunited activism in hopes of at least maintaining stasis or perhaps advancing some new social protections. They can work proactively with the state and Party to forge a new role for official unions or, more likely, develop some new template for institutionalisation of class compromise and incorporation of workers into the polity. Or they can press forward with bold unified mobilisation in support of independent unions or other vehicles of representation. The state and Party, in turn, can choose to promote independent unions (which appears incompatible with basic CCP principles and thus ideologically anathema), to remain trapped in a cycle of repression and accommodation in response to workers’ fragmented mobilisation (which risks the rise of a united and destabilising labour movement, repression of which could prove unwieldy at best), or develop a proactive strategy for some alternative form of working class incorporation.

At present, I am optimistic that workers and their state interlocutors can avoid protracted or broad-based class conflict that could result from unified activism or too ham-fisted generalised repression. I even see some reason

to hope for an innovative long-term solution, from which a new formula of institutionalisation and incorporation may yet emerge. But I fear that the short term is likely to see continuing confrontation on the shop floor and persistent stalemate at the macro-level. Such an unhappy equilibrium of slow-burn conflict may well take hold even more deeply than it already has, if no way out can be found within the next several years.

Implications for Other Aspects of Chinese Politics and for Workers Elsewhere

What happens in China has obvious and direct effects on workers the world over. China is also, on its own terms, a critical case, worthy of study as representative of a number of types, in addition to its intrinsic importance. Yet, few have examined the implications of Chinese labour politics or potential class compromise for the rest of the world or even outlined how their unique contours might be seen in a comparative light. To do this well, we must first dispense with any assumption that in China one might be able to discern any reflection of Europe's past.

Indeed, traditional comparative analysis of labour politics has tended to accept axiomatically certain truisms— notably that the experiences of working class formation, mobilisation, and incorporation throughout the world have been broadly similar to those of Western European countries between roughly 1848 and 1945, even if they have diverged in important respects. If we, however, allow for a sort of Lobachevskian geometry of comparison, suppositions of similarity in the absence of strict congruence fall away for the analysis of labour politics as surely and quickly as they do for the study of triangles. China's future may thus not resemble anything Polanyi could

have predicted or that might be read from the annals of European history. It may also provide new insights that could travel further afield, but not necessarily to the countries that may seem obvious comparators.

Specifically, if a genuinely new and innovative method of institutionalisation or accommodation of working class mobilisation can be found that does not involve the creation of independent unions or mechanisms of interest intermediation, this would be innovation indeed. It would represent not just a true form of 'responsive authoritarianism', but a fundamentally different kind of corporatism or class compromise than has been seen anywhere before. Like those other modes of incorporation that sprang forth during the first half of the twentieth century, it may also provide an exemplar for other countries well beyond the set of large developing or post-socialist countries we might be tempted to think of. A first step in making good guesses about how such a new bargain might be struck or how far beyond China it might travel would be nailing down much more specifically the proper universe of comparison for Chinese labour politics (something well beyond the scope of this essay). When we know what mirrors to hold up to China, we will be much better able to analyse its changing face and gauge how far and in what directions its reflection might radiate or refract.

William Hurst

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Chinese Workers and the Legal System:

Bridging the Gap in Representation

Aaron Halegua

A decade ago, the Chinese authorities adopted a set of new laws to grant increased legal protections to workers and easier access to the legal system to enforce their rights through litigation. Since then, Chinese workers have increasingly turned to labour arbitration and courts in the hope of resolving their grievances. But how do they fare in this process? And are they able to find legal representation?

In 2007, the Chinese authorities issued the Labour Contract Law to grant new legal protections to workers and the Labour Dispute Mediation and Arbitration Law to make it easier for them to enforce their rights through litigation. In the decade that followed, Chinese workers have increasingly turned to labour arbitration and courts in the hope of resolving their grievances. But how do they fare in this process? Are they able to find legal representation? In China, as elsewhere, a significant ‘representation gap’ exists between workers’ legal needs and the available legal services.

A new report that I authored, *Who Will Represent China’s Workers? Lawyers, Legal Aid, and the Enforcement of Labour Rights*, takes an in-depth look at the landscape of enforcing worker rights in China, with a particular focus on trends in labour rights litigation and the availability of legal representation. The report draws on over one hundred interviews, observations from litigation proceedings, and an extensive review of published and unpublished written materials. The executive summary lists seven ‘key findings’, including that the number and diversity of labour disputes is rising; mediation has become the predominant means of resolving labour disputes; workers are often unsuccessful in litigation; and represented workers achieve better outcomes in litigation.

Finding competent legal representation to assist in the litigation process remains a challenge for workers, however. Due to economic and political considerations, private lawyers and law firms are reluctant to represent workers. ‘Barefoot lawyers’ have been essentially banned and labour NGOs are significantly constrained in the current political environment. More workers are represented each year by the government-sponsored legal aid system, which pays private lawyers a set stipend to handle cases regardless of the outcome. But many workers are still turned away and those who receive a lawyer are

often dissatisfied with the quality of the representation.

In addition to describing the above trends, the report takes an initial step towards quantifying the representation gap and other aspects of labour litigation. In collaboration with the Chinese data analytics company Legal Miner, over thirty thousand publicly available court decisions were collected and then analysed to determine how many workers have a legal representative, the identity of these representatives (licensed lawyers versus other providers), and the average length of the court proceedings. A significant number of workers, roughly forty percent, had no legal representation in court. However, plaintiffs who make it all the way to court are only the tip of the iceberg in terms of workers who need legal assistance but are unable to obtain it.

In light of this representation gap, the penultimate section of the report sets forth eight practical strategies to narrow the chasm and improve the enforcement of labour rights. Some proposals seek to decrease the ‘demand’ for legal services by reducing labour violations in the first place. Others are designed to increase the ‘supply’ of quality legal representation for workers. In the remainder of this article, I discuss three of these strategies that have received less attention: (1) strengthening anti-retaliation measures; (2) imposing criminal sanctions and establishing personal liability for employers; and (3) encouraging the growth of a plaintiffs’ bar.

The first two strategies address the ‘demand’ side of the representation gap. One crucial reason for the prevalence of noncompliance with labour standards, and thus the large number of aggrieved workers, is the lack of adequate deterrents for employers. The labour inspectorate in China, which enforces labour laws, employs just one inspector for every thirty thousand workers. For the most part, investigations only occur in response to

a worker filing a complaint. Furthermore, even when violations are detected, a fine against the employer is only imposed in 3.4 percent of cases. Accordingly, measures are needed to both encourage workers to come forward with violations and raise the penalties for employers who are not in compliance—which the first two strategies do. The third strategy—growing a robust plaintiffs’ bar—most directly addresses the ‘supply’ side of the representation gap, but a heightened threat of litigation against employers could also lead to increased compliance.

Anti-Retaliation Measures

Employer retaliation against workers who complain about unfair or illegal working conditions is commonplace—not only in China, but also other countries. In the United States, for instance, over forty-four percent of the nearly ninety thousand charges filed with the federal anti-discrimination agency in 2015 contained an allegation of retaliation, making it the most frequent complaint. This agency even made combating retaliation a ‘national priority’. As for China, a survey of Foxconn employees revealed that over forty-seven percent of workers experienced retaliation after raising a complaint. Eighty percent of Guangzhou workers feared that suing their employer would result in their termination. If workers are too afraid to complain about violations, employers will not be held accountable. With nothing to fear, employers will continue violating the law.

The Chinese government may consider adopting anti-retaliation protections for workers who protest employer violations of discrimination, workplace safety, and other labour laws. The concept of an anti-retaliation measure is not foreign to China. Indeed, similar protections already exist for trade union officers,

workers who complain to the labour inspectorate, and certain witnesses. The best model may be the fairly robust anti-retaliation provisions to protect whistleblowers that China promulgated in 2016, which includes a broad list of actions that constitute retaliation.

Labour advocates might propose that any amendments to the Labour Contract Law, which is rumoured to be revised in the near future, include an anti-retaliation provision. This would provide an opportunity not only to explicitly prohibit retaliation, but also establish procedures for handling complaints and set meaningful penalties against violators. In light of speculation that the other amendments will be designed to increase the flexibility of employers, and may even broaden the grounds upon which employees can be terminated, it is particularly important to make explicit that workers cannot be fired for challenging illegal conditions in the workplace.

Criminal Prosecutions and Personal Liability

Another strategy to deter employer noncompliance is to hold them personally accountable for any violations, including through criminal prosecutions. In 2011, China amended its Criminal Law to establish criminal penalties—including fines and imprisonment—for the malicious non-payment of wages. Where an employer has been ordered to pay a ‘comparatively large sum’ of wages, but instead chooses to transfer assets or otherwise evades payment, he may be held criminally liable. The Chinese government has already demonstrated some willingness to undertake these prosecutions: 753 cases were prosecuted in 2014 and nearly one thousand and two hundred in 2015, an increase of fifty-eight percent. But while Shenzhen alone brought ninety-three cases in

2014, Beijing did not prosecute its first case until 2013 and is reported to only undertake about forty per year.

Labour advocates should engage local governments to increase both the number of criminal prosecutions and their impact. Chinese officials complain that the most significant obstacle to achieving more prosecutions is the poor evidence that workers bring to the government. Accordingly, one potential area for cooperation is for the government to educate lawyers and labour NGOs about the types of cases and evidence they seek, and for these advocates to then identify cases that are ripe for prosecution—thus resulting in more prosecutions. Another aspect of this type of cooperation would be for labour advocates to assist in publicising the prosecutions that occur. If employers are aware that these prosecutions are happening, and with increasing frequency, they are more likely to be deterred from committing similar violations.

An additional prong of this deterrence strategy is to create civil liability for individual employers. At present, an individual does not have the capacity to be an ‘employer’ under Chinese labour law. Therefore, a judgment for unpaid wages can only be issued against the corporate entity that employed a worker and may only be enforced against the assets of the corporation. The individual employer has little to fear. Labour law scholar Xie Zengyi **writes** that this lack of individual accountability has a lot to do with the poor implementation of labour law in China. Therefore, labour advocates should propose establishing such individual liability so that judgments can be enforced against the personal assets of the individual employer.

Plaintiffs’ Bar

Given their current reluctance, the emergence of a bar of Chinese lawyers

committed to representing workers would significantly help to narrow the representation gap and improve the enforcement of labour rights. If the compensation structure were properly aligned, attorneys could become entrepreneurial and zealous advocates for workers. The report recommends reforms in three areas—contingency fee arrangements, aggregate litigation, and fee-shifting provisions—that would help create such incentives.

Contingency fee arrangements—by which the lawyer only collects fees if the client recovers money—are generally banned in labour cases. Workers are therefore required to pay legal fees upfront, which many cannot afford. Permitting contingency fee arrangements would allow lawyers to represent workers with strong cases, regardless of whether they could afford to pay. Moreover, as contingency fees are often calculated based on a percentage of the compensation awarded to the worker, they may allow attorneys to earn more money in cases where there are sizeable recoveries.

Bringing collective or class litigation is difficult in China. But aggregating small, individual claims can be an effective way to make litigating those cases economically viable for a lawyer. For instance, a **China Labour Watch report** discovered that seventy thousand workers at Pegatron attended a fifteen-minute meeting each day for which they were not compensated. Litigating the claim of one worker may not be worth a lawyer's time; but if one lawsuit could be brought on behalf of all workers, who are collectively owed over eleven million US dollars, the case would be quite attractive. Therefore, labour advocates should promote the adoption of measures to facilitate collective and class labour cases.

A final reform to help encourage the growth of a plaintiffs' bar is a properly structured fee-shifting scheme. Shenzhen already permits workers to

be awarded legal fees when they prevail in labour cases, but several aspects of that system limit its utility and impact. Due to restrictions on contingency fees, plaintiffs must still front the legal fees before a court can require the employer to reimburse those fees. In other countries, fee-shifting schemes can deter employers from dragging out litigation because the amount of the fees is calculated based on the number of hours worked by the plaintiff's counsel. In Shenzhen, the legal fee is tied to how much the worker actually paid his lawyer and is capped at five thousand yuan per procedure—hardly enough to deter most employers. But if this system were modified, it has great potential to help narrow the representation gap.

Conclusion

As the Chinese government considers rolling back some of the labour protections previously granted to workers in the Labour Contract Law, it becomes even more important to ensure that whatever rights still exist are adequately enforced. For a more comprehensive discussion of the landscape of labour rights enforcement in China and other proposed strategies for narrowing the representation gap, readers are encouraged to access the **full report**.

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Nkana mine in Zambia is one of the largest in Africa and has been in operation since 1932. PC: Wikipedia

Fighting the Race to the Bottom:

Regulating Chinese Investment in Zambian Mines

Mukete Beyongo Dynamic

Following the widespread privatisation of the Zambian copper mining sector in the 1990s, several state-owned companies from China began to invest in the country. While these companies have created jobs, built valuable infrastructure, and paid taxes to the government, China's increasing presence in Zambia has also given rise to a number of concerns. Some Chinese mining companies have been accused of maintaining lax safety standards, paying low wages to local employees, and of physically abusing their workers. Critics allege that this has triggered a 'race to the bottom' in labour standards. Still, such a perspective runs the risk of being over simplistic, as it largely overlooks the agency of local actors.

Copper mining remains the dominant economic activity in Zambia, a situation that has not changed since 1928 when large-scale mining was introduced in the country. According to a **World Bank report** released in June 2015, the sector today accounts for more than sixty-five percent of Zambia's export earnings and eleven percent of its gross domestic product. However, while the World Bank detailed the benefits of the sector to the economy, another **more critical report** released at the same time by the Office of the Auditor General of Zambia found that the mining sector has seen the largest number of industrial accidents and fatalities in post-colonial Zambia. For this reason, finding a way to mitigate risks to worker safety while increasing copper production has become a paramount public concern in the country.

The widespread privatisation of the Zambian copper mining sector in the 1990s led to the (re)emergence of foreign mining companies in the country, including several state-owned companies from China. While these Chinese companies have created jobs, built valuable infrastructure, and paid taxes to the government, China's increasing presence in Zambia has also given rise to a number of concerns. Some Chinese mining companies have been accused of

maintaining lax safety standards, paying low wages to local employees—especially if compared to other foreign mining companies—and of physically abusing their workers. For these reasons, **critics** have accused the Zambian government of weakening its safety standards to attract foreign investors, of failing to monitor compliance with safety and labour laws, and of underfunding local regulators.

These critics allege that this has triggered a ‘race to the bottom’ in labour standards. By ‘race to the bottom’, they refer to a tendency where the government reduces the monitoring and enforcement capacity of public regulatory institutions, or enacts lax safety laws, in order to attract foreign investors. They not only argue that the Zambian government weakens safety standards through funding cuts, but they also claim that current regulatory standards are obsolete and that the government intervenes in the decision-making process of regulators to protect Chinese companies from paying penalties when they fail to comply with local regulations. Still, such a perspective runs the risk of being over simplistic, as it largely overlooks the agency of local actors.



A woman in despair at the funeral of fifty-one workers who were killed at a Chinese-owned copper mine in Zambia in 2005. PC: Salim Henry

The Roots of the Discontent

In April 2005, fifty-two Zambians were killed in **an accident in an explosives**

factory jointly owned by the Beijing General Institute for Research and Metallurgy (BGRIMM) and the Non-Ferrous China-Africa (NFCA) Mining Company—both state-owned companies—in Chambishi in Zambia’s Copperbelt Province. One year after the accident at the BGRIMM plant, five Zambians were shot and injured by gunshots fired by their Chinese manager while they were protesting against low wages and lax safety standards at the NFCA Chambishi mine. In light of this, it is not surprising that Chinese safety and labour relations in Zambian copper mines were at the centre of Zambia’s 2006 presidential election. Indeed, in a **keynote speech** former Zambian president Michael Sata stated that ‘[Chinese] labour relations are very bad. They are not adding any value to what they claim is investment; instead of creating jobs for the local workforce, they bring in Chinese workers to cut wood and carry water.’

Such high-level political attention fuelled the discontent. In August 2008, more than five hundred Zambian workers attacked a newly built Chinese-owned Chambishi Copper Smelter and burnt down the kitchen of a Chinese-resident. One Chinese and three Zambians working in the kitchen were seriously injured. The protesters claimed that they had been told that the management was going on vacation and abandoning collective negotiations in which workers had demanded changes in safety standards and a reduction in work hours. In another accident that attracted a lot of media attention in 2010, a Chinese supervisor at the Collum Coal mine in Southern Province shot thirteen Zambians. The workers at the mine were complaining against the state of safety standards in the mines and their low wages. These accidents and protests have raised serious debate about labour and safety standards in Chinese mines in Zambia and about the local government’s ability to enforce their own regulations in these contexts.

The Importance of Local Actors

The claim that Chinese companies are creating a ‘race to the bottom’ in labour standards, while having certain merits, ultimately simplifies the processes at play in the formulation of safety and labour regulations in Zambia. It is based on a state/business-centred approach that ignores the role of non-state actors, such as trade unions, mine workers, local NGOs, and international organisations. The 2006 protest at the NFCA mine mentioned above is a good case in point. In June 2006, NFCA mine workers went on strike in protest against the company’s refusal to implement a labour agreement it had agreed to with National Union of Mine and Allied Workers of Zambia (NUMAW) to improve safety at its Chambishi mine. When five miners were shot in the protest, the popular reaction to the onslaught led to **significant safety and labour relations reform at the mine**.

In response, the NFCA launched the ‘Safe Production Management System’ in which Safety and Environmental Protection were restructured into a separate department. Moreover, in 2007, the NFCA introduced a company ‘Safety Month’ in commemoration of the incident, an event that is still being held every June. Nine years after the incident, in a company memo sent to all workers at the start of the 2015 Safety Month, the management suggested that commemorating the month of June on a yearly basis demonstrates the company’s commitment to ensuring that its operations are conducted in a safe and risk-free environment. In an interview that I conducted in Chambishi Township in October 2015, a union leader at the NFCA mine told me that the 2006 protest positively changed safety and labour relations at the mine.

Furthermore, the ‘race to the bottom’

thesis suggests that the Zambian government is passive with regard to safety abuses in the country, or negligent of labour conflicts within Chinese mines because the authorities prioritise economic growth and investment over safety. This is far from the truth. For instance, during a **parliamentary debate** on 11 July 2007, in response to the 2005 BGRIMM accident, former deputy minister of Mines and Minerals Development, Maxwell Mwale, told the Zambian parliament that the government had increased the number of inspection vehicles, logistics, and staff at the Mines Safety Department (MSD). According to official data, inspections conducted by officials at the MSD increased from 260 in 2004 to 1,269 in 2014. Furthermore, a **report published in 2009** by the International Labour Organisation also highlighted labour and safety reforms undertaken in Zambia since the incident. For instance, in 2006, the government introduced an integrated labour inspection form to streamline inspections and verification of compliance; forty-five new inspectors were hired; and the administrative powers of inspectors were increased.

In addition, in 2008, 2012, and 2015, the government revised the national Employment Act. A Minimum Wage Bill was introduced in 2012, fines for non-compliance with safety standards were increased, and labour inspectors were provided with more powers to enforce labour and safety laws. In November 2007, the government established a Labour Task Force through the Ministry of Labour and Social Security ‘to enforce and ensure adherence to national labour laws’. The number of members on the task force jumped from forty-five in 2007 to ninety-one in 2009. Moreover, a new Mines and Mineral Development Act was passed in 2015, providing officials at the Mines Safety Department with stronger powers to enforce and ensure that mining companies maintain a safe and healthy

working environment. According to official data, industrial accidents and fatalities in mining companies have declined since 2006: the number of accidents recorded by the Mines Safety Department fell from 350 in 2005 to 123 in 2014, while the number of fatal accidents fell from eighty in 2005 to twelve in 2014.

Challenges Ahead

Ching Kwan Lee has claimed that ‘Chinese investors [operating in Zambia] have had to climb a steep learning curve in dealing with types of politics not found in their own country’. The trend of injuries and fatalities in Chinese mines in Zambia recorded by the Mines Safety Department supports this claim. However, as a 2011 **study by Human Rights Watch** (HRW) has highlighted, Chinese mining companies in Zambia still have further reforms to make in order to strengthen their efforts to mitigate accidents. These include improving the safety conditions of workers hired by subcontractors, reducing the number of casual employees, and cutting the number of working hours. A letter sent to HRW by officials from the China Non-Ferrous Metal Mining Company in 2011, and quoted in the same report, suggest that these reforms are gradually being introduced. Conversations between the author and mine workers at the NFCA mine indicates that as of October 2015, although safety and labour disputes between the NFCA and local unions have been normalised, some workers in Chinese companies contracted by the NFCA still work under unsafe conditions—most often without appropriate safety equipment. However, as one worker said, compared to 2006, before the BGRIMM accident and the NFCA Chambishi protest, there have been significant improvements in the enforcement of safety and labour regulations at the NFCA mine and the Chambishi Copper Smelter.

To conclude, the activities of Chinese mining companies have indeed threatened a ‘race to the bottom’ in labour and safety standards in Zambia. But local actors such as trade unions have organised protests, and pushed the issue into the public agenda. In response to these protests, some Chinese mining companies have altered their safety policies and normalised their relations with unions. Furthermore, under mounting public pressure, the Zambian government has introduced labour laws and established structures to strengthen its safety regulatory standards in the last decade. Nevertheless, notwithstanding the demonstrable success of these measures in reducing industrial accidents, the industrial relations system in Zambia still suffers from inadequate funding, limited human resources and capacity, and in some instances a lack of coordination among the relevant regulatory agencies.

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Small-scale miner in Ghana.
by Francis Carmine

There and Back Again:

Conceptualising the Chinese Gold Rush in Ghana

Nicholas Loubere
Gordon Crawford

In mid-2013, the Ghanaian government initiated a crackdown on the estimated 50,000 Chinese nationals engaging in small-scale gold mining in the country. In both the media and popular discourse the Chinese miners were depicted as feeding into corruption, destroying the environment and stealing resources from marginal sectors of Ghanaian society. However, we still do not know much about who these miners were, the factors that compelled them to travel to such a distant land in the hopes of 'striking it rich', or how the spoils of this gold rush were distributed back in China.

On 15 May 2013, Ghanaian President John Dramani Mahama announced the establishment of an Inter-Ministerial Task Force aimed at bringing 'sanity' to the country's rapidly (and chaotically) expanding small-scale mining sector. Over the course of the next month, the army and police proceeded to 'flush out' and deport nearly 5,000 foreign nationals who were illegally engaging in small-scale mining—the vast majority of whom were Chinese, primarily originating from Shanglin County in the country's Guangxi Zhuang Autonomous Region. While there are still some reports of illegal miners setting up new operations 'deep in the bush', most of the estimated **50,000 Chinese** that flooded into Ghana, mainly between 2008 and 2013, have either been deported or have left of their own accord.

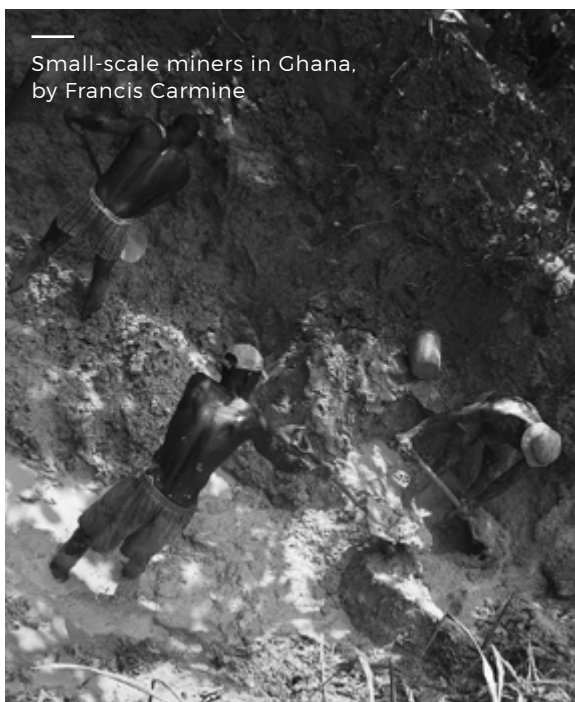
This brief but intense episode has much to tell us about the perceptions and outcomes of large-scale global migrations, and the ways in which scarce and valuable resources are allocated in the Global South. At the same time, it provides a way of understanding what the increasingly large presence of China on the African continent means for labour and livelihoods in both places.

The sudden influx of these small-scale miners to Ghana also draws parallels with Chinese involvement in other gold rushes throughout history. Most notably, the mass exoduses to the United States and Australia in the nineteenth and twentieth centuries—both of which resulted in violent confrontations, strict immigration policies, and the demonisation of the Chinese as ‘invaders’ by local labour movements. Indeed, in contemporary Ghana, as in previous gold rushes, the Chinese migrant miners have been implicitly depicted as a homogeneous mass that is working in unison, collectively benefiting from the extraction of Ghanaian gold at the expense of poorer segments of the local population, and having a uniform (primarily negative) impact on the environment, economy, and lives of local people. This essay will begin by examining the sudden arrival and equally sudden departure of small-scale Chinese miners in Ghana. It will then go on to raise important questions for future research related to China-Africa migration dynamics, the labour relations and inequality existing amongst the Chinese, and the allocation of the extracted resources back in China.

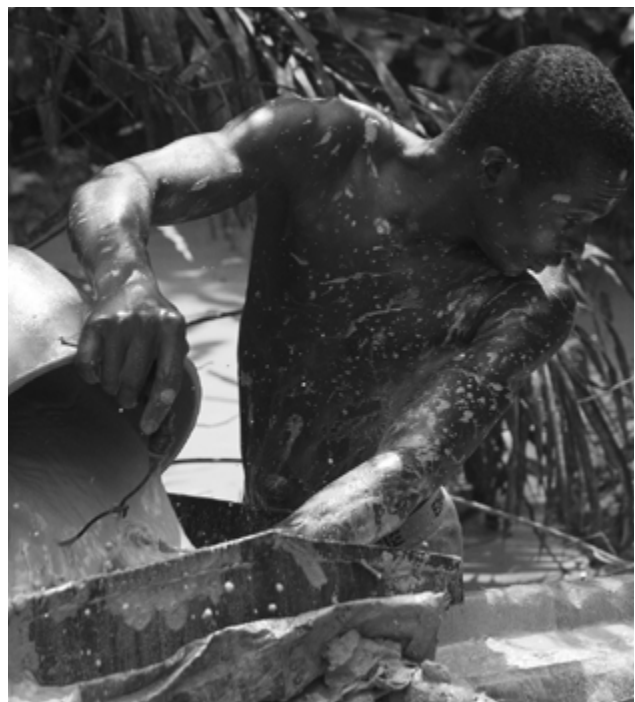
The Gold Rush

Ghana is the second largest gold producer in Africa, and artisanal gold mining has been a traditional indigenous activity in the country for centuries. Particularly over the past few decades, small-scale mining has become an increasingly important way for poor and marginal segments of Ghanaian society to improve their livelihoods by supplementing low returns from farming. In recognition of the importance of this activity for poor rural people, in 2006, the government specifically restricted the sector to Ghanaian citizens, making it **illegal** for foreign nationals to engage in any small-scale mining activities.

However, this attempt to reserve small-scale mining for Ghanaians was unsuccessful. From 2005, large numbers of Chinese miners began to arrive to Ghana, mostly from Shanglin County. Shanglin, whose population is primarily ethnically Zhuang (a minority group), has a long historical tradition of gold mining. Throughout the 1990s, Shanglin residents migrated domestically within China to engage in small-scale mining



Small-scale miners in Ghana,
by Francis Carmine



around the country. When the Chinese government tightened regulations on this type of activity, the Shanglin miners looked outward. In the late 2000s, stories of people ‘striking it rich’ in Ghana, combined with the increase in gold prices in 2008, resulted in a mass influx of Chinese miners establishing over **2,000 mining operations**.

Most of the ‘Shanglin gang’ took up mining in the rural areas surrounding **Kumasi, Obuasi, and Takoradi**, compensating the owners of the land with usage fees, and often paying percentages to local government officials or tribal chiefs. In general, mining activities were financed by individual Chinese investors or small groups of partners, who borrowed and pooled larger sums from **financial institutions in China** in order to purchase excavators and large pumps for dredging. The miners then employed workers from China who were promised set monthly wages, and local Ghanaians who were paid daily at a substantially **lower rate** than the Chinese workers. The Chinese involvement in the sector has resulted in a huge jump in the production of gold from small-scale **mines in Ghana**. And at the height of the gold rush it was estimated that billions of yuan were being sent from Ghana to China—far more than the **Ghanaian governmental revenue**.

Collusion and Pushback

The sudden influx of Chinese miners, and the expansion of their small-scale mining operations, was facilitated through cooperation (or collusion) with Ghanaians, many of whom benefitted individually from their relationships with the Chinese. This situation led to the widespread perception—particularly in the media—that the mining phenomenon was feeding into corruption, and that these corrupt activities were the reason the government had largely ignored (or even protected) the illegal miners. In

many cases this perception was entirely justified, with Chinese miners bribing officials to ‘turn a blind eye’ or paying-off local chiefs in order to illegally gain access to land for mining. For instance, Ghana Immigration Service officials allegedly enabled entry into the country and then provided (false) work permits to Chinese miners for a fee. Ghanaian small-scale miners also reported that, if challenged, Chinese miners would ‘threaten to call the minister or police commander,’ suggesting close links to high levels of government **facilitated by bribes**.

The Chinese mechanisation of the small-scale mining industry also had huge **environmental impacts** through the pollution of bodies of water and the clearing of large areas of agricultural land. The introduction of new technologies and mining teams—replacing traditional techniques—meant that the Chinese miners were able to extract much larger quantities of gold than their Ghanaian counterparts. The increasingly visible wealth of the Chinese miners, particularly of the main investors, unsurprisingly resulted in a narrative of resource theft. The Chinese were depicted as stealing a vital livelihood resource from marginal Ghanaians, while also extracting the country’s wealth and sending it back to China through illegal channels. In a 2014 interview conducted in Upper Denkyira East Municipality, a licensed Ghanaian concession holder who had worked with Chinese miners expressed the view that ‘gold was sent direct to China’ with ‘so many ways’ of doing so. He **recounted one method** where containers that brought machinery into the country were then used to smuggle gold back to China by cutting out part of the container, filling the inside with gold, and then re-welding it.

While most interactions between the Chinese and Ghanaians were collaborative in nature, the negative perception of the Chinese miners was also exacerbated by

the widespread reporting of some violent conflicts that coincided with their arrival. As the operations successfully began extracting gold, they also became targets for local bandits and armed robbery. This prompted the Chinese miners to arm themselves—often with guns purchased illegally from the **local police**—and engage in firefights with would-be thieves; resulting in the deaths of both **Chinese and Ghanaians**. Finally, in mid-2013, the combination of these issues presented too large of a political challenge to the Ghanaian government, and President Mahama established the Task Force, stating: ‘The government will not allow their [the illegal miners] activities to cause conflict, dislocation, environmental degradation and unemployment when in fact the sector should rather benefit our communities and our country.’ With that, the Chinese gold rush in Ghana was largely brought to an inglorious end.

Conceptualising the Chinese Migrant Miner

So what does this tell us about the perception of Chinese migrant miners in Ghana, and the role of Chinese migration to the African continent more generally? While the story has been reported on extensively—primarily from Ghana—the picture that has been presented fails to shed light on a number of important aspects of this episode of mass migration, resource extraction, and wealth production (for some). In general, depictions of the Chinese miners in Ghana have been essentialised representations. The miners themselves are largely described as a homogenous group composed of individuals with the same ambitions and having the same potential to ‘strike it rich’. This perception of the Chinese as a uniform mass, rather than differentiated individuals and subgroups, follows classic tropes and popular

representations of mass migrations in general and Chinese mining migration in particular, both historically and in contemporary discourse. Most notably—and notoriously—both the ‘Chinese Exclusion Act’ in the United States and the ‘White Australia Policy’ were the direct result of antagonism towards the sudden arrival of large numbers of Chinese miners, and their perceived ability to extract more gold than ‘local’ miners through collective effort. Moreover, it is well known that after the end of the gold rushes in the United States and Australia, the remaining Chinese were demonised by local labour movements and accused of undercutting wages. Similarly, the short-lived Chinese gold rush in Ghana has seen ‘the Chinese’ as a whole being blamed for causing widespread environmental degradation, feeding into corruption, increasing violence, stealing the livelihoods of poor Ghanaians, and capturing the country’s resources.

While these problematic issues arising from the sudden influx of Chinese miners and the rapid expansion of mining activities should certainly not be underestimated, the current depiction of the Chinese in Ghana as a singular group tends to obscure as much as enlighten. In particular, these representations fail to explore the migratory and class dynamics that gave rise to the exodus in the first place. They also turn a blind eye to the ways in which different types of Chinese miners benefitted or lost out, and ignore the developmental impacts back in China. Little is known about the Chinese miners themselves, other than the fact that they mainly come from a single poor county in the Guangxi Zhuang Autonomous Region. Even less is known about the labour relations that operated within the small mining groups, or the social processes within China that gave rise to the wider migration phenomenon. While the mining groups are often described as **collaborative efforts** of ‘partners’ investing together; hierarchical

structures have also been observed, with individuals or small groups hiring **wage labourers from China**. This points to the likelihood that the individual Chinese miners in Ghana have benefited in significantly different ways—with some potentially even being exploited. After all, **research on small-scale mining** within China has shown that the contribution to the livelihoods of miners is highly differentiated, with wealthier investors profiting at a much higher rate than more marginalised individuals. **Research** has also documented the ways in which poor Chinese migrant workers are often exploited through the withholding (and sometimes non-payment) of wages by ‘labour subcontractors’ (*baogongtou*) operating in townships and villages.

Disentangling the Chinese Miner

Ultimately, this points to the need for research following up on the Shanglin miners who were chased out of Ghana three years ago. Future research should look to examine who these people are, how they went to Ghana in the first place, how the spoils of this gold rush have been distributed amongst the Chinese participants in this story, and what the remittances meant for socioeconomic development in marginal Shanglin County and its ethnically Zhuang population. By lumping the Chinese together, ignoring the different experiences of the miners, and disregarding the fact that these Chinese are themselves a minority group in their own country, we get a distorted view of this historical episode that does not properly reflect the developmental processes and relations at play. Rather than seeing the complex webs of relationships connecting peripheral rural China with the margins of Ghana—and thus producing patterns of resource extraction, accumulation, and inequality between, within and across

the people involved in both places—the Chinese as a whole are depicted as uniformly (negatively) impacting on the environment, Ghanaian politics, and the livelihoods of the poorest. In this way, the Chinese miners are ascribed with causal abilities—they are seen as the origin of the negative outcomes rather than a symptom of wider systemic issues. This shifts attention away from the labour relations and unequal power that exist within the Chinese ‘mass’, resulting in the production of winners and losers among the miners themselves. It also obscures the processes implicit within global capitalism that prompt large numbers of precarious and marginal people to move from one place to another—and sometimes back again—in search of secure livelihoods amid increasingly low returns.

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A Chinese Empire in the Making?

Questioning Myths from the Agri-Food Sector in Ghana

Jixia Lu

While China's expanding presence in Africa is often framed as a new project in empire building, the Chinese authorities explain their engagement on the continent as simple 'South-South cooperation'. Taking the agricultural sector in Ghana as a case study, this article challenges both narratives and argues that Chinese farmers in Africa are not a 'silent army' (either malevolent or benevolent), but instead are largely precarious individuals attempting to meet their livelihood needs.

Western media and research often frame China's expanding presence in African countries as a new project in empire building on the continent. The Chinese government, on the contrary, espouses a very different narrative—one which depicts Chinese companies and migrants as promoting development through beneficial South-South cooperation resulting in mechanisation and advanced techniques. In this way, in both academic research and popular discourse, discussions about China's developmental role in contemporary Africa often end up implicitly categorising all the activities of Chinese businesses and individual migrants in African countries as being either malevolent or benevolent extensions of China's expanding global influence.



'Mary tills her field'
by Felix Clay, Ghana, 2013

This is particularly apparent in the agricultural sector. At present, most media attention and research on Chinese agricultural engagements in Africa focus on aid or commercial investments by large state-owned enterprises (SOEs), neglecting the fact that on the African continent there is also a growing number of small-scale farms run by individual Chinese migrants and their families. Indeed, while **doing fieldwork in Ghana**, I only encountered one case of large-scale Chinese agricultural investment that involved modern mechanised technologies aiming to produce rice for the local Ghanaian market. I did, however, encounter a collection of small-scale Chinese farms that are filling a very different niche. They are characterised by strong personal networks and family relations, and target an expatriate population trying to make ends meet. Such endeavours do not fit neatly into the narratives espoused neither by the Chinese government nor Western media and research.

In this article, I will take Ghana as a case study to explore how Chinese migrants operate in the agri-food sector in Africa. In particular, I will argue that Chinese farmers in Africa are not a ‘silent army’ (either malevolent or benevolent), but are instead largely precarious individuals attempting to meet their livelihood needs. Moreover, these migrants are a symptom of, and a response to, wider global migration dynamics. In particular, many of these small-scale farmers have gone into Ghanaian agriculture in order to provide for the huge influx of Chinese migrant miners (see Loubere and Crawford in this issue). In this way, Chinese farmers in Ghana can be considered reflective of wider processes of contemporary globalisation.

Chinese Migration to Ghana

Although since the Mao era there have

been groups of Chinese people dwelling in Ghana—many of whom had originally come over as aid experts—the last few years have seen a dramatic increase in the number of Chinese immigrants in the country. This is primarily due to the small-scale mining phenomenon and the fact that Chinese companies have entered a growing number of sectors, including mining, construction, and manufacturing, just to name a few. In addition, Chinese migrants maintain a significant presence in retail trade, fishing, small-scale mining, and timber sectors, much of it outside the law and without proper registration. It is, therefore, not surprising that data on the number of Chinese migrants in Ghana are limited and unreliable, with **estimates** varying between 7,000 and 20,000. Still, even these figures may be conservative if we consider that in August 2013 the *South China Morning Post* quoted the secretary general of the Chinese Mining Association in Ghana as saying that more than 50,000 Chinese gold miners had poured into the country since 2005. Another article from *The Guardian* published roughly at the same time reported that 4,592 illegal Chinese gold miners had been deported from June to July 2013 alone.

While Chinese miners in Ghana have often featured in the international media, China and Ghana have a longer history of engagement in agriculture than in mining. **Cooperation in agriculture** between China and Ghana goes back to the 1960s, and has continued to grow and develop over subsequent decades. Today, China and Ghana officially cooperate in a **number of sectors**, including agro-processing, irrigation, infrastructure development, and agricultural technology. Chinese agronomists even teach at the University of Ghana. Yet, just as the information on Chinese migration is patchy and unreliable, data on Chinese investment in the agricultural sector are incomplete and often inaccurate. According to **some estimates**, Chinese investments in agriculture constitute about four

percent of total Chinese investments in the country, with the largest being in rice irrigation projects. In other words, compared with other industries, farming seems to be a relatively neglected sector for the Chinese in Ghana.

It is clear from our fieldwork that in Ghana there are only a few formally registered farms. According to a list provided by the Ghana Investment Promotion Centre, only twelve Chinese farms officially registered with the government between 1994 and 2013. Moreover, after attempting to get in touch with these farms, we found that only two of them were actually contactable. Both were registered as producing vegetables and one was said to rear pigs. However, while we were visiting the official farms we had contacted, we by chance met some other unlisted farms owned by Chinese individuals, as well as some unregistered farms owned by large Chinese SOEs with their own small vegetable and pig farms geared towards meeting their own consumption purposes, i.e. for their employees. To shed some light on why Chinese people migrate to Ghana to undertake small-scale agriculture I will discuss three of these small-scale individually-owned farms, two of them registered and one not. The three farms were between two and twenty hectares and, on average, they employed three Chinese nationals as managers and technicians and five to ten local people as manual workers.

Profiling Chinese Farmers in Ghana

According to our findings, many Chinese small-scale farmers in Ghana come from non-agricultural backgrounds. In the cases examined in this article, all three farm owners were from different provinces in southern China (Hunan, Guangdong, and Zhejiang), but only one of them migrated specifically for

agriculture. Before setting up his farm, the owner of one of the farms had been trading agricultural products between China and Ghana. Another of the farm owners had been working in Ghana as an engineer in a Chinese company. Only the owner of the third farm came to Ghana specifically to set up a farm. However, his migration history was far more complex than those of the other people we met. For the past two decades he had been living and farming on the Northern Mariana Islands, a US Commonwealth territory in the middle of the Pacific Ocean where he had moved during the Cultural Revolution.

Despite their very varied backgrounds, though, all of them have learned about farming, livestock, agricultural management, and marketing in a remarkably challenging social, linguistic, and physical environment. Furthermore, they also have shown a willingness to convert to a new line of business if it proves to be more economically viable. Moreover, their motivations to start their farms were somewhat similar: all of them said they aimed to meet their own needs for vegetable consumption in the first instance. As a Chinese employee on one of the farms put it: 'The boss of our farm is about sixty years old. He was running a trade business in agricultural products between China and Ghana four years ago. Later on, when he found it difficult to find Chinese vegetables in the local market, though, he started his first farm.' In this way, the farm was established as a response to a particular market need, which itself arose due to the wider processes of global migration.

The Chinese farmers we interviewed stated that in order to successfully run a small farm in Ghana, they had to consider the following elements: land, water resources, access to markets, and labour. Among these aspects, land was the most significant and challenging element to consider. Generally speaking, the Chinese farmers had great difficulties securing the

land of the size and quality they wanted within the existing legal framework. Part of the problem is that throughout Ghana there is a lack of clarity about land ownership, particularly between local chiefs and local governments. This is a major hindrance for those foreigners who want to invest in agricultural activities in Africa, because it is not always clear who owns the land rights. This meant that the Chinese farmers were often unable to operate in a technically 'legal' way, not necessarily because they are maliciously land-grabbing or exploiting local people, but rather because legality in this context is tenuous for everyone involved. For this reason, many Chinese migrants give up farming after one or two years.

That being said, although in the beginning the farms we examined encountered a lot of difficulties, those who stayed and persisted in earlier years were able to survive due to a sizeable Chinese community that provided a ready market, particularly the rapid influx of illegal miners after the increase in gold prices in 2008 (see Loubere and Crawford in this issue). However, due to the expulsion of a large number of Chinese gold miners in June 2013, the farms lost a significant portion of their market. The remaining Chinese farmers confirmed that they have been selling less than before and are, therefore, struggling. Besides the difficulties mentioned above, since their products are sold locally, they still need to compete in the local market, both among themselves and with Ghanaian farmers. This greatly tests the farmers' business acumen, patience, and resilience.

Dispelling the Misconceptions

The examples provided above suggest that Chinese 'land grabs' and agricultural 'cooperation' in Ghana in fact mostly consists of informal small plots of a few hectares producing vegetables to sell

locally. While there are a handful of larger SOE farms, they are primarily operating for the consumption needs of the personnel employed by the company. More widespread are small individually-owned farms; however, the majority of these farmers are working hard to meet their own livelihood needs in an increasingly unpredictable and volatile market. This does not fit neatly into the western media discourses focussed on land grabbing and neo-imperialism, nor into the narrative of the Chinese government centred on the idea of mutually beneficial South-South cooperation.

From this perspective, Chinese agricultural workers in Africa are not an organised 'silent army' of labourers, but are actually diverse and fragmented. They are relatively marginal people moving from one place to another in an attempt to improve their livelihoods. Living independently with no support or even contact with the Chinese government, they struggle to ensure their survival in the local markets, facing the competition of local producers and sellers, and surviving in unstable and unclear legal situations. Quite clearly, there is no real prospect for these farms to become large-scale, highly mechanised or capital intensive, which is actually what most African governments yearn for in order to increase agricultural production. In other words, China's presence in the agricultural sector in Africa mostly remains in the realm of individual entrepreneurship, a far cry from the ambition of empire.

Jixia Lu

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A WINDOW ON ASIA

India



Indian workers on strike,
september 2016,
PC: Karo4Greatness

Bharat Bandh: Millions Challenge Modi's Labour Agenda

Tom Barnes

On 2 September 2016, possibly the largest strike in India's history—involving up to 150 million workers—caused major disruption to the country's economy. This is just the latest in a series of strikes launched by the Indian trade unions in their fight against labour law reforms promoted by the right-wing government of Narendra Modi. A significant feature of these recent struggles has been the involvement of thousands of temporary and female workers.

A massive, nationwide strike—popularised as Bharat Bandh (literally 'India closed' in Hindi/Sanskrit)—caused major disruption to India's economy on 2 September 2016. Some unions have claimed this was the **largest general strike in history**, with up to one hundred and fifty million workers involved and costs to business of around 2.7 billion US dollars. While these figures are probably impossible to verify, the strike was highly significant with virtually all public sector units, banks—including at least half a million bank workers—and electricity power stations closed, as well as **insurance companies** and, in many regions, trains, bus services, and schools. Additionally, tens of thousands of **coal miners** joined the strike, along with **university and college teachers**. Many large private sector firms were also closed down or substantially affected.

The strike reflects a clash between ten of India's largest trade union federations and the Bharatiya Janata Party (BJP)-led government of Prime Minister Narendra Modi. A right-wing populist and a member of the fascist-like Rastriya Swayamsevak Sangh (RSS), Modi was elected in a landslide victory two years ago with promises to facilitate development and higher living standards among India's majority-rural population. Part of Modi's agenda has been to reform India's system of labour laws while promoting his 'Make in India' initiative, which aims to transform India into the global destination of choice for manufacturing investment.

Indian Labour in Context

Understanding the longer-term context is helpful here. While previous governments liberalised trade, investment rules, and finance, there have been very few changes to labour laws. The core of India's employment relations system relies on laws enacted shortly after independence in 1947. These laws have proved controversial today among policy-makers, industrialists and intellectuals. In the narrative of the political right, supported by many powerful industrialists, these laws are anachronistic and reduce 'formal sector' employment in industry, forcing millions of workers and businesses to operate informally—i.e., outside the formal system of state regulations—due to the burdensome regulations they supposedly impose on businesses.

However, in practice most of these laws are not implemented or they are relatively easy for employers to avoid. For example, the Industrial Disputes Act of 1947 formally requires businesses with one hundred or more workers to seek state government permission to close operations or sack workers. Yet many businesses have used 'voluntary



India's Prime Minister Narendra Modi, member of the right-wing Rastriya Swayamsevak Sangh, elected in 2014.

redundancy schemes' to avoid this requirement. The Contract Labour Act of 1970 limits the use of temporary or labour-hire work in medium-to-large firms. But field research in various parts of India has found that this law is routinely ignored, **often via corruption** between industrialists and state officials. And India has a plethora of minimum wage laws for workers in different sectors—but few of these are **applied in practice** and many workers are unaware they exist.

Nevertheless, the BJP has ploughed ahead with labour law reforms supposedly designed to create more formal jobs in industry and attract more foreign investment. Since its election, the Modi government has sought to consolidate changes pioneered by several BJP-led state governments by introducing two 'Labour Codes' that, they argue, simplify existing national laws. **The most recent of these bills**, introduced in April 2015, seeks to unify three key laws into one. The new law would lift the threshold for large firms seeking state permission for layoffs from one hundred to three hundred employees. The revised law also imposes a penalty of twenty thousand to fifty thousand rupees (approximately

300-750 US dollars) and possible imprisonment for individual workers who participate in a strike for which two weeks advance notice has not been given—a decree previously only reserved for public sector workers. Trade unions are also angry at the bill's proposal that union office-bearers must be employed in the same industry as union members, as it contradicts the longstanding practice of workers seeking leadership from 'outsider' union federations.

The Wrath of the Unions

For the past two years, these changes have caught the ire of India's unions, which are dominated by several enormous federations—known as Central Trade Union Organisations (CTUOs). Most, though not all, CTUOs are affiliated with competing political parties, including the ruling BJP, the Indian National Congress (INC), the different Communist Parties, and other parties based on versions of nationalism, regional identity, or caste politics. The recent *Bharat Bandh* is the result of **coordinated action** by ten CTUOs who have been promoting a twelve-point charter of demands on the Modi government. **These demands** include calls to expand subsidised food schemes, enforce existing labour laws including minimum wages, implement universal social security, an end to privatisation of public sector units, and a ban on foreign investment in railways and defence. The same CTUOs organised a national strike one year ago, which attracted **a similar number of participants**. In February 2013, tens of millions also joined **a national strike**. However, the BJP-affiliated union, the Bharatiya Mazdoor Sangh (BMS) pulled out of the strike after negotiations with the government. The huge numbers involved in these successive protests demonstrates both the sheer size of the Indian working class—the official labour force count is around 500 million,

although the true figure is much larger—and also the successful growth of many CTUOs in recent years. CTUOs claimed their total affiliated membership had grown to nearly ninety million in 2013, representing an increase of over three-and-a-half times since the last official count in 2002. Much of this success has come from organising informal workers who make up over ninety percent of all Indian workers.

This most recent general strike comes on the back of important conflicts in different industries. **In March**, over seventy thousand *mathadi* workers (head loaders), especially those employed in railways, transport and government warehouses, went on strike in Navi (New) Mumbai in response to labour law changes by the BJP and its right-wing allies in the state government of Maharashtra. In the auto industry, **a strike by three thousand Honda workers in Tapukara**, one hundred kilometers southwest of New Delhi was **heavily repressed** by the state BJP government, with over one thousand workers arrested, 136 workers fired, and dozens jailed. Five of these workers have been **on a hunger strike** in New Delhi for the past two weeks. This comes after the most serious conflict in the auto industry to date, at Maruti Suzuki in the nearby town of Manesar, which resulted in thousands of sackings, the tragic death of an HR manager, and 147 workers jailed, of which about a dozen were still in jail without conviction at the time of writing—**over four years since the dispute ended**.

Temporary Workers and Women on the Move

A significant feature of these strikes was the involvement of thousands of temporary workers, very few of whom have representation or support from trade unions. Another important strike took place recently in Bengaluru (Bangalore) where **up to four hundred thousand**

workers emptied the city's garments factories and flooded the streets in response to government changes to state pensions (the so-called Provident Fund). Key features of this strike included its primarily 'wildcat' character—local CTUOs were taken by surprise, despite having organised their own, much smaller response to the changes—and that the strikers were overwhelmingly women. This massive protest succeeded in **deferring the Modi government's plans**.

Given that women tend to work outside the male-dominated structures of most trade unions, another highly significant development occurred in the tea plantations of Munnar in Kerala in September 2015, when female plantation workers established a **new women migrant-led union—Pembila Urumai** ('Unity of Women' in Tamil)—to break with male-dominated unions that had virtually ignored their interests. Although *Pembila Urumai* was recently linked to the *Aam Aadmi Party* ('Common Man')—a Delhi-centred political party based on the urbanised middle classes, which grew out of the 2011 anti-corruption movement—its real significance is the leading role it reserves for women. Women's work dominates India's informal economy where it is often not even recognised as 'real' work. Other organisations—above all the Gujarat-based Self-Employment Women's Association (SEWA), which participated in the 2 September general strike—have also organised female workers in the past, including in sectors dominated by low-caste and tribal women such as brick kilns, construction sites, rag-picking, household labour, garment work or agricultural labour.

New Challenges

No doubt, many of these informal workers participated in the 2 September general strike. However, challenges

remain with regard to what happens in between these set-piece events, as continued labour mobilisation is required in a society where the labour laws and social protections that have provoked such ferocious debate among industrialists, union federations, and the political classes are so rarely applied. The Modi Government has signalled its intentions to plough ahead with its controversial labour reform agenda, so points of contention leading to further future conflict are likely to emerge.

Tom Barnes

Tom is an economic sociologist at the Institute for Religion, Politics, and Society at Australian Catholic University in Melbourne. His research primarily focuses on insecure, precarious, and informal work in Australia and Asia (especially India and Indonesia). He has written a book, *Informal Labour in Urban India: Three Cities, Three Journeys* (Routledge, 2015) and is completing a second book on the Indian automotive industry with Cambridge University Press.

WORK OF ARTS

For beauty is nothing but the beginning of terror, which we are still just able to endure, and we are so awed because it serenely disdains to destroy us. Every angel is terrifying.

Rainer Maria Rilke

Paradise under Construction

Christian Sorace



A shot from Zhao Liang's *Behemoth*

From the earliest times, human civilization has been no more than a strange luminescence growing more intense by the hour, of which no one can say when it will begin to wane and when it will fade away.

W.G. Sebald

Zhao Liang's recent film *Behemoth* (*beixi moshou*) is a cinematic meditation on the *Anthropocene*—the current geological epoch marking ‘a **new phase in the history of the Earth**, when natural forces and human forces become intertwined, so that the fate of one determines the fate of the other.’ Composed from documentary footage of natural and human life in their devastated forms, *Behemoth* offers a dystopian view of our present reality based on a script written by Zhao Liang that is loosely adapted from Dante's *Divine Comedy*. In an interview I conducted with the director via the popular Chinese social media platform WeChat this past July, taking a studied cynical tone, he described his art as a technique of making the ugly beautiful: ‘Most of the time, I take some ugly affair and make it “look beautiful” on film. But isn't our world often packaged to appear beautiful in this way, especially politics?’

Zhao Liang's aesthetic style is one of unflinching exposure, however, which shares little in common with the theatricality of state power and mystification of sovereign violence. The gorgeous cinematography of *Behemoth* creates a new perceptual field of planetary destruction in a way that is unavailable to the prose of scientific description and political argument. As the poet Rainer Maria Rilke famously wrote in his *Duino Elegies*, ‘For beauty is nothing but the beginning of terror, which we are still just able to endure, and we are so awed because it serenely disdains to destroy us. Every angel is terrifying.’ We follow the prophetic guide into the Inferno, but we do not come out the same.

The narrative of *Behemoth* follows what Zhao Liang describes as a ‘supply chain’ (*chanyelian*) of urban construction.¹ The film opens with a long-shot of an open-pit coal mine in Inner Mongolia, explosions

are heard in the distance, coal ash rains from the sky into the frame, accompanied by the rasping of traditional Mongolian throat-singing. The camera descends into coal mines, swelters in the heat of iron smelting furnaces, dispassionately gazes on coal miners in their dormitories and hospital beds, and finally sojourns in the utopian ‘ghost city of Ordos’ where the film ends.

For those who are unfamiliar with the context, Ordos is a Prefecture-Level Municipality located in the Gobi Desert in Inner Mongolia. After a natural resource boom beginning in 2004, the Ordos government decided to invest its windfall revenue in the construction of a new administrative capital named Kangbashi in an area that was mostly desolate wasteland. Despite its modern architecture and urban trappings, Kangbashi has failed to attract residents, earning it the reputation of China’s most infamous ‘ghost city’ (*gui chengshi*). For some China watchers, it is a portent of the inevitable bursting of China’s real estate bubble inflated by political incentives and speculative land development. In *Behemoth*, Kangbashi is described as the ‘paradise of our dreams’—a perfect, clean, and empty city.

The Other Side of Urbanisation

Urbanisation and the extraction of coal, natural gas, and rare earth minerals contribute to the desertification of China’s grasslands, which has triggered massive sandstorms that have blown into Beijing and Tianjin. In *Behemoth*, we witness the scars of urban modernity: craters from open-pit coal mines, vegetation desiccated due to the consumption of surface water by mining operations, billowy clouds of pollution. According to Zhao Liang, filming ‘the shattered mountains and rivers and last gasps of life’ (*posui de shanhe, canchuan de shengming*) were the scenes that ‘pierced’ (*citong*) him the

most.

Part of *Behemoth*’s visual power is its formal treatment of human bodies and natural landscapes as the same damaged matter. The bodies of coal miners belong to the landscape. The camera glides across their creased faces, blistered hands, and bodies covered in the ‘inky make-up’ soot and sweat. In one scene, we hear the laboured breathing of a coal miner suffering from pneumoconiosis, hooked up to a respiratory apparatus, lying in bed. He is indifferent to the camera’s presence. Later, we see a woman holding up a funerary portrait of a man who may or may not have been him.

Even though *Behemoth* is ostensibly a documentary, none of the miners are given a voice in the film. To some, this may appear as an additional layer of exploitation. For me, however, the decision to exclude biographical details and life trajectories from the film’s narrative content allows a different kind of speech to occur.

The silent bodies and gazes of the miners speak of their expendability. A miner’s individual life, dreams, and medical records matter little to the coal mining boss, Party secretary, financial speculator, and middle class home-owner. From the standpoint of those who benefit from the urbanisation process, the miner’s life is valued as long as he is healthy enough to show up for work. When he can no longer work, he will be replaced. The decision not to give the miners a voice amplifies the singularity of each physical presence in the face of its precarity and serial interchangeability.

Behemoth is about more than ‘**the human and environmental costs of coal mining and consumption in China**’ because the word ‘cost’ remains within a political economy of commensurability. A miner’s health is not the ‘cost’ of his need to survive. The destruction of the planet is not some unfortunate ‘price’ of modernisation but its suicidal involution. The Anthropocene has moved us beyond the



calculation of cost-benefit equivalences into a world where **new values, systems, and myths** are needed.

As the philosopher **Jean-Luc Nancy** put it, 'Yet we can oppose nothing to "growth" unless we can conceive of another civilization, a new sense of existence not enslaved to production but freed for itself. Which implies that this "for itself" finds its own meaning, the meaning of its "own" fact of being.' The end of capitalism will only be the beginning of a life we have not yet imagined.

After the Promise of Communism

It is significant that Zhao Liang's dystopian vision of reality takes place in post-socialist China. Twentieth century communism promised an end to exploitation, the emancipation of all human beings, and the liberation of our creative faculties. Instead of achieving these goals, it generated its own forms of lethal oppression and, in doing so, destroyed our ability to dream of a political solution to the inequalities of capitalism.²

In a conversation that I had with him at his workshop in Beijing this past June, Zhao Liang referred to 'humanity

as a cancer of the earth' (*renlei shi diqiu de aizheng*). When I asked him why he thought we are 'incurable' (*meijiu*), his answer was 'original sin' (*yuanzui*) which he defined as 'the defect of boundless desire' (*yuwang de wuxianxing de quexian*). He is also increasingly skeptical of the transformative power of art. In an **interview** from March 2016 with *Slant Magazine*, the artist recalls feeling 'compelled by social responsibility' when he first started making documentaries but 'no longer' sees his 'work as a catalyst for creating social benefit.' When I asked what precipitated his abandonment of political optimism, his response was the 'cruelty of the real world' and 'powerlessness' to change it (*xianshi shijie de cankuxing he wuligan*).

Although such arrant nihilism is modish in China's art scene, it is not without historical basis. Zhao Liang's pessimistic view of human nature raises important, unresolved, and unfashionable questions about the failure of China's twentieth century communist project. To put it somewhat coarsely, for all of the Communist Party's laudable as well as violent attempts to '**change the human being in what is most profound**', they were unable to eradicate the venality, cruelty, and boundless desire of human nature.

Art in the Anthropocene

As **McKenzie Wark** points out, ‘The unspeakable secret about climate change is that nobody really wants to think about it for too long. It’s just too depressing.’ It is also cognitively impossible to grasp the totality of climate change’s complex non-linear temporalities and uneven geographies. Instead, as **Jodi Dean** argues, it is much easier to circulate platitudes that generate enjoyment in moral outrage and self-exoneration. For these reasons, I suggest that art in the age of the Anthropocene has the power to convey scientific and political truths in images and sensory environments in ways that disturb our complacency, enjoyment, and ignorance.

In China, several contemporary artists have been grappling with the problems posed by the Anthropocene, inventing new aesthetic forms, and creatively working with damaged materialities. In the series of photographs called *New Landscapes*, Yao Lu re-creates traditional Chinese landscapes of mountains and rivers using trash and debris from landfills. He Xiangyu’s *Cola Project* required boiling thousands of litres of cola, which hardened into a coal-like substance that could be ground into ink and used for Song Dynasty-style landscape paintings. Cai Guo-Qiang’s 2014 exhibit *The Ninth Wave* included the manufacture of a **contemporary Noah’s Ark** ‘carrying 99 fabricated animals in various states of decline’ which ‘sailed along the Huangpu River’ before docking at the Power Station of Art in Shanghai. Cai’s ship of tattered stuffed animals followed the same course as **16,000 dead pigs**, which mysteriously floated down the river a year earlier in March 2013. In these works, the mimetic relationship between art and nature becomes recursive as we are no longer able to discern human artifacts from natural processes.

Dreaming from the Ruins

With unforgettable cinematography and soundscapes, *Behemoth* reveals the devastation of the Inner Mongolian grasslands due to fossil fuel extraction. The mobility of the camera enables it to traverse, and record, different scales and topographies of damaged matter. It brings into view a dystopian reality that we would otherwise be unable to visualise.

This is not to suggest that art can save us from extinction. Perhaps Zhao Liang’s pessimism is correct and humanity is a ‘cancer’ that will metastasise until we have killed our host. I am not convinced. For me, *Behemoth* prophesises that it is time to dream of a new paradise that can mobilise the political energy and will to build a world in common from the ruins of the one we have destroyed. It may fail, but it is our only hope.

[1] This description is from an advertisement on WeChat for a private screening of *Behemoth* in Beijing. The advertisement was ‘harmonised’, i.e., deleted, from WeChat and the screening was cancelled.

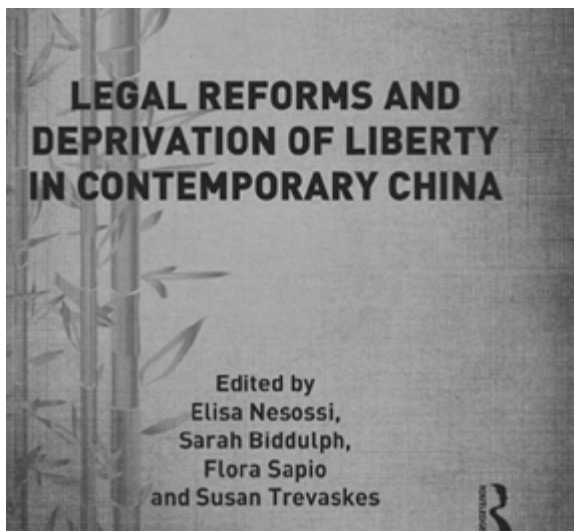
[2] Today, the Chinese Communist Party officially promises to engineer a ‘moderately prosperous society’ (*xiaokang shehui*), and the ‘China dream’ (*Zhongguo meng*) is deployed in the service of ‘social stability’ (*weihu shehui wending*), capitalist accumulation, and exploitation. They are a far cry from the dreams of universal emancipation and working class power.

Christian Sorace

Christian Sorace is a Postdoctoral Fellow at the Australian Centre on China in the World, Australian National University. He is the author of *Shaken Authority: China’s Communist Party and the 2008 Sichuan Earthquake*, scheduled for publication with Cornell University Press in Spring 2017. He is currently conducting research on the urbanisation of the grasslands in Inner Mongolia, China and ger districts in Ulaanbaatar, Mongolia.

ACADEMIC WATCH

Elisa Nesossi on *Legal Reforms and Deprivation of Liberty in Contemporary China*



Edited by Elisa Nesossi, Sarah Biddulph, Flora Sapio, and Susan Trevaskes, *Legal Reforms and Deprivation of Liberty in Contemporary China* offers a series of analyses by prominent legal scholars on the complexities inherent in the process of reforming detention institutions in China. It also discusses at length the development and subsequent abolition of the re-education through labour system (RETL), a topic surely to be of interest to our readers. For our *Academic Watch*, we spoke with the book's co-editor Elisa Nesossi, Australia Research Council Research Fellow at the Australian Centre on China in the World, The Australian National University, and regular contributor to *Made in China*.

In the book you describe RETL as 'a particularly useful and flexible tool in policing dissent and disruptive rights-asserting conduct'. This system was abolished at the end of 2013, but is it really gone? What has filled the void when it comes to dealing with political dissent?

Elisa Nesossi: We can definitely say that the abolition of RETL marked an important symbolical change in the Chinese justice system. As you mention, prior to its abolition it was a very useful backstop for the police where legal reforms in other areas restricted investigative and interrogative power. Still, it is important to point out that the number of people detained in the RETL because of political dissent and threats to social stability constituted only a small number of detainees, with the majority being drug addicts. In the book, Sarah Biddulph explains very clearly that by the time of its abolition in 2013, the majority of people detained in RETL were drug addicts. This development caused a significant rise in drug-induced pathologies that placed an insurmountable strain on the system, as it was not well equipped to provide drug treatment and medical care. At the end of 2012, local police organs stopped issuing RETL decisions, signalling the demise of the system and its partial replacement by compulsory drug treatment. For other detainees who are not drug addicts but may pose a threat to social stability, RETL has not been substituted by one defined system. Some conduct—e.g. repeated petitioning—can be punished through penalties provided in the Criminal Law. Others are dealt with on an ad hoc basis, and are either diverted to existing facilities for administrative punishment or may even be deprived of their liberty through non-legally defined measures.

In the book you refer to the abolition of RETL as a strategic ploy used by Xi Jinping to 'draw a line in the sand between the new and the previous Party leadership's stance on stability maintenance.' Since the ascent of Xi Jinping, has there been any other significant sys-

temic change concerning issues related to the deprivation of liberty?

EN: So far, I think that the abolition of RETL at the end of 2013 has been the most important change to the deprivation of liberty system during the Xi era. As this book outlines, reforms within the criminal justice system (we distinguish here between administrative and criminal forms of deprivation of liberty) have clearly been lagging behind. While reforming prisons has never been considered a high priority, there have been significant discussions concerning changes in the system of pre-trial detention. There is a sort of consensus, especially among legal scholars, that the management structure and the legislation governing these facilities need to be reformed, as they are still run according to regulations that date back to the 1990s. Discussions about reforms started almost fifteen years ago but it appears that under Xi Jinping the prospects for reforms have stalled, as this is not considered a high priority at the moment.

The chapter by Joshua Rosenzweig deals with the system of residential surveillance. Can you briefly explain how this system works and why it has caused so many concerns in the past few years? Is Liu Xia, the wife of Nobel Prize winner Liu Xiaobo, under residential surveillance?

EN: I think that there is a bit of confusion about the various forms of detention in China, and I believe that misunderstandings are inevitable because of the variety of ways in which people can be deprived of their liberty in the PRC. Joshua Rosenzweig explains that the ways in which residential surveillance has been used have been highly contested during the amendment process of the Criminal Procedure Law in 2012. Some even asked for its abolition. The key problem is that residential surveillance involves two different forms of detention: an 'ordinary form of residential surveillance' intended as a non-coercive alternative to pre-trial detention (similar to house arrest in West-

ern countries), and an exceptional non-residential form used to deal with offenders that the authorities consider to be a serious threat to the socio-political order. In this second form, non-residential surveillance can be carried out in any (often undisclosed) location and has been used as a fairly flexible tool to detain people in order to conduct criminal investigation, or even as a form of summary punishment. In addition to these two practices, there are also other forms of deprivation of liberty that are defined by Party documents and are legally 'non-existent', as they are developed experimentally to cope with ad hoc circumstances or cases. So it is important to distinguish residential surveillance—which is a legal measure provided by the Criminal Procedure Law—and the form of 'soft house arrest' under which people like Liu Xia are deprived of their liberty by being placed in legal limbo.

Q: The chapter by Flora Sapio discusses the limits of conventional western approaches toward the Chinese correctional system. Can you briefly outline these limitations to our readers?

EN: In her chapter, Flora Sapio explains that Western approaches have generated a 'Gulag narrative' whereby individual descriptions of the Chinese carceral system have been used as examples of a 'living hell on earth'. She shows that since early days, Western narratives have constructed a fairly stereotyped and orientalist image of China that primarily serves political and geo-strategic imperatives. In the late nineteenth century, this narrative was used to justify the imposition of extra-territorial powers; during the Cold War to orientalise the Communist enemy; and in the 1990s, to justify the exportation of human rights values. On the whole, Sapio's analysis is a valid and strong exhortation to contemporary scholars to change their perspectives and develop a study of the Chinese correctional system based on the disciplinary structure of criminology and penology.

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