

## THE ROLE OF THE ALL CHINA FEDERATION OF TRADE UNIONS: IMPLICATIONS FOR CHINESE WORKERS TODAY

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*In the context of China's economic reforms and realignment with global capitalism, this article examines the role of the All China Federation of Trade Unions (ACFTU) and its failure to act as a genuine trade union organization. Rather than putting workers' interests and the protection of their rights first, the ACFTU, as an organ of the Chinese Communist Party (CCP) has largely shifted its agenda in line with that of the Party. The article looks at how this has often meant prioritizing the interests of business over those of labour and how subsequently the ACFTU faces a crisis of legitimacy in the eyes of many workers, who increasingly turn to alternative methods of struggle outside of the officially sanctioned union. While such struggle has alarmed the CCP and has led to apparent attempts at trade union reform, often this has meant little in reality. The article also addresses the changing relations of international trade unions with the ACFTU and challenges unions who are prepared to work more closely with it for giving the ACFTU a false credibility.*

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The All China Federation of Trade Unions (ACFTU) is China's sole union federation. Under China's Trade Union Law, workers have no freedom of association and can not simply join a trade union of their choice. To be a legally recognized union, all trade unions must be affiliated to the ACFTU; all independent trade unions and other such organization by workers is prohibited. The ACFTU was originally founded in 1925 but was then soon, under Kuomintang nationalist rule, severely repressed. Following the 1949 revolution, it was reestablished and became China's sole trade union organization, which it has been ever since, bar a period when it was temporarily dissolved during the Cultural Revolution. By the end of 2009, total ACFTU membership had reached 226 million, which included 79.8 million rural migrant workers.<sup>1</sup> In more recent years, the situation in China has changed dramatically for workers as China has moved to reintegrate itself with global capitalism. The introduction of reform and open policy in the late 1970s indicated the start of this transformation and led to a huge influx of foreign capital being poured into the Pearl River Delta region. To encourage further capital and investment, China has had to adapt itself to become more competitive to the market. In 2001, China joined the World Trade Organisation, marking a further step in its integration with global market economy.

The transformation of China has taken place at the expense of the working class. The restructuring and reorganization of its state-owned enterprises (SOEs) in the 1990s, on the grounds that they were to become more profitable, led to more than 30 million workers being laid off without full compensation. Eighty-six percent of all SOEs had become fully or partially privatized by 2001.<sup>2</sup> The process of restructuring resulted in numerous strikes and protest actions as workers were angry at the attacks on them. While workers were previously guaranteed a job for life this was abruptly brought to an end. The All China Federation of Trade Unions (ACFTU) did little to defend or protect workers during this period.

Furthermore, although the ACFTU supported the Chinese People's Congress and endorsed China's first Labour Code in 1995—the implementation of which has been hailed an important step in providing legal protection to Chinese labor—it is necessary to understand the Labour Code in the context of the ongoing restructuring process. While legal protection was given to rural migrant workers working in private enterprises for the first time (they had previously been denied the job security and high level of labor welfare of SOE and collective enterprise workers), from the perspective of SOE and collective enterprise workers, the 1995 Labour Code represented a regression rather than progress. This is because the guiding principle of the 1995 code was the implementation of a kind of a “socialist market economy” that saw labor as a commodity that should be regulated by the market. Hence, the 1995 code codified this philosophy (in clause 27) by legalizing the employers' practice of laying off workers when they faced bankruptcy or other serious conditions. This has provided one of the legal bases for the authorities to lay off state sector workers in tens of millions since then. The ACFTU's complicity in this thus made them an accomplice in the redundancy of millions of workers and the privatization that was part of the restructuring process.

It was not until much later that the central government began to acknowledge the cost of the restructuring process to workers. In March 2007, ACFTU Vice Chairman Xu Deming stated that as of June 2006, 2.05 billion yuan (US\$150 million) of unpaid wages along with 700 million yuan of compensation were owed to workers from SOEs that were undergoing restructuring or bankruptcy procedures in eleven of China's cities and provinces. Twenty-five percent of workers were also reported to have had their social security terminated, and in addition, he described the pay scale of workers as being much too unequal in the post-reform period.<sup>3</sup>

The layoffs also impacted on ACFTU membership as many members, union officials, and safety officers were amongst those laid off. Through the 1990s and the early 2000s, however, the key priority of the ACFTU was to encourage former SOE workers to adjust to the new mentality in which they could no longer consider themselves to be *zhuren* (“masters”) and lost their “iron rice bowl.” As a result, the ACFTU did little regarding working conditions and wages because they were afraid of weakening incentives for investment and reducing economic growth.<sup>4</sup> The failure to defend jobs and labor rights, which

were increasingly eroded as workers were made to work faster and longer under stricter control in order to increase production output for the profit of capitalists during this period, brought into question the union's legitimacy. Even in the early 1990s when Chinese scholar Tang Wenfang conducted a survey of SOE workers' impressions of the union, he found that when workers had problems, such as concerning housing, wages, dismissal, and work injuries, the majority were more likely to seek help from the workplace management and/or government department instead of the trade union.<sup>5</sup>

With many workers once more having suffered increased hardship following the onset of the global economic crisis from 2008, the ACFTU has only continued to fail in the eyes of workers. According to a recent report by the Hong Kong Liaison Office of International Trade Union Organisation (IHLO) the ACFTU's pro-business response to the crisis only furthers its poor reputation and weak relations with workers even more: "The ACFTU's rather passive and establishment focused responses to the crisis as well as their focus on the survival of enterprises at the expense of worker benefits has done little to change the already poor image of them as a union in the eyes of workers."<sup>6</sup> Indeed, when the central government demanded that the minimum wage be frozen in November 2008, the ACFTU simply towed the government's line.

### **The ACFTU and the Communist Party**

The ACFTU's strong tie to the Chinese Communist Party and the pursuit of its agenda is a key factor in explaining why the ACFTU has not and will not act in the interests of workers. Indeed, the ACFTU has been an organ of the Communist Party ever since its establishment. The issue of greater union independence has surfaced in a significant way in the past though. In fact, following the commencement of economic reform, the 1980s saw great discontent and unrest amongst workers who responded to the resulting falling living standards with wildcat strikes. On top of this was the fact that along with the reforms, factory directors and managers were given increasing power within the workplace while nothing was accomplished to strengthen unions and workers' congresses. The introduction of fixed term contract employment in 1986, for example, meant that it was theoretically easier for directors to dismiss workers as it meant that workers were now no longer permanently employed and could be dismissed if the management found it necessary.<sup>7</sup>

An ACFTU survey from spring 1988 revealed that less than 10 percent of those surveyed believed that the trade unions could "speak for workers and solve their problems."<sup>8</sup> Fear of independent union organization at this time therefore led the 11th ACFTU Congress in October 1988 to call for greater independence in order to head off this threat.<sup>9</sup> The party's fears were to be realized in 1989 as the increasing anger and frustration of workers led to the establishment of independent workers organizations, most notably the Workers' Autonomous Federation during the Democracy Movement. With the Tiananmen crackdown, however, any possibility of independent trade unions was severely repressed and

the official trade unions, some of which had initially supported the democracy movement, were brought firmly back into line. According to Chinese labor historian Jackie Sheehan, internal communications from the ACFTU in 1990 reveal complaints that they were being treated as a work department of the party and were unable to do little more for workers than to make sympathetic noises when presented with their problems.<sup>10</sup>

Even shortly following the Tiananmen massacre, ACFTU President Ni Zhifu warned that “The trade unions must avoid simply acting as agents of the government and work independently so as to increase the attraction to workers and enjoy more confidence of the workers, leaving no opportunity to those who attempt to organise ‘independent trade unions.’”<sup>11</sup>

Today, however, the ACFTU remains very much subordinate to the Chinese Communist Party (CCP), whose bureaucracy has increasingly assumed responsibility for roles usually associated with trade unions. In 2006, ACFTU Chairman Zhao Wangguo said, “All trade union organisations must consciously accept the leadership of the Party, resolutely implement the Party’s line and directives and also comply with all decisions and plans adopted by the Party Central Committee.”<sup>12</sup> The ACFTU’s “five faceted and unified” (*wuwei yiti*) model of rights protection, adopted in 2007, shows its top-down approach. Listing the five facets in order of importance, it places the leadership of the party as the most important, while participation by the workers comes at the very bottom of the list. Support of the government, cooperation of society, and operation by the unions were listed second, third, and fourth, respectively.<sup>13</sup> Placing workers as the least important facet in their own rights protection is clearly very problematic. What this seems to amount to saying is that structurally, the priority in defense of workers rights is compliance with the line of the party. Such an approach would provide little room for genuine involvement and initiative by workers.

### **Reform of the ACFTU**

We must give China’s unions a backbone. We must understand how to organize the working masses in unions within China’s socialist market economy, and particular attention should be given to private sector workers and migrant workers. We must learn how to truly represent the working class masses, and staunchly uphold the legal rights of workers . . . We must transform the Party’s leadership of unions, and allow for union workers to reflect their true conditions and engage in legal and proper struggle. Liu Shi (Former Vice Chairperson ACFTU, November 2003)<sup>14</sup>

Given its crisis of legitimacy and growing labor unrest as workers look to other more militant means of struggle, the ACFTU has been trying to transform its image over recent years. One way in which the ACFTU has sought to make itself appear more legitimate is through direct elections at enterprise level. The first experiments with direct elections actually took place in 1986 in the Shekou industrial zone of Guangdong province but plans to implement them further

were abolished following the Tiananmen crackdown.<sup>15</sup> They have been taken up and promoted in some regions again since then by advocates in the ACFTU who argue that they will help to address the perceived failure of grassroots unions to protect workers rights and help raise migrant workers awareness about the function that the union plays in the workplace and in the process help them to develop working class consciousness.<sup>16</sup>

Jude Howell, a political scientist who examined trade unions in Guangdong, has identified four situations where provincial trade unions have been less keen to hold direct elections. These are when the trade union has only just been established, where industrial relations are tense or mass action has recently taken place and so workers may elect someone who might be prepared to fight the enterprise boss, where migrant workers have strong ties to a clan or their place of origin and so the provincial union fears it will be more difficult to control the union chair, and in an enterprise where production is unstable.<sup>17</sup> If this list is accurate, then it would suggest that the ACFTU is only happy for direct elections to take place if it is not likely to lead to conflict between workers and the interests of the enterprise; in other words, in unions that are likely to be more passive and the workers less prepared to fight for their rights.

Even where direct elections have been implemented, however, it has not always prevented managers from standing and being elected as trade union chairs. In a large number of cases, trade union officials will simply be appointed and no genuine election will take place. Furthermore, even though Trade Union Law states that officers at each level of the union should be elected, candidates are still subject to approval by provincial level ACFTU committees.<sup>18</sup> Howell points out that elections are not seen by senior cadres as a right of workers but more a “gift” from enterprise owners and the higher level trade union.<sup>19</sup> She cites a senior cadre from the Bureau for Construction of Grassroots organizations in Guangdong provincial trade union as saying that the bureau will respond to requests from the enterprises themselves for a change to the trade union leadership but will then leave it to the enterprise to decide whether it will be a direct election or not.<sup>20</sup> This is just another example of the ACFTU placing the interests of enterprises above the interests of workers.

Despite apparent reforms, many enterprise unions remain heavily dominated or controlled by management. An additional potential problem is that even where the direct election of a worker to the position of union chair has taken place, the worker has then become a cadre, removed from the position of an ordinary worker, and begun to enjoy the benefits, for instance a flat and a car, and same status of a deputy director.<sup>21</sup> There is thus still a distance between the elected chair and the workers.

Lack of membership has also been another key concern of the ACFTU. With the restructuring of SOEs and increasing privatization, the CCP’s control and influence over the workplace was significantly reduced. The party has therefore been especially keen to establish unions in the private sector and particularly foreign-owned enterprises so that through them, it can reassert some degree of its control and authority. In March 2006, President Hu Jintao reportedly ordered the

ACFTU to do a better job at building trade unions and party organizations in foreign-invested enterprises, and subsequently, targets have been set regarding the percentage of foreign-invested enterprises to be unionized.<sup>22</sup>

The way that it has carried out its unionization drive only goes to further confirm what the ACFTU's priorities are and moreover illustrates how the party's use of the union acts at the expense of the workers. Rather than seeking to organize the workers to form a union, the ACFTU's policy has been to visit the private companies where they want to establish a union in order to persuade the companies to consent to a union. Often, as a consequence, this has meant that where new unions have been set up, they have still been controlled by the company's management.<sup>23</sup>

The ACFTU's success in establishing unions in Wal-Mart stores is one example that has been widely reported in the media, particularly as Wal-Mart was at first very keen to resist unionization. China Labour News Translation, in fact, identifies two stages in the ACFTU's union building at Wal-Mart. In the first stage, Wal-Mart was still hostile to the establishment of union branches and so the ACFTU actually contacted the workers themselves and mobilized them to set up unions.

At this stage, where unions were established, workers were involved in the democratic elections of trade union committees and trade union chairs. In the second stage, after Wal-Mart had changed its position and approached the ACFTU, agreeing to allow the open establishment of unions in the remainder of its stores, the ACFTU went back to its old ways of establishing unions through the seeking of management approval.<sup>24</sup> In other words, once it had achieved its goal of being able to establish itself in Wal-Mart stores, it stopped seeking to directly mobilize workers. Again, this only acts as evidence that the ACFTU is not primarily concerned with the interests of workers themselves but is more concerned with establishing itself and thus, also the CCP within the workplace. Indeed, when Wal-Mart was asked why it agreed to allow unions, a Wal-Mart spokesperson is reported to have said, "The union in China is fundamentally different from unions in the West . . . The union has made it clear that its goal is to work with employers, not promote confrontation."<sup>25</sup> The effect of such a policy by the ACFTU is that it means it can therefore present itself and claim itself to be a defender of the workers, while in practice, its presence has more meaning for CCP control than for workers.

While there has been an increase in the number of official new unions established, even where enterprise base unions do exist, many are little more than "paper unions" with workers remaining unaware of their existence. A 2008 report from the Nanfang Daily describes how in Shenzhen workers have little opportunity to play an activist role in the grass roots trade unions that do exist.<sup>26</sup> Again, lack of any real union activity has been recognized by some pro-business analysts. An article entitled, "The Effects of China's Growing Labour Unions on Your Company," for example, advises companies that allowing official unions to form may not be such a bad thing as it ends government pressure, and since the ACFTU does not authorize strikes and rarely passes on workers' demands

to management, “unionization with the ACFTU does not necessarily mean increased worker activism.”<sup>27</sup>

A key piece of legislation that is often given as evidence of progress and reform is the Labour Contract Law that came into effect from January 1, 2008 and which the ACFTU played a significant role in helping to draft. This law has been interpreted as a significant step forward for labor rights in China. The law set out to clarify the laws and regulations relating to the nature of the content of labor contracts and impose penalties for companies failing to provide proper written contracts to workers. The new law also should mean that employees who have worked for a company for ten years or more can not be dismissed without good cause. As a result, one problem in the run up to the implementation of the law was that workers were fired so that they would not be covered by this condition.

Where the ACFTU is concerned, the law should technically strengthen the union’s role in discussion of redundancies and other changes.<sup>28</sup> The problem with this is that while the law itself may have become strengthened, in practice, because the ACFTU is more committed to creating an environment that is attractive to investment and creating good business relations, this can only mean very little in real terms for workers. The way that some local ACFTU branches responded to the economic crisis is a good illustration of this. There are cases where local branches either urged the government to allow or simply overlooked enterprises that took a more flexible approach in enforcing the Labour Contract Law.

Measures taken by the Jiangsu Provincial Labour Protection Office with the pretext of relieving the burden on enterprises and stabilizing employment included cutting the rate enterprises paid toward unemployment benefit contributions, medical contributions, and work injury insurance, allowing enterprises facing difficulties to defer social insurance payments, using unemployment benefit to subsidize enterprises with economic difficulties, delaying payment of overtime, and introducing flexible working time.<sup>29</sup> Many of these measures show complete disregard for the new Labour Contract Law.

Moreover, it is also important to consider how in a political and social context where there is a police state, where there is an absence of civil society/ social movements, where all media is state-owned and censored, where basic freedom of association and expression is denied (including the right to strike), and where the local officials and employers are allied to each other in pursuit of their common interests, no matter how many good labor laws are passed, these new laws will only do very little to benefit workers. The unholy alliance of local officials and employers ensures that even when they deny workers their legitimate rights, the workers will have no legal channel through which to voice their grievances to a higher level of government or to the public. If they strike or block the road to protest, they may be arrested for their actions. Because of its complicity and role in creating such a situation, this means that in the current context, it is not possible simply to think that the ACFTU can be reformed or changed into an organization that is truly capable of representing Chinese workers.

### Alternative Methods of Struggle

Without a union that prioritizes fighting for the interests of their rights, the majority of workers has either bypassed or simply not considered the ACFTU when involved in labor disputes with employers. Instead, they have either gone straight to petitioning the government or have taken further action and engaged in alternative methods of labor struggle such as going on strike, holding demonstrations, and blocking roads. Major causes of such action have included privatization, layoffs, and wage disputes. Recent years have seen a steady increase in the number of what are mostly spontaneous strikes, which are officially referred to as “mass incidents”, occurring with the union playing very little or no role in them at all.

According to the authorities, between 1993 and 2003, the number of “collective incidents” grew from around 10,000 to 60,000, with the number of participants involved growing from 730,000 to 3,070,000.<sup>30</sup> In 2005, when the Public Security Ministry stopped publishing figures, the number for the year had grown to 87,000.<sup>31</sup> With the beginning of the economic crisis in 2008, the number of labor disputes has grown even further as factories closed and large numbers of workers were laid off. While it might be expected that workers would turn to a labor union to help them fight for their jobs, the ACFTU has been criticized by the IHLO for its “slow off the mark and passive” reaction to the crisis, acting instead more as an official mouthpiece for the government and continuing to pursue their 100 percent unionization campaign.<sup>32</sup>

The right to strike is not protected under Chinese law, and violence and mass deployment of riot police have often been used to disperse strikes and protests, with criminal charges being brought against strikers.<sup>33</sup> The Liaoyang protest movement of 2002 provides a good example. The protests began as a result of workers being laid off when a large number of SOEs were declared bankrupt or insolvent. Despite the fact that the protests, involving up to 20,000 workers, were peaceful, police used repressive measures against the workers, monitored them closely using under cover surveillance, and arrested leading worker representatives.<sup>34</sup> Two of the workers’ leaders were later found guilty of subverting state power. Yao Fuxin, one of the workers’ leaders, however, explained the motives for organizing the demonstration as follows:

For more than 20 months, the Ferro-Alloy Factory workers had not received their wages, the older ones were unable to pay their medical bills, and some couldn’t even afford to eat. I couldn’t bear seeing the workers suffer similar to that, so I stood up to help them put food on the table.<sup>35</sup>

In addition to strike and protest action, there have also been cases where workers have called for or attempted to form a union themselves. The most notable example to date probably comes from workers at the Ole Wolff (Yantai) electronics company in Shandong.

In 2006, workers established the Ole Wolff Yantai Trade Union (OWYTU) after the management had violated a number of labor rights (including failing to



issue labor contracts, not paying labor insurance, excessive overtime work, refusing leave requests, and not providing treatment for victims of occupational hearing damage) and fired workers without giving any reasons.<sup>36</sup> In their application letter to form a union, the workers wrote:

Workers are determined to get organized to keep their legal rights from being violated considering the fact it has become a common phenomena for workers' legitimate rights to be violated by the employers and our labour laws turned into a meaningless "scrap of paper" because of local protectionism. The situation described earlier highlights the reason and purpose of labour union.<sup>37</sup>

The establishment of the enterprise union at Ole Wolff represents a rare case, but it shows the possibility for workers themselves to establish fighting independent enterprise level unions inside the ACFTU.

On the other hand, although the local trade union acknowledged the legal status of the union the workers had established, and at first supported it, probably because of the support from higher levels of the ACFTU, it later increasingly sided with and defended the company management as the struggle with management developed. For example, it defended the company by claiming that the company had begun to comply with the labor law even though it was still acting in violation of the law.<sup>38</sup> It did not even do anything when Ole Wolff Yantai sacked nearly all the members of the workplace union leadership, instead turning away the latter when they sought help from the local union.

What is also significant about this union is that in its dispute with the company, the OWYTU became the first local enterprise union in China to actively seek international solidarity and receive assistance from unions overseas. It sought assistance from the Danish Trade Union Confederation, LO, and the Union Federation of Danish Workers, 3F (which corresponded with the ACFTU and tried to talk to Ole Wolff and Danfoss), the owner of the Ole Wolff company in Denmark on the workers' behalf.

What is outrageous is that the head office of the ACFTU in Beijing came to the defense of the employer saying that "the company was requested to take correction measures and now it has met the requirement of the Labour Law in the area of pay, working conditions and safety and health", when in fact it did not.<sup>39</sup>

Despite this example of workers organizing and establishing a union themselves inside the ACFTU structure, in general, the rise in number of strikes and other independent actions by workers has been seen as a worry by the ACFTU and CCP. Any attempts by workers to establish their own organizations are likewise seen as a threat to social stability. Independent actions have therefore been one of the chief motivating factors in driving forward reforms and changes to the ACFTU as the CCP hopes to avert or limit unrest and thus help it to maintain social stability and political order.

The so-called new wave of strikes and actions that have been widely reported by the media in 2010 may be an early indication of some type of shift forward not

only with regard to workers' struggle but also in terms of how the Communist Party is forced to position itself in relation to such action. The actions have seen workers win important wage increases, and perhaps, just as or if not more significantly, where the demand for change or reorganization of the workplace-based unions, or according to some reports, demands for independent trade unions, have surfaced, they have not been met with such brutal repression as they have in the past.

In the Honda worker dispute, which lasted for almost three weeks from May to June 2010, for instance, one of the key demands made by workers was for the reelection of their enterprise union representatives. Indeed, the workers were very critical of the way that the union failed to do anything to help them in the dispute. In the words of one of the Honda workers:

At this critical moment our great trade union did nothing for us. Instead they just wanted us to go back to the production line! Is this what a union should be doing? You take from our monthly wages 5 Yuan for union dues but look what you have done for us.<sup>40</sup>

In fact, during the course of the strike, some workers were physically attacked by men wearing trade union badges. The local ACFTU then retreated slightly, perhaps fearing the reaction by workers and later issued a vague apology letter for the attacks. It nevertheless maintained its position as a mediator aimed at ensuring the workers returned to the production line as quickly as possible.<sup>41</sup> When the strike came to an end, with the workers having won a pay rise, the demand for the reorganization of the union had not been dropped. This therefore not only illustrates the ineffectiveness of the trade union in workers' rights negotiations in the way that it is keener for production to continue but may also show how workers may not always be prepared to go on tolerating the ACFTU's adoption of this role.

It was reported that since then, the local union is making plans to conduct reelections of the work place union in Honda Foshan. The official press reported on this positively. Yet, with the absence of freedom of the press, and with the workers banned from talking to foreign reporters, there is no way whatsoever to verify if the official press is telling the truth.

### **Migrant Workers**

China's economic growth has relied on the many millions of internal migrant workers, who attracted by the promise of jobs and better wages, have migrated from rural areas to sell their labor in the huge factories and construction sites of the cities. These workers, a large number of whom are female, are among the most exploited in China today. Working long hours for low wages, often in very poor or hazardous working conditions so that large corporations can make huge profits, migrant workers are also deprived of the same legal rights as workers born in the cities. The Hukou household registration system, which was introduced in the late 1950s, means that migrant workers are not allowed to

permanently settle in the cities and so the authorities can choose to send them back to their villages if they are thought to be causing trouble.

The ACFTU for a long time has accomplished very little, if anything at all, to protect migrant workers. Its approach has also only partially begun to change recently because of the party's fear of lack of social stability and the alternative means of struggle adopted by the workers. With no proper form of representation, migrant workers have often resorted to either appealing to independent lawyers or the law directly, and perhaps more significantly, they have increasingly taken part in spontaneous collective action at their workplace. A number of scholars have argued that the formation of a new working class of internal rural migrant workers has been taking shape among these peasant workers, who are different from previous generations in that they have different life expectations and that one of the characteristics of this is that they are more likely to become involved in collective action.<sup>42</sup>

In addition, the lack of representation for migrant workers has also led to the formation of Non-Governmental Organisations (NGOs) aiming to provide legal advice to workers who often have little knowledge of what their legal rights are. The CCP has presented this as a threat, and in February 2009, ACFTU Vice Chair Sun Chunlan warned of the need to look out for "hostile forces inside and outside enterprises using some of the difficulties of the rural migrant workers for infiltration and sabotage."<sup>43</sup>

Because of these perceived threats of strike action and intervention by external organizations, the state, and subsequently, the ACFTU, has been forced to take a seemingly more active role where migrant workers are concerned. As a result, for instance, in 2003, the ACFTU finally recognized migrant workers as members of the proletariat and issued a directive allowing and encouraging the recruitment of migrant workers to join the trade unions. Xinhua reported that "to safeguard the legitimate rights and interests of the 210 million farmers-turned-migrant workers has become a new mission of trade unions nationwide."<sup>44</sup>

In 2008, a new law on employment promotion also came into force, which for the first time states that migrant workers should have the same rights to employment as workers from urban areas and that if they have been a resident in a city for a period of more than six months, then they should be entitled to local government service and unemployment benefits.<sup>45</sup> Despite this apparent change in attitude toward migrant workers, it seems that it has meant little in reality. While the Hukou household registration system remains in place acting as a social apartheid, migrant workers are still being fiercely discriminated against as they are denied the right to settle permanently in urban areas and restrictions remain on their access to education and social services. The number of spontaneous collective looks set to continue to significantly grow.

With regard to where the union is concerned, by 2008, a national survey found that only 23.5 percent of the migrant workers interviewed had knowledge of the existence of a trade union at their enterprise and that only 4.2 percent would seek assistance from the trade union if they thought that their rights were

being infringed.<sup>46</sup> This suggests that even where a trade union does exist, migrant workers still have little faith in its ability to help them.

### **Problems for Grassroots Organization**

As part of its attempt to maintain a “harmonious society” (*hexie shehui*), which thus means limiting social and political unrest, the CCP has been keen that the ACFTU is seen as a means to reach down to grassroots workers. This has had some interesting implications for grassroots unions, and explains their insistence on a unionization drive in an attempt to establish an ACFTU branch in as many enterprises as possible. A more positive example, which as outlined earlier is still extremely limited, is the growth in experimentation with elections on an enterprise based level.

At the same time, however, the organization remains very top-down and there is almost no contact between the upper levels of the union organization and ordinary workers. In addition, despite its eagerness to establish more unions, where an official existing union already exists, the ACFTU remains very reluctant to adhere to any demands by workers for unions, which might operate to better serve their interests. In Chongqing, for example, requests by taxi drivers who have tried to organize their own union, have been turned down by the ACFTU on the grounds that they “should go through the [taxi company] to set up a union”<sup>47</sup> or that the official union (which would have been controlled by management) already existed.

It is local unions that have primarily been made responsible for protecting workers rights. Changes to the ACFTU’s organizational structure at this level have further eroded the ability of, the already very weak, grassroots unions to represent workers. In 2005, the ACFTU adopted rural township and urban district unions as a new level of union administration. This new level of union bureaucracy comes between grassroots enterprise-based unions and higher levels of the ACFTU. They are not formed in the workplace but function purely at a bureaucratic level with closer ties to the party and local government than workers. They are often based in party or government offices and it is usually a local government functionary, which has little interest in union matters, which acts as the union chairman.<sup>48</sup>

Furthermore, with local government being keen to present attractive investment environments, protecting workers’ rights is more likely to be a secondary consideration. In a majority of cases, they are more likely to take the side of management rather than that of the workers.<sup>49</sup>

Despite many problems for grassroots unions, a few cases have been reported where unions have been active in trying to defend the rights of workers. In Wal-Mart’s Nanchang Bayi store union, for example, the union chair, who was originally one of the store’s workers, was successful in defending an employee from dismissal. This resulted in the union’s reputation being dramatically boosted and led to the majority of the store’s employees joining the union. The same chair then on another occasion actively tried to negotiate with the

store's management over collective contracts in order to ensure a better deal for workers over overtime and wages. In this instance, Wal-Mart was only successful in getting their version of the contract signed by getting a union chair from a different Wal-Mart union branch to sign it.<sup>50</sup>

What is important in the case of this grassroots union, however, is that the union chair, Gao Haitao, having previously taught himself law and had passed a lawyer's qualification exam, was in full knowledge of the Trade Union Law.<sup>51</sup> He would therefore have been more confident of the rights workers were entitled to within the law. In another dispute where Wal-Mart management was claiming that bonuses should be paid out of union dues, he informed the workers of their rights with regard to union membership, "As members you have the right to know. You have the right to decide the way in which union funds are used and to supervise that usage."<sup>52</sup>

Nevertheless, partial success in this union did not last long. Two years after the Wal-Mart organizing drive, Gao Haitao was forced to resign from both the union and the company because both had made things very difficult for him.

### **International Perceptions of the ACFTU**

There have been mixed reactions toward the ACFTU from the international trade union movement. Although critical to varying degrees, there has been a tendency to show some degree of cooperation with the Chinese union. In more recent years, some international unions have begun to consider that some sort of positive change is possible from the ACFTU and so have begun to work more closely with the latter. In general, the international trade union community has been critical of the lack of freedom of association in China and will often cite lack of key labor and human rights among its concerns. An International Confederation of Free Trade Unions (ICFTU) report, for instance, concluded that in China:

Workers are deprived the rights to organize freely, to form independent trade unions, and to engage in collective bargaining. The right to strike is not recognized. The state and government use a variety of anti-union tactics to control workers, including crack downs on industrial actions and imprisonment of those fighting for workers' rights.<sup>53</sup>

The report is also both critical of the ACFTU's monopoly and the way that repression means that any attempt to form an independent union is very short-lived. It highlights how the ACFTU plays a role to assist the government with its task of encouraging social stability and so is likely to want to avoid shop floor and large-scale collective action.<sup>54</sup>

The ICFTU has also stated that the ACFTU is not a free and independent union organization. Nevertheless, within the ICFTU, an approach of engaging in critical dialogue with the ACFTU has been agreed, although the different interpretations of what this means has led to some unions to engage in "constructive dialogue" with the ACFTU, while others have virtually "no contacts"

at all.<sup>55</sup> As a result, the Federation Dutch Labour Movement (FNV) has raised the concern that such different approaches open the way for the ACFTU to play ICFTU affiliates and Global Unions Federations off against each other.<sup>56</sup> The ICFTU has, in fact, also been criticized for its downplaying of the Tiananmen Square massacre in order to allow further cooperation with the ACFTU.<sup>57</sup>

The FNV is an example of one of the union confederations to be more critical of the ACFTU. In a 2002 report it states:

The FNV not only takes the view that the ACFTU is not an independent trade union, but concludes from its mission to China (November 2001) that the ACFTU is not an engine for change . . . The ACFTU will only change when changes take place at a political level. For this reason, the FNV attaches little importance to contacts with the ACFTU, except for the purpose of raising the matter of violation of trade union rights, pressing for compliance with ILO conventions and drawing the ACFTU's attention to the necessity of representing the interests of workers.<sup>58</sup>

Such an approach is realistic in that it does not see any illusions about top-down change within the ACFTU itself and so does not give the ACFTU the legitimacy and credibility that it is keen to achieve.

Another example of a more critical attitude toward the ACFTU comes from the American Federation of Labor and Congress of Industrial Organisations (AFL-CIO). One of its main concerns has been the way in which the U.S. has lost hundreds of thousands of manufacturing jobs to China because of the suppression of labor rights and low wages. Its responses to this concern have included the initiation of petitions to the U.S. government recommending the imposition of "trade remedies" against China, arguing that a trading partner's denial of workers' rights constitutes unreasonable trade practice.<sup>59</sup> It has argued that if "the workers' rights of one-quarter of the world's workforce are radically suppressed—as they in fact are in China—then labour conditions for the world's skilled and semi-skilled workers are worsened; domestic and global demand is depressed; excess production capacity is created; and a path of inequitable unsustainable development is promoted."<sup>60</sup>

At the same time, however, there is a problem with the position taken by the AFL-CIO's petition as it sees that the root of the problem coming from the lack of a free labor market: "China will continue to serve as the world's sweatshop, producing low-technology goods alongside high technology goods for decades to come—unless the Chinese government radically reverses course and dismantles its control over factory workers."<sup>61</sup>

Thus, for the AFL-CIO, it is the Chinese government alone which is seen as responsible for the sweatshop conditions. This does not of course take into account the complicity of U.S. companies, which have chosen to relocate to China specifically to lower their production costs by taking advantage of such conditions. Therefore, while the AFL-CIO's critical stance and boycott of the ACFTU is welcome, such an overall position is something that should be challenged.

As previously noted, a significant number of unions, while critical of China's labor rights record and the ACFTU, have been more willing to engage to some extent with the ACFTU because they have taken the view that the ACFTU can be reformed. Svenska Metall, the Swedish metal workers' union is one such union. While criticizing China's rights record and recognizing that the ACFTU operates more as a third party between the employee and employers and so does not negotiate on behalf of the workers, it states that "The ACFTU regards itself as an organisation which protects the best interests of the workers, and it does so in many ways. Ordinary trade union activities in China include organising leisure activities, accommodation and to some extent education of the workers."<sup>62</sup>

Svenska Metall goes on in its 2005 report "The Challenge of China" to explain how it believes it is adopting a pragmatic approach to its relations with the ACFTU. It has taken part in information exchanges with the ACFTU since the early 1990s and claims that it hopes, "that these contacts will prove one of a number of ways which can contribute to influencing the system from within, in a democratic direction."<sup>63</sup>

Its reasons for adopting such a position are explained in connection to Sweden's investments in China, which also accelerated from the early 1990s. With Swedish companies relocating to China, Svenska Metall argues that it was necessary for it to learn about the way in which conditions were developing in Swedish companies.<sup>64</sup> While it is true that knowledge of the conditions for workers in companies that have relocated to China is important, the idea that the Swedish union might be able to influence the ACFTU by engaging in relations with it is very naïve.

Not only is it almost as though Svenska Metall, in its justification for its willingness to work with the ACFTU, is claiming that it can teach what has been won with regard to trade union rights through workers' struggle elsewhere to the ACFTU, but also because of the ACFTU's strong tie to the authoritarian state, along with the fact that more often than not, it is the enterprise management that has a hold over union positions at the workplace, it is very unlikely that an international union organization can make any significant difference to the way that the ACFTU operates. Moreover, such relationships with the ACFTU should also be challenged as they give false credibility to the ACFTU. Rather, it can only be through workers' struggle for representative organizations that such a degree of positive has a chance to occur.

An even more worrying recent development is the way that some union organizations have gone further still in their keenness to develop stronger ties to the ACFTU. The new U.S. trade union Change to Win, for instance, has been very keen to break the so called boycott of the ACFTU by the larger AFL-CIO and has sought to actively foster good relations with the ACFTU. In summer 2009, Change to Win and the ACFTU signed an agreement reaffirming the commitment of both parties to further cooperation. In a Change to Win report on the event, it emphasizes only what it views as positive aspects of the ACFTU.

As though to place it on an equal footing with trade union organizations in countries where there is freedom of association and the right to strike, Change

to Win Chair Anna Burger proclaims that they were bringing together “two great union federations that share a common vision of advancing workers’ interests in China and around the world.”<sup>65</sup> This, then, is to ignore or forget the fact that the ACFTU is tied to the CCP and that its first priority has been to try to pursue party policy regardless of whether this conflicts with that of workers.

This has meant, as this report has tried to show, that the ACFTU will more often favor a good business investment environment and so side with management rather than the interests of workers. Change to Win, however, seems not to recognize this. Rather, they go on to report on how the ACFTU “represents” 219 million workers in China and has collective bargaining agreements that cover 80 percent of Fortune 500 companies, of which, “Those collective bargaining agreements include all Wal-Mart workers, thus recognising their right to union representation in China—a right that is denied to Wal-Mart workers in the United States.”<sup>66</sup>

Thus, they are falsely presenting the ACFTU as progressive by claiming that it has achieved things that have yet not been achieved in the U.S. Not only did Change to Win not mention the lack of quality of this so called “representation,” moreover, its position acts as though to deny that in a country where workers are not free to form or join a trade union of their choice, on top of the fact that workers are frequently banned by local authorities from speaking to the press (especially the foreign press), thus making it very hard for any third party to verify the real situation at a grassroots level, there is a problem with the form that any trade union representation takes. Such an approach to legitimize and give an even higher level of credibility to the ACFTU is clearly a very dangerous development.

### **Conclusions: Proposals for Worker Responses?**

It has been argued that one of the problems with the ACFTU is that workers do not have the understanding of what a trade union should be. In SOEs, workers do not make a conscious choice about joining a union as they automatically become members of one. In addition, there is the argument that migrant workers have little understanding of a trade union’s role as they come from rural backgrounds and so have little consciousness of being part of the working class.<sup>67</sup>

While it is true that many workers in China do lack understanding of the significance and role a genuine fighting union could play, a key part of the explanation for this also comes from the ACFTU’s failure to act as a genuine trade union organization. When the ACFTU has sought to establish new unions, it would rather approach the workplace management rather than the workers themselves. As an organ of the Communist Party, it has been complicit in China’s realignment with global capitalism and the sacking of millions of workers as part of the restructuring process. Since then, where the trade union has existed, it has continued to repeatedly fail workers by siding with the enterprise management and favoring business so as to encourage a good business investment environment.



Thus, this explains why when workers have had grievances and decided to fight, they have often looked elsewhere to alternative forms of struggle. Indeed, there is an ever growing number of examples of how workers have actively got involved in collective workplace struggles. This sort of action is something that is greatly feared by the Communist Party and so in its efforts to create a “harmonious society,” it has made some very limited reforms on the surface.

Nevertheless, as it is clear that the Communist Party has completely committed China to capitalism and the global market economy, while at the same time, such a high degree of strict control is retained over society, it is very difficult to see how any serious and meaningful reform of the ACFTU will take place. This means that while organizations such as the International Confederation of Free Trade Unions (ICFTU) (now the ITUC/International Trade Union Confederation) are right to criticize the ACFTU for not being a free and independent union organization, moves by parts of the international labor movement to view the ACFTU more positively and to work more closely with it are unhelpful.

Instead, it is worth looking more at the cases where workers have advocated for the union to fulfill a more active role in fighting for and protecting workers’ rights at an enterprise-based level. The OWYTU and Wal-Mart Nanchang union both provide a good example. The even more recent call by Honda workers, during their strike in May–June 2010, for the reorganization of their trade union in order to elect their own representatives further provides a positive example of how workers may begin to demand more from the union at a grassroots level.

While we should not place hope in reform of the ACFTU from earlier, if workers are able to gain more understanding of the role a union could play at a grassroots level and fight for their ability to utilize it, then there is room for some hope. The continuous rise in the number of strikes, road blocks, and other forms of collective action in recent years, although at the moment mostly spontaneous and isolated, has proved workers willingness to fight and has deeply unsettled the CCP.

Additionally, with the onslaught of market reforms, the ACFTU itself has become more heterogeneous within. While the central leadership has recently pushed for certain labor law reforms and has even become less explicit in supporting business interests, it has never ceased to act as the “transmission belt” of the party. At the local level, the ACFTU is still as fiercely pro-business as before, and at the workplace level, the unions are mostly controlled by employers. Even where more progressive people may exist inside the ACFTU, their numbers are few and they have little room to achieve much, while those who have spoken up in favor of more independent unions in the past have been purged.

Nevertheless, because of the fact that in the workplace, the employer controlled unions can be directly challenged by a discontented and angry rank-and-file and the possibility of changing the union’s leadership, although difficult, does exist, it still makes sense to support a reelection of the union when it is

called for or echoed by the rank and file. This should not, however, be confused with the illusion that a thorough reform of the ACFTU as a whole is possible without first shaking off the “leadership role of the party.”

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