

# Chinese checkers is the board stacked against SA?

The flood of cheap Chinese goods is threatening the jobs of thousands of SA workers. Most feel that China's competitive edge comes from low wages and non-compliance with core International Labour Organisation (ILO) conventions. But is that the case? The **Labour Bulletin** examines the state of labour in China.

**T**he People's Republic of China was born in 1949 with the final defeat on the mainland of the Nationalist forces of Chiang Kai-shek by the Communist forces led by Mao Tse-tung (Mao Zedong). Under the 1982 constitution China is defined as 'a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of the workers and peasants'. The sole and ruling political party is the Communist Party of China (CPC).

In the final years before Mao's death in 1976 a power struggle set in between radicals, who became known as the 'gang of four', and moderates including Deng Xiaoping (purged during the Cultural Revolution and again in 1976 as a 'capitalist roader'). But by the beginning of the 1980s Deng had

established control, denounced the excesses of the Great Leap Forward and the Cultural Revolution and set China on a course which emphasised the progressive loosening of centralised command economy policies while retaining the tight grip on power through the CPC.

During the 1980s the commune system was ended, free markets for farm products were developed, and state businesses began to pay orthodox taxes instead of transferring their entire profits to the government. Central product allocation was reduced and (within limits) private businesses permitted. Certain coastal regions (the Special Export Zones - SEZs) were allowed economic autonomy and to develop cautious trading relations with neighbouring capitalist states. Finally, trade in privately owned land was legalised. An important development during this period was the creation of a labour market to replace administrative allocation of labour. Labour contracts similar to those found in capitalist countries were introduced. It also became easier to sack workers.

During the 1990s, in the wake of the collapse of communist regimes in most of the rest of the world and the crushing of the democracy movement in Tiananmen Square in June 1989, the CPC retained power through a continuation and development of this broad policy, first under Deng and then his successor Jiang Zemin. The process of reforming state enterprises and encouraging the private sector intensified over the decade.

China is now committed to what it calls a 'socialist market economy' or 'socialism with Chinese characteristics'. In this the state retains control of a number of large state-

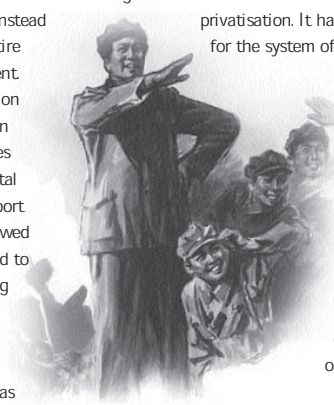
owned enterprises (SOEs) in key industries. However, most SOEs are being, or have been, privatised.

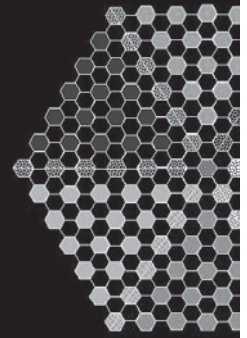
By 2002, the number of SOEs had fallen to 159 000, down from twice that number in the mid 1990s. While the economic reforms have been highly successful in stimulating growth, the privatisation policy has created tension because of rising unemployment and accusations of favouritism and corruption in privatisation. It has had serious implications for the system of social welfare, which was enterprise-based. The policy of winding up inefficient enterprises has been moderated by the impact on employment and social stability, and the central government is also unable to ensure uniform implementation of its policies in all areas of the country.

## LEVELS OF UNEMPLOYMENT

China has a labour force of around 750 million. However, China has a massive unemployment problem. There are between 80 and 120 million surplus workers, including rural labourers and laid-off workers from SOEs. Large numbers of rural labourers have moved to the industrialised areas along the coastal strip and in southeast of the country. Many of these are young women, who have been employed, often under very poor conditions, in the manufacturing industries exporting around the world. These factories are usually owned and managed by investors from Taiwan, Hong Kong and Korea. They are connected through complex supply chains to major Western merchandisers and retailers.

About two thirds of China's gross domestic product (GDP) is generated in the non-state sector. While per capita incomes





are still low, output has quadrupled in the past two decades and the size of China's population is such that total GDP is now second only to that of the US. Annual growth in GDP peaked at 14.2% in 1992 and was around 8% in 2002.

#### Trade unionism

China has a single trade union system organised through the All-China Federation of Trade Unions (ACFTU). Following the establishment in 1927 of KMT rule under Chiang Kai-shek in Shanghai, many trade unionists were executed, and thenceforth the unions were restricted, with national and general federations prohibited and government-sponsored 'yellow' unions installed.

In 1948 the Communist Party (CPC)

organised the ACFTU, which functioned for 18 years as the sole trade union centre. Until 1966 the ACFTU and its associated unions were active at workplace level, principally in the areas of education, labour safety, welfare and propaganda. In 1966, however, Mao launched the Cultural Revolution to eliminate those accused of 'bourgeois tendencies'. Workplace revolutionary committees replaced trade unions and the ACFTU was itself dissolved in December 1966. Unions were denounced as counter-revolutionary in purpose and methods. Following the death of Mao in 1976 many of the policies adopted in the late 1960s reversed.

In October 1978, the ACFTU and its newspaper, *The Workers' Daily* (Gongren Ribao), which had been suppressed in 1966, resumed publication. In a statement to the

congress, ACFTU chairman Ni Zhifu recalled that: 'In December 1966 the office building (of the ACFTU) was occupied by force and *The Workers' Daily* was closed and sealed, at the personal instigation of Jiang Qing (Mao's widow). Many trade unions at the provincial, municipal and autonomous regional levels, as well as basic-level trade unions, were battered and crushed. Their office buildings were occupied by force, properties divided and files lost'. The first union to resume its activities, after 12 years' suspension, was the All-China Federation of Railway Workers' Unions, which began its national congress at the end of October 1978.

#### STATE OF LABOUR LAWS

In recent years, trade unionism in China has been regulated by the Trade Union Law. It was passed by the National People's Congress in 1992 and extensively amended in 2001. The Law contains a number of internal tensions. On the one hand, it gives official trade unions wide-ranging powers and responsibilities, and ensures that they are adequately resourced. On the other hand, the Law ensures that trade unions are subordinate to the Communist Party, and attenuates their capacity to advocate for employees by requiring them to 'mobilise employees to complete production duties and working duties with great efforts'. Unions operating under the Law are thus torn between representing employees and implementing party-state policy, which seeks to maintain labour discipline.

One source of these tensions is that for much of the period under Communist rule, Chinese trade unions operated almost entirely in state-owned and collective enterprises. These enterprises were 'mini welfare states', which provided benefits that in a developed country would be delivered through the social security system. A major role of the unions in these enterprises was to



influence the distribution of these benefits. They tended not to oppose the employer as the employer was the state, of which workers were supposed to be the masters. The Law still reflects this legacy. The legacy of an earlier style of unionism inhibits the evolution of the law towards a system suited to a market economy. As the party-state opposes the development of an independent activist union movement, the tensions within the Law are likely to remain.

China resumed participation in the ILO in 1983, and the ACFTU says that 'since 1983, the Chinese trade unions have actively urged the Chinese government and departments concerned to draw up plans for ratification and application of international labour conventions'. It is well known that China does not comply with ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organise, 1948), nor Convention No. 98 (Right to Organise and Collective Bargaining). It has not ratified those Conventions.

A further problem with the 2001 provisions is that they do not explicitly prevent senior managers being union members, or even from holding executive positions in unions. Thus, especially in state-

owned enterprises, many directors have held union office. Some unions thus simply legitimate management plans. One attempt to limit the conflict of interest here is the new Article 9, although this stops short of banning management participation in unions outright.



The 2001 amendments to the labour law make new provision for collective bargaining, although the legal framework as set out in the Law, as well as in the 1994 Labour Law, is incomplete. Neither the Trade Union Law, nor the Labour Law, deals extensively with unfair labour practices or other aspects of the collective bargaining process, although an employer cannot refuse to negotiate without a 'tenable reason' (Article 53). Despite the absence of a comprehensive collective

bargaining framework, collective agreements are being concluded in increasing numbers of workplaces. By the end of 2001, some 270 000 collective contracts had been concluded. However, it is unclear if many of these involve genuine bargaining.

A further shortcoming in relation to collective bargaining is that there is no clear right to strike in China. Nevertheless, strikes are not expressly prohibited. In recent years there have been a large number of worker protests in China. These are usually associated with claims for arrears rather than for improvements in working conditions. The ACFTU does not usually organise these strikes. Instead, it often attempts to prevent them. This is because, while unions have a role in representing workers where a work stoppage occurs (Article 27), they are also required to 'assist the enterprise to ... resume production and working order as soon as possible'.

The Trade Union Law contains many provisions requiring unions to safeguard workers' rights to 'democratic management'. This concept has been implemented in the public sector in a relatively straightforward way through workers' congresses (which are similar in some ways to European work councils). The Law says that the union

committee of an enterprise is the 'working body' of the 'workers' congress', tasked with the implementation of its decisions. According to the ACFTU, the workers' congress system has been set up in almost all state-owned enterprises in large and medium-sized cities. The events of 1989 had the effect of extending the role of the workers' congresses, but the trend of economic reform has been to emphasise the right of managers to make decisions and overcome obstacles to radical restructuring. In many enterprises the workers' congress is effectively moribund.

One area where trade unions potentially have doubt is in the enforcement of labour standards. Notoriously, very many Chinese firms fail to comply with the Labour Law and the 2002 Law on Work Safety, especially those that are smaller and/or located in the private sector. Both the Trade Union Law and the Work Safety Law give extensive powers to unions to ensure that standards are met. These provisions typically give unions the power to complain of a violation, and require the employer to investigate the complaint and make amends if a violation has occurred. If an employer refuses to do so, the union can refer the matter to local authorities. Unions have legal capacity and can sue in their own right. It remains to be seen to what extent unions will exercise these powers.

A puzzling feature of the Labour Law is that unions have an ambiguous role in the mediation and arbitration of labour disputes. Thus, dispute resolution within the enterprises consists of a tripartite committee with employer and employee representatives and a union chair but where the dispute is taken beyond the enterprise, the labour dispute arbitration committee (LDAC) is constituted by employer representatives, the trade union and a chair from the local labour bureau. Thus, it is unclear whether a trade union is an employee representative or an impartial mediator.

The Law provides unions with funding through a levy on employers amounting to 2% of the total wage bill. Moreover, the wages of full-time trade union committee members must be paid by the enterprise. Other committee members are entitled to

three paid working days per month of union leave. It would seem, however, that many firms do not comply with this requirement.

#### All-China Federation of Trade Unions (ACFTU)

The ACFTU is the largest national trade union organisation in the world with a reported membership of 134 million while it has 1 713 000 affiliates. There are no legal unions outside the ACFTU. It is constituted in accordance with the Trade Union Law as a 'mass organisation of the working class formed voluntarily by the Chinese workers and staff members'. The overwhelming majority of workers in state enterprises belong to unions, but significant numbers of workers in the private sector and foreign-owned or joint venture enterprises are not organised.



The ACFTU is organised on the Soviet model on the principle of democratic centralism, i.e. that lower level bodies must be guided by higher levels. The ACFTU was affected by the reform movement of the late 1980s that culminated in the crushing of the occupation of Tiananmen Square in June 1989. In 1988 Zhu Hou Ze was appointed the ACFTU's first secretary. Zhu had been dismissed as head of the party propaganda department in February 1987 because he was associated with the policies of the then party leader Hu Yaobang, who had failed to stop student demonstrations. As ACFTU's first secretary Zhu probably encouraged moves to invigorate workers' congresses and to make unions more responsive to the welfare concerns of workers. He also appears not to have prevented members from participating

in the reform and democracy movements of 1989. In December 1989 Yu Hon-Gen, former president of the National Coal Corporation, replaced him.

The 1992 Trade Union Law confirmed the ACFTU's role as the sole national organisation of trade unions and defined the role of the unions as an instrument of official policy. This role was re-emphasised in the ACFTU's revised constitution of 1993. ACFTU chairperson Wang Zhaoguo is a member of the CPC Politburo and there is a close mesh between union and party at all levels.

At the 14th National Congress of the ACFTU held in September 2003 a new ACFTU Charter was promulgated. The new Charter maintains the democratic centralist structure of the ACFTU. The Charter imposes obligations on ACFTU member unions that are not always consistent with representing the interests of employees. In private firms, for example, unions are to, 'construct consultation systems, implement democratic participation, represent workers' political rights and material interests, protect the national and social interest, respect the lawful rights and interests of investors and work together [with them to] develop the enterprise (art 29).

The ACFTU has also shown awareness of the problems of social dislocation caused by economic reforms, unemployment, widespread non-payment of benefits and dissatisfaction as privatisation is seen to make well-connected individuals wealthy at the expense of those who had built up the enterprises through their labour. The ACFTU is emphasising its role in assisting workers to find new jobs, in providing re-training and organising consumer co-operatives, and in organising social benefits. The ACFTU has a consultative role in drafting and revising laws, at national and local level, affecting labour and social welfare.

Where industrial action occurs in China, it tends to consist of essentially individualistic acts by isolated dissidents, which have not represented a challenge to the existing trade union structure. However, the restructuring of the economy has led to the development of wider forms of industrial unrest, focused on living standards and working conditions,

rather than broader political aspirations. Traditionally, workers have depended on the enterprise for a wide range of benefits, such as health care and housing. As many SOEs are effectively bankrupt, there are many cases of workers going unpaid for extended periods, laid-off workers not getting subsistence allowances, and pensioners not receiving their pensions. While the enterprise-based system has broken down, an adequate state back-up system has not yet been constructed in its place.

The approach adopted in dealing with unrest has varied. In some instances, the authorities have sought to find solutions to grievances; in others, demonstrations have been broken up by riot police or the army, and leaders detained. There are reports that some activists have been detained merely for taking up causes before labour disputes and arbitration committees. According to the International Confederation of Free Trade Unions (ICFTU): 'In some large plants, work committees, comprising officials from local ACFTU branches, the local labour bureau authorities and the Public Security Bureau (PSB), have been set up to monitor and preempt worker action. Many medium and large enterprises have detention facilities and security officials can detain and sentence protesting workers to three years in a labour camp.'

In general branch unions have avoided giving support to any form of militancy such as work stoppages or go-slows and normally work to prevent such actions developing. The history of past purges of union officials who fell out of step with official policy is a deterrent to local unions adopting positions unacceptable to higher bodies.

The official unions have been seeking to define a role that is in alignment with official policy while also helping to mitigate the impact of restructuring. The unions have opened more than 2 000 employment agencies and set up more than 6 000 vocational training organisations where 2.2 million workers have been re-trained. They also have set up service businesses and market places and run a 'warmth' programme to assist needy families. The unions are

involved in efforts to reform the social security, employment, housing and medical insurance systems.

The ACFTU is not a member of the ICFTU whose policy, adopted in November 2002 states that: 'The ICFTU, noting that the ACFTU is not an independent trade union organisation and, therefore, cannot be regarded as an authentic voice of Chinese workers, reaffirms its request to all affiliates and Global Union Federations having contacts with the Chinese authorities, including the ACFTU, to engage in critical dialogue. Some ICFTU members refuse to maintain contact with the ACFTU.'



#### OTHER TRADE UNION ORGANISATIONS

Efforts to create independent trade unions featured in the brief reform movement of 1989. The Workers' Autonomous Federations (WAFs) were founded in May, and represented the first major attempt to set up autonomous unions since 1949. The WAFs seem to have had particular success in Shanghai; there and elsewhere they focused on income discrepancies, poor working conditions, the lack of democracy at the workplace, the lack of involvement in policy-making, and the deterioration of living standards.

On 2 June 1989, the ACFTU called for the crushing of the independent unions. On 4 June troops put down demonstrations in Tiananmen Square. However the first secretary and vice-president of the ACFTU, Zhu Hou Ze, was regarded as having favoured the reform movement and this led to his dismissal in December 1989; he was replaced by Yu Hon-Gen, former president of

the National Coal Corporation. The leader of the Beijing Federation, Gou Hai Feng, expressed similar views and was arrested in August, charged with having set fire to a bus. On 14 June, the Public Security Bureau declared WAFs illegal. A number of their members were posted on wanted lists and some are believed to have been sentenced to death. On 16 June delegates to the UN Special Session on Prevention of Discrimination and Protection of Minorities heard of 13 workers executed for 'counter-revolutionary crimes' and 67 arrested for their involvement in WAFs.

Around the time of the first anniversary of the Tiananmen Square events the authorities released several hundred prisoners incarcerated since June 1989. It was thought however that none of the WAF leaders was among them and also that the official position that only 45 of these were still held might be an underestimate. In 1999 the ICFTU reported that many activists involved with the WAFs were still in prison, psychiatric hospitals run by the Public Security Bureau, or forced labour camps. Others involved with the movement had been deported.

In 1992 an underground Free Labour Union of China was formed but its leaders were quickly arrested and imprisoned for 'organising and leading a counter-revolutionary group'. They became known as the 'Beijing 16'. Since that time there have been recurrent efforts by individuals or small groups of dissidents to organise unions, or circulate petitions calling for free unions. Those involved have generally been imprisoned on criminal charges or subjected to 're-education through labour', a form of administrative detention, which dispenses with the need for a trial. The treatment of those subjected to 're-education through labour' is said to be commonly worse than in the criminal justice system, with torture used.

*This information was obtained from a publication entitled 'Trade unions of the world' published on the International Centre Trade Union Rights website: [www.ictur.org](http://www.ictur.org)*