

**Politics of Corporate Social Responsibility and Industrial Relations of Taiwanese  
Manufacturers in China: Trapped between Brands, NGOs and the State**

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## Abstract

Taiwanese manufacturers have been welcomed in China for at least the last 25 years, pouring money into China to take advantage of its cheap labor market. These firms have been able to extend production capacity and sustain their businesses by acting as subcontractors for brands such as Apple, Nike, Gap, and others. However, these glory days are dwindling. Over the last couple of years, different kinds of industrial actions have occurred, wildcat strikes have been bursting out from everywhere. Formerly tame Chinese workers have become rebellious, asking for their legal rights and even demanding pay raises, with the assistance of an expanding array of labor NGO advocates. On the other hand, Taiwanese manufacturers have to deal with their clients' concerns regarding their brand images, respond to the pressure demanding for corporate social responsibility (CSR), and cope with the Chinese government's compliance requirements. Referring to industrial relations process and outcome of Taiwanese firms, this essay analyzes the politics of CSR and industrial relations among these stakeholders. The changing dynamism of China's political economy explains the reasons behind the current chaotic situation and reveals implications for the development of Chinese industrial relations.

It is suggested that although so far the causes in respect to the changing political economic environment are still the dominant factor in explaining the process and outcome of employment relations in China, increasing marketization in a globalized economy has prompted strategic policy making of the firm to play an essential role in explaining the varieties of employment relations as well.

**Key Words:** Corporate Social Responsibility, Employment Relations, China, Taiwan

## Introduction

On April 14, 2014, one of the biggest work stoppage ever occurring in China took place in Dongguan, Guangdong, at the largest Taiwanese shoemaker Yue Yuan<sup>1</sup>. Different sources estimated that over 30,000-40,000 workers walked out from the assembly line, demanding the employer to pay the social security premium in full<sup>2</sup>. After Yue Yuan gave each worker an additional 230 Yuan per month living subsidy and promised to pay back social security premium in response to the Ministry of Human Resource and Social Protection (MHRSP)<sup>3</sup>, the workers went back to work and ended the strike on April 27, 2014. In March 2015, 2000 Yue Yuan workers went on strike, again—demanding immediate payout of their housing fund after a sudden decision by management to merge two plants<sup>4</sup>. The workers' demand, however, was not in accordance with the central government's regulation. Workers wished to take back their housing fund when they left the city, while the law only allows the fund to be transferred to the city where they are going to be employed. The problem is that Dongguan authority's local regulation has been deviant from the central government's provision. Local regulation states that workers can take back their housing fund when they leave the city<sup>5</sup>. The strike was terminated after negotiations held between Yue Yuan and Dongguan City authorities, the City announced that workers who had contributed housing fund before March 2015 would still be entitled to take it back when they left the city.

Meanwhile, other Taiwanese firms also faced labor disputes in China such as the Fan-Yu Leader Shoe dispute,<sup>6</sup> another famous dispute. The company has 2750 workers who

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<sup>1</sup> Yue Yuan is a listed company at Hong Kong stock exchange market whose major shareholding is Taiwanese conglomerate Bou Chen Group. Yue Yuan has many factory sites in Canton province. The strike took place at the factory of Gaobu Township.

<sup>2</sup> In China, employer's social security contribution is 11%, and the employee is 8%. But Yue Yuan did not pay the premium in full since its establishment in 1980s, which is a tacit understanding between the Dongguan authority and Yue Yuan. The local authority took this understanding as a compromise to attract foreign investment into China.

<sup>3</sup> Yue Yuan says 80% of workers return after plant strike, April 26, 2014, Bloomberg Business <http://www.bloomberg.com/news/articles/2014-04-25/china-tells-nike-shoemaker-to-rectify-striker-benefits-by-today>, access date 2015-07-15

<sup>4</sup> <http://www.chinalaborwatch.org/newscast/431> Thousands of Yue Yuan workers on strike again, access date: 2015-07-15

<sup>5</sup> It's perhaps a decoy that attract workers from other provinces to move to Dongguan to supply enough workforce for the firms invested in the city.

<sup>6</sup> <http://www.clb.org.hk/en/content/lide-shoe-factory-workers%E2%80%99-campaign-relocation-compensation> access date: 2015-07-17

make leather shoes for brands such as Coach. Struggle between workers and management lasted about a year, eventually collective bargaining was engaged and a contract was signed<sup>7</sup>. The case was cited as a good example of recent developments of collective bargaining in China<sup>8</sup>. Another dispute involving a different Taiwanese firm, however, was much worse. The employer of the New-An- Lun Lamp (SHENZHEN) chose to hide himself from the employees who were also on strike in seeking to take back social security and housing funds, nine worker leaders were arrested by the police in this dispute<sup>9</sup>. In fact, along the Pearl River Delta (Guangdong Province) and Yangtze River Delta<sup>10</sup> (Shanghai and Jian Xu Province) where most of the Taiwanese investments are located, industrial disputes of Taiwanese firms are nothing but common, especially during recent years<sup>11</sup>. Why have Taiwanese firms in China been confronted with these serious conditions in employment relations? What have been the key factors that brought about such confrontational and unstable employment relationships within Taiwanese firms? Are the factors only specific to Taiwanese firms, or are they also commonly seen among other firms in China? We are interested in answering two major questions: one, are these disputes, as the outcome of employment relations, simply a result of a changing political economic environment in China? Or, second, strategic decision making by the firm could also be relevant in inciting these disputes, and that the process and outcome of employment relations of the firm in China today includes Taiwanese manufacturers. Taking Taiwanese firms in China as example, this paper intended to understand the changing landscape of employment relations in China today.

Employment relations of Taiwanese firms in China is a threshold to understand recent development of China's industrial relations under marketization. There are three reasons to

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<sup>7</sup> <http://www.clb.org.hk/en/content/shoe-factory-workers-show-collective-bargaining-already-reality-guangdong>, access date: 2015-07-18

<sup>8</sup> <http://www.chineseworkers.com.cn/d276742076.htm> 市场化集体谈判成功案例——番禺利得鞋厂劳资集体谈判分析。Access date:2015-07-15

<sup>9</sup> <https://www.wsws.org/en/articles/2015/05/30/labo-m30.html> the strike started on April 28, on May 13, Shen Zhen City (Guangdong) police was called in and 9 worker leaders were arrested. Access date: 2015-07-16

<sup>10</sup> In Kunshan city, Jian Xu province, a Taiwanese car parts maker Zhongrong Metal Products had a serious dust explosion on August 2, 2014, 146 workers dead and 114 workers injured. The incident was not only raised the issue on workplace safety and health but also on the lack of management on working condition and employment relations.

<sup>11</sup> Hong Kong based China Labour Bulletin have collected data to show a strike map in China. Among these disputes cited many are Taiwanese firms <http://strikemap.clb.org.hk/strikes/en>, access date: various times

choose Taiwanese firms as a starting point to explore the development of China's industrial relations. First, Taiwanese firms have been the major catalyst to bring modern capitalist model of production into China over the last 30 years, in addition to Hong Kong based firms. With the same cultural root and language as well as a parallel political heritage, Taiwanese firms have provided a window for Chinese firms to step into global production structure while shouldering their culture burden and political backdrops. Secondly, over the last three decades, China has been seen as a global factory for consumer goods in the international market, supported by its abundantly low-cost workforce. Taiwanese firms have been able to link with those international brands as their major producer in the supply chain system even before entering Chinese markets. It is the Taiwanese firms who have established the link between Chinese workforce and the brands' global supply chain system. Thirdly, from an institutional perspective, Taiwanese firms have worked with Taiwan's political system long before entering Chinese markets—to comply with the Kuomintang (KMT) governance in Taiwan before 1980s. This experience has been important for Taiwanese firms doing business in China because the Chinese Communist Party (CCP) has a parallel heritage with the KMT<sup>12</sup> in Taiwan. And because of this “political awareness”, Taiwanese firms have been able to accommodate themselves with the CCP directed state employment relations policy and to cope with institutions at workplace. These understandings are important because the elements mentioned-above have made Taiwanese firms successful in expanding their production capacity from Taiwan to China since the 1980s. Nevertheless, these elements also construct a destiny for Taiwanese firms today that tends to make dealing with employment relations in China very difficult.

From a theory building perspective, this study sheds light on the “Varieties of Capitalism” (VoC) argument (Hall and Soskice 2001, Bamber etc. 2011, Kauffman 2011). We agree with the argument that political economic forces are important in examining the causes of the process and outcome of employment relations in China today. Yet, along with the increasing marketization, it is also seen that the firms' strategic decision making (Kochan etc. 1986, Martin & Bamber 2005 ) underlined by their role within the global supply chain has become essential to determine the process and outcome of the employment relations in China today. Contemporary studies on China's employment relations tend to

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<sup>12</sup> Before 1927, the CCP parasitized within the KMT and both accepted the guidance of Soviet Russia style of political bureau system in party governance. Both have developed an allied trade union movement, that in Taiwan is the CFL and in China the ACFTU.

be on the macro level, i.e., with the perspective mainly focusing on political and economic institutions. In this article, our attempt is to show that studies on strategic decision making by firms could also be equally as important.

We start by explaining why Taiwanese manufacturers landed Mainland China to extend their production capacity for the brands. We then seek explanations to address why Taiwanese firms in China today face such awkward situations. The next section focuses on politics of corporate social responsibility (CSR) between brands and Taiwanese firms. We argue that relations between brands and manufacturers should be carefully adjusted that a reasonable balance of power between them should be justifiable to respond to a better employment relations in the supplier firms. The following section discusses the impact of labor NGOs on employment relations, in particular whether the NGOs will be affecting the governance of the All-China Federation of Trade Unions (ACFTU), the sole national trade union organization? The last section of the paper focuses on the changing political economic environment in China, we suggest that although changing political and economic environment is still the most important factor to determine employment relations at the firm level, the impact of the strategic decision making by firms in China is increasingly seen to determine its policy and practice in employment relations as a result of the firm's role underlined by global economy. In conclusion, we summarize our analysis and indicate our observation on the changing landscape of employment relations in China in general and on Taiwanese firm in particular.

### **Taiwanese Manufacturers in China: the Road to Race to the Bottom?**

A recent research report showed that Taiwanese investment in mainland China saw a significant 27-percent drop, concluding that Taiwanese businesses no longer find it easy to gain market share in China (The China Post 2014). According to the data compiled by Taiwan's Investment Commission, Taiwanese investment in mainland China stood at US\$10.9 billion for 2012, down 16.61 percent from 2011 to a three-year low. The commission revealed that investment in mainland China by Taiwan manufacturers had already reached a critical threshold, coupled with changes in mainland China's business

environment, and the study reported that Taiwan businesses were clearly reorienting toward Association of Southeast Asian Nations members<sup>13</sup>.

The political liberalization and the lift of the Martial Ordinance in the late 1980s led to an unstable business environment. Meanwhile, Taiwanese business also encountered increasing labor costs after the enactment of the Labor Standards Act in 1984. The economic model of these firms that based on subcontract manufacturing for the global brands—is to compete on unit labor cost as the original equipment manufacturer. Mainland China, where cheap labor, lack of regulation, and an enthusiastic government preparing to move its country forward into a capitalistic society, was exactly the right place attractive to interested investors such as Taiwanese manufacturers. They took advantage of this new found promise land and transferred their model of production into China. The key factor to move into China of these Taiwanese firms is definitely, the cheap labor.

For the past 25-30 years Taiwanese firms had been welcomed with open arms in China, pouring money in by taking advantage of the then cheap labor market, to continue its role within the global supply chain. On one hand, Chinese Mainland local governments needed badly to fulfill Deng Xiaoping's wish - to develop a socialist market economy as soon as possible; on the other hand, an army of comparatively low wage workforce was compatible with the need of Taiwanese manufacturers, whom many have been acting as subcontractors for international brands since the 1960s.

Chinese local officials took every possible measure to entertain Taiwanese investors, in some cases reported, even to carry hot water pots to wash the guest's bare foot in person<sup>14</sup>. One of the major incentives/concessions, however, was a tacit understanding that allowed Taiwanese investors to set aside some of the employer's legal responsibility such as—to underpay the social insurance contribution, etc. Regardless, this was a win-win situation at that time—the Chinese local officials were able to carry out the party's mission: to allure more investments; while Taiwanese manufacturers were also able to find new business opportunities and expand their production capacity.

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<sup>13</sup> Kerry Brown, Justin Hempson-Jones and Jessica Pennisi, 2010, Investment across the Taiwan Strait: How Taiwan's Relationship with China Affects Its Position in the Global Economy, Chatham House, UK

<sup>14</sup> <http://www.wyxxwk.com/Article/shidai/2014/08/325773.html>, access date: 2014-12-12, The famous one was Ji Jien Yeh (季建业) during his tenure as the party secretary of Kunshan City in Jian Xu Province.

One of the major arguments this article suggested is that the current circumstances of industrial relations of Taiwanese firms in China is partially resulted from the worn-out understanding on legal compliance between the firm and both China's local and central government, which is due to the changing landscape of political and economic environment in China. In part, it also has been the outcome of a long-term tradition of negligence of Taiwanese firms in dealing with employment relations originating from subjectively, a lack of strategic concern on employment relations, and objectively, by their roles underlined by the brands' global supply chain.

Traditionally, Taiwanese firms ignored employment and industrial relations since they had never been confronted with labor militancy. With Taiwan's inclusive labor policy (Pan, 1994) individual workers had been protected by legislations and supported by employer's obligation to provide labor insurance contribution, employee benefits, and pension contributions, etc. Workers' collective rights, however, had been confined within plant level which was combined with a "pull policy" (Pan, 1994) to support labor union organizing and leadership cultivating. As a result, the labor union movement was in fact circumscribed. Even though there have been many changes in liberalizing employment relations policy, the mindset of the worker and employer, and the society as a whole, is still affected by the traditional institutional impact: that the state is the dominant and is the eventual avenue to determine the process and outcome of employment relations in Taiwan (Pan, 1998). The Taiwanese employers' experience is influential on two fronts: one is that they don't care about the management of industrial relations; second, they would rather deal with the government rather than the labor or equivalent organizations. Hence, cases reported about employment relations at overseas Taiwanese firms have been generally in bad shape<sup>15</sup>.

The function or department to manage employment relations in Taiwanese firms in general does not exist. There may be human resource management departments in large firms, their function, however, conceptually is to act as personnel administrations only. In the small and medium sized firms, the human resource management is usually practiced by a section within general affairs department, mainly on personnel. The carelessness of

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<sup>15</sup> <http://www.taipeitimes.com/News/local/print/2000/12/02/0000063823>, for example. Cases of Taiwanese firms regarding their behavior in employment relations have been reported in Central America countries. Different labor union organizations such as the UNITE, ITGLWF, UNI, etc. have also initiated to seek for resolving labor disputes in Taiwanese firms.

industrial and employment relations by Taiwanese firms perhaps has very much to do with the business structure with regards to global supply chain. Taiwanese manufacturers have played the most heroic role behind those famous brands, not only consumer products but also components to build up today's technology—such as wafer fab producer TSMC<sup>16</sup>. These firms possess very flexible production capacity, including the arrangement of large quantity of workforce, advanced technology, and very competitive margin labor cost to produce products timely for the markets.

It is suggested that the disregard of employment relations management of Taiwanese firms can also be attributed to the brands' CSR policy. Once the Taiwanese firm is observed of the codes of conduct and cleared from auditing, the business contracts are secured. The observance of the CSR policy establishes a shelter for the firm to disregard the importance of building a home-grown employment and industrial relations policy since it does not have strategic value to the company's profit making. It is also, as argued by the manufacturer<sup>17</sup>, that the brands leave very little margin for them to institutionalize decent compensation and working environment as the brands do for their own employees.

Taiwanese manufacturers in China pay little attention to the function of industrial relations at workplace. Trace back to the origin and development of industrial relations in Taiwan provided a clearer picture of Taiwanese firms in China today. Industrial relations have been the least important item on most of the firms' managerial agenda. Government replacement, weak trade unionism, and relative fast social mobility may have contributed to the carelessness of industrial and employment relations of Taiwanese firms. The government is the most important stakeholder that both the employer and employee (including the union) seek solutions for handling workplace labor problems. Our modern analysis terms this as government replacement—meaning that the government is decisive in the employment relations because it sets up institutions, enacts labor legislations, enforces labor and employment laws, etc. In Taiwan or elsewhere in China, however, this institutional explanation can be traced back to the cultural trait. The state is supposed to carry out benevolence or ethics, a moral state, as Confucius taught more than 3000 years

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<sup>16</sup> Taiwan Semiconductor Manufacturing Corporation (TSMC) has been and is still the most profitable and revenue maker in Taiwan, a high-tech firm, yet still does subcontractor work for many famous brands.

<sup>17</sup> Personal communication with the management of one major Taiwanese subcontractor in China in 2015.

ago, and henceforth the state is seen by the people as an arbiter where when there are problems or disputes between management and labor. The Anglo-American model of industrial relations, which roots from the mass production economy of the late 19<sup>th</sup> century and early 20<sup>th</sup> century, is at the same time based on the dependent role of the state, employer and labor, yet interdependent with each other. This may not be compatible with the deep-rooted culture traits in Chinese society. Chinese mindset anticipates the state to play the most important role in industrial and employment relations. Therefore, it is very difficult for the employer and labor to negotiate and to come to a decision for their process and outcome of industrial and employment relations.

Indeed, in Taiwan, the employer's obligation is to observe the state rules and regulations, despite that a small number of firms may have contracts negotiated with the union. Given the fact that more than 23000 cases of rights-based disputes recorded by government statistics annually, we could argue that many firms are even unable to comply with the legal requirements. The experience of Taiwanese firms in Taiwan has been duplicated in China.

Weak trade unionism has also helped Taiwanese firms escape from the pressure of increasing labor cost and political power urging government policy in favor of the labor. Trade unions in Taiwan, as it is today in China, had been in alliance with the ruling party, at least before the year of 2000. The structure of the trade union also hindered the strength of the labor movement in collective bargaining. Most of the industrial-based labor union organized within the firm or plant level, were in short of financial and workforce support. There was no particular industry-based union in the labor movement<sup>18</sup>. The craft/occupation based unions had been diverted not for collective bargaining but toward the interest of labor insurance scheme<sup>19</sup>.

A relatively flexible social mobility may also be linked to explain why Taiwanese employers are not concerned about the management of employment relations. Indeed,

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<sup>18</sup> The Trade Union Act in Taiwan in 2001 was revised to allow labor unions to be organized across firms to form an industry-based union. Before 2001, the law only allowed the unions to organize industrial federation within the same industry.

<sup>19</sup> The craft/occupation based unions have been in growth for many years because workers who join or organize this kind of union are for the purpose of joining the labor insurance scheme, and which is, by law a craft worker, who generally a self-employee or an individual contractor, must be a craft union member to be qualified for insurance protection.

social mobility as a result of education system and an embedded individualism perhaps further encouraged an establishment of egalitarian rather than a class society. Based on small and medium-sized firms' structure, Taiwan businesses were in full of flexibility--a synonym also for a short business life. As such, workers were not easily able to engage a so-called labor consciousness in favor of labor union organizing. In addition, workers are able to transfer themselves from an employee to an employer easily. An egalitarian exam-based education system<sup>20</sup> also provides an avenue for people who wants to change their social class over one generation.

Taiwanese manufacturers are under serious pressure from the changing nature of employment relations in China. This pressure although superficially comes directly from workers' militancy in employment relations, the actual pressure however, comes from the changing policy initiated by the state. The strategic choice made 25-30 years ago has resulted in the outcome of employment relations today. A further investigation on CSR and the role played by NGOs is essential in uncovering the reasons behind the outcome of Taiwanese manufacturers' employment relations.

### **The brands, what is the meaning of corporate social responsibility?**

Corporate social responsibility has been a major utility to supervise the behavior and practice of manufacturers in terms of labor relations, safety and health, and environment compliance. In order to become a qualified subcontractor, Taiwanese firms have to follow the so called "codes of conduct", derived from the brands. Major labor relations institutions including working hours, wages, and overtime, safety and health issues have all been articulated in these codes. Compliance is required not only to the codes but also to national regulations. The question in our mind, however, is whether the CSR is really for the purpose of making a sustainable workplace, or merely a window screen for the purpose of profit-making for the brands? Recent industrial disputes bursting out in China may provide an inside look on what is really going on.

CSR program between the brand and manufacturers is both a ritual and a reality. It is a platform and instrument where everyone plays its respective role to keep business in

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<sup>20</sup> It is however, has been restructured many times since 2000, and been criticized as more and more neo-liberalized and will be detrimental to the social mobility.

order—the brands get their product to the consumers on time, the manufacturers earn their marginal profit, the workers get their paycheck to survive in a capitalist society, and the government receives the tax to support its country. Perhaps, only in case of some incidents, such as strikes and/or suicides, will people start wondering what is actually going on within this structure of corporate social responsibility? The role Taiwanese manufacturers played in the global supply chain has induced several aspects that may serve as an explanation to their practice in China. The logic between the brand and manufacturers in delivering final products is based on the competition of unit labor cost and brand marketing. The brand maximizes profit by exploiting and shopping around among manufacturers, at the same time exploring its brand image in the markets to attract consumers. Corporate social responsibility is a vehicle to carry out these two objectives. The brand develops codes of conduct and its related procedure requiring manufacturers to follow the “behaviors” set by the codes, and conduct an auditing procedure to certify which manufacturer is in good behavior so that a business contract is issued. The procedure serves as two purposes, one is that the brand shows the world that all its products are made in compliance with the international standards, and that indecent practices at workplace are excluded. Thus, the brand is able to expand the horizon of its reputation to the consumer. Second, the brand takes advantage of the codes of conduct to escape from possible attacks as exploitation of labor, and avoids being framed as sweat shops.

The issue at stake, however, is that the procedure does not guarantee a fair competition between suppliers. Given the industrial dispute cases recently emerging in China, the brands are certainly knowledgeable about the deals made between local authority and the manufacturer. Yet, once the manufacturer has made concession with the authority to pay out its deferred social insurance, the possible increased unit labor cost of the manufacturer are not a concern to the brand. The brands, either do not provide additional levy for the manufacturer to deflate its unit labor cost, or, do not issue statements requesting all potential manufacturers in the same labor market to comply with the regulation, thereby making competition among the manufacturers even. In fact, Apple

has introduced low-cost manufacturer Pegatron<sup>21</sup> to compete with its primary supplier Foxconn to reduce labor costs<sup>22</sup> after Foxconn's series of suicide incidents<sup>23</sup>.

Analysis of corporate codes of conduct reveals that CSR is linked to the marketing of products and the purpose is to meet the necessity of consumers' expectations (Béthoux, Didry and Mias, 2007). Labor's collective activity, nevertheless, is the weakest part of CSR program, as the support of CSR on labor union activity may be seen by consumers as cost transferring. Indeed, one may even argue that the CSR program is a utility to avoid organized labor at workplace because once the brand has qualified a supplier and certified it with an audition, the contract is secured and the procedure has nothing to do with whether there is organized labor or not. The CSR program is in fact used to deflate the need of the firm to establish an autonomous employment relations system within the firm, unless it is related to the substance of the firm in cost or profit. Industrial disputes of Taiwanese firms reveal more subtle information on this regard. After an incident that may be categorized as violation of the codes of conduct including industrial disputes, the Taiwanese manufacturer will generally be required to take immediate actions on three aspects: the labor union, workers participation and dispute settlement.<sup>24</sup>

The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union—the ACFTU.<sup>25</sup> The government, however, introduced new regulations to improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union is responsible in consulting with management on key issues of importance to their members and signing collective bargaining agreements. The Act also grants the trade

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<sup>21</sup> Also a Taiwanese firm.

<sup>22</sup> Analyzing Labor Conditions of Pegatron and Foxconn: Apple's Low-Cost Reality, China Labor Watch, Feb. 2015, <http://www.chinalaborwatch.org/report/107>, access date 07/28/2015

<sup>23</sup> [http://www.huffingtonpost.com/2012/06/14/foxconn-suicide\\_n\\_1596138.html](http://www.huffingtonpost.com/2012/06/14/foxconn-suicide_n_1596138.html), access date: 2015-07-21

<sup>24</sup> FLA Independent External Assessment Report, No. AA0000000311, AA0000000312, AA0000000321, AA0000000364, AA0000000482, AA0000000500, AA0000000618.

<sup>25</sup> Article 2, the Trade Union Act of PRC.

union an enhanced role in dispute resolutions. In December 2003, the Collective Contracts Decree introduced the obligation for trade union representatives and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. Chinese law does not recognize strikes, therefore the factory management generally stated that its current disciplinary rules sanction workers' involvement in strikes<sup>26</sup>. In practice, however, whether to sanction strike workers is still dependent on the management's choice.<sup>27</sup> It is a very common practice in China for factory management to pay union dues on behalf of the workers. The union leader and representatives are generally selected with the management's choice<sup>28</sup>. To the worker, the image of the factory labor union is blurred. It also appears that management is not fully aware of the importance and benefits of having worker representation and participation in different facets of factory operations.

The following excerpts is a collection of comments made in the independent external assessment report of the Fair Labor Association (FLA), an organization who represents brands to conduct auditing on manufacturers.<sup>29</sup> "Many Taiwanese manufacturers in China have a trade union under the ACFTU, however, most of them do not have records that indicate any election has been held, nor is there any written operational procedures that pertain to such elections". "In general, factory management automatically enrolls all workers as trade union members without workers' consent. Most of the workers do not know whether or not they are members of the trade union." "In practice, factory management usually pays the union dues rather than the workers themselves. Instead of being elected by workers directly, union representatives are nominated by management from each department. Only a few of them are production workers; the rest consists of managerial staff." "Although some of the union committee members are production workers, these workers are generally elected among candidates who are nominated by

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<sup>26</sup> FLA Independent External Assessment Reports.

<sup>27</sup> Yue Yuan, for instance, has never sanctioned strike workers. Personal communication with the management in 2015.

<sup>28</sup> In one case I interviewed in Zhejiang Province during 2005, the union president was in fact the section chief of personnel; he was also the CCP party secretary of the firm at the same time.

<sup>29</sup> Not only the brands participate as the member of the FLA, some big manufacturers also join. It actually creates a question of whether and how the FLA deal with the issue of the imbalanced competition among the manufacturers who are subcontractors with the same brand.

management from each department. Most of the workers are generally completely uninformed about the content of the collective bargaining agreement (CBA).”<sup>30</sup>

The interesting part of the comments mentioned above is what type of actions were really taken by the manufacturer. Cross examined, all reports have reported almost the same findings on industrial relations even though each report was based on different firms. It is very likely to suggest that the actions advised by auditors have in fact become routine procedures that are not actually implemented.<sup>31</sup> Thus, there is no doubt that Taiwanese manufacturers have maintained their policy and practice in employment relations in China, which is not far from their earlier heritage in Taiwan.

My earlier and recent experiences with Taiwanese corporate managers in China reveal that Taiwanese firms do not have a clear answer towards trade union activity.<sup>32</sup> On one hand, they know under current institutional environment, the official labor union does not yield serious problems to the cost or profit of the firm, or pose as a potential threat against the managerial decision-making. The union is a bridge for the firm to reach the CCP or vice versa. On the other hand, they have detected the danger of the power of NGOs in motivating workers to fight against them according to their strike experience. Thus, the firm is now seriously considering how to make enterprise-based labor union a mechanism to represent the voice of worker. However, the road from theory to practice often takes time, companies I have encountered with still rely upon middle-level professionals and technical employees to lead the labor union. Even though the brands have issued warnings to the manufacturer on trade union activity, there is nothing really going on to promote authentic organized labor presence within the jurisdiction of the firm.

### **The NGOs, are they the challenge to official labor union governance?**

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<sup>30</sup> FLA Independent External Assessment Report, No. AA0000000311, AA000000312, AA0000000321, AA0000000364, AA0000000482, AA0000000500, AA0000000618.

<sup>31</sup> In the case of Foxconn, for instance, the report by the Financial Times on Feb. 3rd 2013 stated that Foxconn planned to hold a democratic union election—so far, has no one could identify whether it has been conducted or not. “Foxconn plans Chinese Vote”, February 3, 2013, by Kathrin Hille and Rahul Jacob, *The Financial Times*

<sup>32</sup> Communications were engaged at different occasions with different firms’ management when I was working at the Ministry of Labor in Taiwan. The author had served in Taiwan government as Political Deputy Minister (June 2008- Sep. 2012) and the Minister of Labor (Oct. 2012-July 2014).

One of the most dramatic developments over the last three years in China's employment relations has been the rapid increasing numbers of labor strikes and disputes around workplaces. The changing landscape of employment and labor relations not only reflects the outcome of a rapid changing capitalistic economy, it also exposes the stress of the official trade union body—the ACFTU, in dealing with these disputes. Indeed, although as a monopolistic national labor union organization, the ACFTU has always been challenged or asked by itself of what the real function or the role of this organization is – even with abundant self-own resources and the public servant status union staff – who am I, and which side should I serve; The state? Or the worker?

The current situation of the ACFTU can be traced back to its similarity to the Chinese Federation of Labour (CFL) in Taiwan before the year 2000. Both the ACFTU and CFL are agents of labor movement for the designated political party. The ACFTU was founded as the organ of the CCP to organize the working class (Taylor etc. 2003, Ma 2011)—to confront with effort of the KMT's labor organization CFL during the Chinese civil war. After the People's Republic was founded in 1949, the ACFTU earned an institutional status as the only workers representative in the Republic and with that a state-backed political status, usually the ACFTU President is designated as the vice chairman of the national People's Assembly; the local ACFTU president is the vice chairman of the local people's assembly. Yet, after the market economy prevailed in China, the ACFTU is facing an absolute uncertainty due to a rapid changing economy. The ACFTU is bogging between the role as a genuine workers' representative, or still as an administrative arm of the socialist state. The ACFTU is struggling between its leadership and the staff, as well as in rank and files. The leadership of the ACFTU, was always appointed from the party, including the president and members of the secretariat —though through a symbolic election process, it is bounded by its political role. The leadership is supposed to maintain the dominance of the CCP to guide and lead the country, the ACFTU serves as its instrument to keep the workforce stable. The leadership of the ACFTU has an obligation to align with the goal of the communist state, and to ensure that the workforce will not become an enemy of the party. As such, the role of the ACFTU and all its affiliates is to perform as a pacifying function to resolve the conflicts at workplace, but not to act as the workers' representative in conflicts, vis-à-vis the employer. Many staff have perceived the fact that changes must be made in order for the ACFTU to meet the challenge from the market force. It is understood from their profession and day-to-day experience that a paradigm shift is inevitable if the ACFTU is to maintain its status to promise workers to be treated fairly in as capitalistic society. However, most of the rank

and files of the ACFTU are from state-owned firms and government bureaucracies they remain within the ACFTU structure. More and more workers from private firms and also some of the public-owned firms feel dissatisfied with the ACFTU, when there is conflict between workers and the management. The ACFTU local leaders (including union leaders within the firm) are sidelined by workers because they are perceived by workers as pro-management rather than representing workers' interest. Many firm based union leaders are mid-level supervisors, managers, or white-collar staff/professionals, designated by the firm, and elected as the leader.

The ineffectiveness of the firm-based local union on workers' voice has in turn created a foothold for the NGOs, who have been caring and advocating for worker rights for a long time. In earlier days, the labor NGOs had been supported by foreign advocates who concerned about worker rights. However, these NGOs because of their foreign link, were seen as possible troublemakers by the authorities, since they created workers dissatisfaction towards the state, and were therefore restrictively treated. Following the development of the Chinese economy, also accompanied was the increasing challenge to labor and social protection which lead to the establishment of labor NGOs by native Chinese. According to Chan (2013), these labor NGOs have been developed since the beginning of the market based evolution in China. Chan pointed out that two categories of labor NGOs helped workers in dealing with workplace conflicts, namely community based and enterprise based intervention.

In recent years, the most important development is the so-called "rights-protection organization" (wei-chun-tzu-tze 维权组织), These organizations are mainly based of legal professionals, labor advocates and academics. Many legal professionals devoted themselves to help workers in struggling with the management to protect legal rights, in some cases they are even involved in collective actions, to help organizing workers in collective bargaining with the employer. One of the famous case was the Leader Shoe Firm Case, workers organized to bargain with the firm, after a 5-day strike, they eventually concluded a contract. The case was provided legal and organization counseling by Fan-Yu Laborers service department (番禺打工族服务部), The Fan-Yu Laborers was created in 1988 by a worker Liao Hsiao Feng (廖晓峰), who was dedicated in helping injured workers file law-suits to win back workers' compensation. He self-studied law and later met a young man who just graduated from law school—Mr. Tseng Fei Yang (曾飞洋), who is now the sole advocate helping workers, on a very limited financial support.

One of the key questions to explore here is whether these NGOs would replace the role of the ACFTU unions in Chinese industrial relations system, in particular at workplace and local level? One may argue that NGOs may replace the role of the ACFTU unions given the current circumstance that the ACFTU unions are unable to perform its function to protect the rights or to alleviate the interests of workers. Yet, the discussion might be too simple to ignore the political economic explanation that the ACFTU still holds institutional support and many other resources. In China, this institutional support is vital to give the ACFTU unions legitimacy to act as “THE UNION” in the workplace and the society. In particular, the union organization is everywhere in Chinese workplaces, it is a political rather than economic means in the Chinese institutional arrangement. The landscape of trade union organization spreads out from state owned enterprises to private business, from government office to the workplace of corporate conglomerates. We should not judge it from a traditional point view where it is a free-will based organization, it has never been like this. The fact is, ACFTU union is a mechanism to extend party influence at the workplace.

The NGOs may have established potential influence on workers, but it is only on a very small scale, mostly based in the private sector. Currently, the ACFTU is actively engaging in setting up collective bargaining as a major mechanism to resolve workplace industrial relations issue, even though there is still a big gap between concept and practice. The real issue here is whether or not the ACFTU and its affiliated unions face and organization can be democratized. Democracy perhaps is the more eminent issue compared to establishing an alternative union organization for Chinese trade union movement. In China, the idea of freedom of choice to organize an alternative union from ACFTU may not be a good idea because it would be creating a chaotic situation for the union movement, as it is in Taiwan<sup>33</sup>. However, if democracy can be established within the ACFTU, the actual rank and files of the ACFTU can reflect the real choice of their leadership, building up grass-root concern in leadership, it may not be a bad idea.

Over the years, the ACFTU has been experimenting new methods to establish democracy and leadership within the union (Lee etc. 2015). In some of the provincial union

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<sup>33</sup> In Taiwan, when the DPP government took power in 2000, decided to liberalize trade union organization, the CFL, as the ACFTU’s sole position in China, was forced to accept a multiple national union structure. It actually created a disaster for trade union movement in Taiwan. Today there are 10 national union organizations but the affiliates of these national unions are all duplicated. The liberalization process has triggered an even weaker trade union movement in Taiwan rather than to establish a stronger union.

council, the experiments have been going on with some innovations. For example, the Jilin Provincial Labor Union Council experimented to select leadership for community and street based union from people who applied as an organizer to organize workers in community and streets within a particular city zone of Changchun City (Belzer etc. forthcoming). The organizer then went through an election process to become this new organized union leader. The Hubei Provincial Labor union Council stipulated an experimental rule for local union leader election, to elaborate direct-voting procedure for local unions including unions in enterprise, government office, organization, and non-public enterprise<sup>34</sup>. Despite these efforts, all these experiments have not yet induced a tremendous result or impact on the democracy within the ACFTU, it is at least, officially taken as important concept in promoting trade union democracy within the ACFTU.

Today, the role of NGOs is changing and more actively involved in trying to give shape and form to the protests as they evolve, but the NGOs are not a replacement for actual representative organizations such as the union. There is no formal process when the NGOs come to help and represent workers. The intervention of the NGOs on the protest can only occur once the protest has started. The NGOs may be able to speak on behalf of workers but there is no democratic process at work whatsoever. The NGOs face a difficult situation both internally and externally. Internally, financial support for the NGOs is always a problem. Very little support can be subscribed from the society as a whole, and from workers as well. Many NGOs have to rely upon foreign NGOs, or government's support, on a very small amount of endowment, even though this perhaps is still a taboo from Chinese government's view. Externally, the government is taking notice of the actions of these NGOs, as they may have impact on the authority's governance in economic development, in particular to stabilize the environment for investors. The government is said to propose new regulation to cope with the growth of NGOs<sup>35</sup>.

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<sup>34</sup> <http://www.hbagri.gov.cn/tabid/64/InfoID/111094/frtid/180/Default.aspx>, 湖北省基层工会主席直选试行办法, access date: 2015-07-04, <http://lib.nygbpx.org/auto/db/detail.aspx?db=99&rid=18434&agfi=0&cls=0&uni=True&cid=0&showgp=False&prec=False&md=14&pd=5&msd=14&psd=5&mdd=14&pdd=5&count=10&reds=%B9%A4%D7%F7%C8%CB%D4%B1> 湖北省基层工会主席直接选举试行, access date: 2015-08-04

<sup>35</sup> "China Asserts More Control Over Foreign and Domestic NGOs", Commentary by Stanley Lubman, June 16, 2015, China Real Time Report, The Wall Street Journal <http://blogs.wsj.com/chinarealtime/2015/06/16/china-asserts-more-control-over-foreign-and-domestic-ngos/> access date: 2015-08-04

In some cases, however, it appears that the official union has stepped forward to coordinate with outside source in resolving labor dispute at workplace. Shenzhen City Labor Council has invited the Guangdong Lao-Wei Law Firm<sup>36</sup> to provide legal counseling for workers on strike at the Yantien (盐田) International Container Terminal in 2007, and eventually engaged a contract in which workers received 48 million severance payment (RMB) and employer's 60 million housing provident contribution. It appears that there could be a variety of possibilities in developing relationship between NGOs and the official trade unions.

### **Changing Society and Political Economy: The New Normal**

Earlier we asked about whether the condition of the employment relations in Taiwanese manufacturers in China has also been a common phenomenon among other firms in China. The answer is yes. A strike map showed on the web site of Hong Kong based organization, China Labour Bulletin (CLB)<sup>37</sup>, roughly estimated that there were more than 4000 labor collective incidents including strikes which occurred between January 2011 and Aug 2015. The CLB number is based on news report in Chinese newspapers only. According to Professor Li Qi and Labor Lawyer Duan Yi<sup>38</sup>, among 1132 collective labor disputes took place in 2014, Guangdong (237), Jian Xu (79) and Shandon (67) were the top three provinces where disputes took place, followed by Henan, Sichuan, Hebei, Zhejiang, Shaanxi, Shanxi. These disputes spread out from manufacturing to construction industries, from taxi drivers to education and public utilities. The CLB numbers showed a climbing trend from 2011 to 2015. In 2011, only 185 disputes were recorded, following by 382 cases in 2012, 656 cases in 2013, and 1379 cases in 2014. The highest number of collective labor disputes perhaps will be seen in this year (2015), in which 1410 cases have already been recorded only from January to early August,. It appears that collective labor disputes in China are taking place across different regions and industries and are on an upswing trend. Li and Duan suggested that challenges behind these disputes are: increasing variety of

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<sup>36</sup> <http://www.jtpt.cn/plus/view.php?aid=5662>, access date: 2015-07-27

<sup>37</sup> <http://strikemap.clb.org.hk/strikes/en>, access date 2015-08-04

<sup>38</sup> Li Qi and Duan Yi, 2015, "Challenge and Policy faced by a harmonious operation of Chinese collective labor relations: An analysis based on proactive collective labor disputes", unpublished paper, in Chinese. 李奇, 段毅。 "中国集体劳动关系和谐运行面临的挑战与对策—基于行动型集体劳动争议的分析".

workers' interests demand, enhanced workers' ability to bargain, industry transferring and restructuring meeting high season, replacement effects on the ACFTU trade unions, and the development of sectorial-based employment relations. The analysis of Li and Duan has implied that collective labor disputes have become a priority of the state in dealing with China's political economy.

In May 2014, a term "New Normal" was first mentioned by Chinese leader Xi Jinping on his inspection visit to Henan province. The term was referred several times later in Mr. Xi's speech. The concept of "New Normal" if understood from Xi's idea, is that contrasting to the previous hyper-growth economy era, China today has gone to a new normal condition that the government must prevent risks and take "timely countermeasures to reduce potential negative effects." In Xi's APEC speech, he indicated that the Chinese economy has shifted from the previous high speed to a medium-to-high speed growth, while at the same time, the economic structure is being constantly improved and upgraded and the economy is increasingly driven by innovation instead of input and investment.<sup>39</sup> The most important idea of the term is stability, in particular, economic stability. The Chinese government indicated that China will no longer see an average GDP growth rate of 10% in future. It is now the time to consolidate its economy and model it into a more even structure. The authorities further indicate that the government will deliver more "hands off" policy to give the invisible hands room to operate. On the other hand, some noted that it seems Xi's policy implicitly suggested that a balance between the economy and society is needed. Yet, some were suspicious about employment relations policy promoted in recent years may be in jeopardy.

The reality, however, is much more complicated than it is presumed. The Chinese government has initiated many labor legislations over the last two decades to cope with the changing environment. Earlier, it was the effort to shift from the planned socialist economy to the so called socialist market economy. The last decade, however, has been the effort to step into a head-to-head capitalist economy. The PRC has been able to overcome difficulties that are embedded within old institutions and establish a new line of order based on the need of a market economy. It certainly was at the expense of the society and especially at the expense of almost two generations of peasants who come from provincial country side. These peasant workers have been the major workforce supplied

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<sup>39</sup> "Xi's new normal theory", Xinhunet English news, 2014-11-09, [http://news.xinhuanet.com/english/china/2014-11/09/c\\_133776839.htm](http://news.xinhuanet.com/english/china/2014-11/09/c_133776839.htm) access date: 2015-08-01

for those foreign firms, who have taken advantage of this enormous labor resource in order to advance the profit of the firm in a globalized market. These workers left their families and homes, only for the purpose of earning pennies from those brands and firms who have been used to exploiting cheap labor in order to expand their low-cost production landscape. An average of 10% growth is the story created by those investors at the expense of the livelihoods and families of those peasant workers. Instability and increasing income inequality of the society has also built upon it over the last two decades. The worst part is losing belief and faith. Traditional Chinese philosophy and social norms have been swiped away during the culture revolution era, replaced by the Maoist Marxism. Today, the Maoist Marxism has been replaced by the Darwinist capitalism, money matters most. The implication of the new normal, perhaps, is an effort to restore the order of the society, not only for the economy but also for—whether a political reshuffling or a social evolution?

Institutionally, the last three decades has encouraged a growth of low-cost production strategy which involved a large scale population move and the investment of foreign producers including Taiwan, Hong Kong, Korea and Japan, as well as other Westerners. Today, the strategy has changed, the Chinese government is looking to shift the investment into China's inner region to "change cage for the birds". The coastal region, is planned to upgrade from labor-intensive industries to capital/skill-intensive industries, including the service sector. This is also a major factor that resulted in the Taiwanese firms' divestment from Chinese mainland.

Free market capitalism proved to be detrimental to the society if there is no mechanism solving equity issues between the capital and labor. While more than a dozen labor and employment laws have been articulated and enforced over the last decade in China, the issue regarding to what extent the authorities should intervene in the labor marketplace still remains. In fact, there is always a large scale debate among scholars across the nation looking for answers to questions such as: how much could the state intervene into the market to play the role in balancing power between labor and capital? How much could the trade union, as in the industrialized countries play a role to represent workers to defend their rights? If, for instance, the official union ACFTU cannot function to protect workers interest, should workers instead need to organize an independent one?

Have Chinese workers changed? The answer can be blurred. Over the years, reports from news and media have characterized Chinese workers as the successful engine behind the business operation in China because of their peasant character. Most of these

workers came from remote and rural areas of inner provinces, still keeping their hard-working, moderate personality. But recent development seems to show a different image that many Chinese workers would like to walk out from workplace to defend their legal rights. Thousands and thousands workers flocked into the yard within factories or neighboring streets, to demand employer's response to their social security contribution and in some cases, and even to ask for wage raises. The question is: Are Chinese workers evolving from their predecessors? In fact, these workers are the same type of workers who came to work 20-30 years ago. Many walk-out workers were those middle aged 35-50s, including lower-level factory line cadres. The intriguing part of this wave of worker militancy is mainly a reflection of institutional discrepancy created by the government policy, and the management strategy is part of this fiasco.

Though China is certainly a one party authoritarian states, and its courts are criticized in not being independent enough and weak rule of law. Nevertheless, the government is showing itself to be relatively tolerant of protests. Some have reported that in many strike cases, the police and local officials advised striking workers that as long as the strike activity was conducted within the boundary of the firm, the strike workers would not be attacked or arrested. But in some cases, strike workers were treated badly and some workers were arrested.<sup>40</sup> Different treatment seems to reveal that even the Chinese authority has not decided how to deal with these labor-management confrontations at the workplace.

On the other hand, Taiwanese businesses in China, especially those working as suppliers for brands, have since begun a phase out movement from China. The movement is on one hand, a feedback to the shifting Chinese state economic policy; on the other hand, it is also based on the firms' strategic decision making, especially their involuntary choice of being a manufacturer underlined by the international supply chain. Like nomads, they are looking for the best place to maintain their capacity and survive – In this globalized capitalistic society.

## **Conclusion**

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<sup>40</sup> "Workers at UNIQLO supplier in China strike over relocation", Channel News Asia June 17, 2015. Access date: 2015-08-01

Employment relations at Taiwanese manufacturers in China are at a crossroad. There is no doubt, the biggest factor in influencing the process and outcome of employment relations of these Taiwanese manufacturers so far is state policy. The broken promises by local government had made Taiwanese firms face a wave of uncertain employment relations, even though they should have observed the regulation decades ago. Changing economic strategy initiated by the central government during the last couple of years from rapidly raising minimum wage to substantially strengthen law enforcement, as well as the New Normal policy all indicate that the government and the party are fully aware that a well-established employment relationship is important to move the Chinese economy forward. The changing labor policy has resulted in heavy pressure to Taiwanese firms if they maintain traditional production strategies.

It is apparent and very difficult for Taiwanese firms to change its strategy overnight. Therefore, the question goes to the production strategy of Taiwanese firms in particular their role in the brand's supply chain. I have referred that the strategy of Taiwanese firms in employment relations can also be attributed to their role in the global supply chain system. To some extent, the employment relations strategy selected by Taiwanese firms is an outcome of the competition of marginal unit labor cost. It is a non-voluntary choice giving the latecomer status of the Taiwanese firms in the global market and having no domestic market to promulgate its capacity. That is why the brands' CSR program are also influential to the process and outcome of ER in Taiwanese firms. Yet, even though this is a non-voluntary choice, the strategic making of these firms is still responsible for its own characteristic in human resource management or employment relations policy. It is important for us to continue exploring this issue, since the process of marketization has been increasingly taken space in Chinese economy. In my view, even though the state policy still matters to explain the ER process and outcome in China, more study is needed to discover different levels of the development of ER/IR, especially to understand the variance of management strategy in HR/IR at firm level, and its relation to the process and outcome of the employment relations.

Yet, there is still an ongoing uncertainty of how the state sees the development of the NGOs' role in the employment relations, even though it will not be the outmost issue in the development of future employment relations in China. The most important issue, however, is how the CCP views the role of the ACFTU in industrial relations? On the one hand, the uncertainty is that whether the CCP would promote the role of the ACFTU as an authentic democratized organization to represent workers interests in a rapidly changing

market economy? On the other hand, how the ACFTU sees itself as workers representative or simply only as the party's administrative arm? If the CCP cannot help the ACFTU to find a solution to resolve this structural problem, it will certainly intimidate the governance of the CCP in China.

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