

1995

In the early reform period, Chinese civil society began to take root and bloom. Taking advantage of a more relaxed political and legal framework, commercial, financial, cultural, and professional organisations sprouted throughout the 1980s. After 1989 and the ongoing repression in its wake, the political spaces available to these organisations shrank and state–society relations froze. It would not be until the United Nations Fourth World Conference on Women, held in Beijing in 1995, that the Chinese authorities would again allow some space for civil society. Nongovernmental organisations (NGOs) working on gender issues, some of which focused on migrant women, were the first to appear. The next wave, starting from the late 1990s, were labour NGOs that provided assistance to migrant workers in several urban centres, mostly in the capital and in Guangdong Province. This essay tracks the development of these organisations from their heyday in the mid-1990s to the crackdowns of the mid-2010s.

From Green Shoots to Crushed Petals: Labour NGOs in China

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When China hosted the 1995 United Nations Fourth World Summit on Women, who would have thought it would be a catalytic event in the growth of nongovernmental organisations (NGOs) in China? This meeting of UN representatives from all over the world and activists attending the shadow NGO conference held in Huairou County, Beijing, unleashed a raft of relatively independent women's organisations. With space prised open for Chinese citizens to organise, it also created opportunities for those concerned with the lamentable situation of workers to set up independent groups to provide services and counsel on rights. In the decades since this monumental event, China's labour NGOs have been subject to not only harassment and repression, but also governmental overtures towards them to cooperate in the provision of welfare services.

This essay charts the twists and turns of China's labour NGOs from 1995 onwards. It identifies three key stages in their growth: first, the period from 1995 to 2002, when the first seeds of labour NGOs were sown; second, the decade from 2002 to 2012, which was marked by China's entry into the World Trade Organisation (WTO) and its strategic move to 'go global'; and finally, the current period under President Xi Jinping during which labour NGOs have faced acute repression.

Green Shoots (1995–2002)

Though NGOs, often semi-governmental, began to develop from the mid-1980s onwards, China's hosting of the UN's Fourth World Summit on Women in 1995 catalysed the rapid growth of more independent women's organisations. Until that point, the strict 1989 Regulations on the Management of Social Organisations had stymied the growth of NGOs, and those that existed were in any case mainly commercial, industrial, and professional associations. Given international sanctions after the tragic events in Tiananmen Square on 4 June 1989, the government was keen to restore international relations. This grand UN meeting provided a pivotal moment for China to shed its pariah status internationally.

Not only did it open up opportunities for women to organise independently of the All-China Women's Federation (ACWF), but also it created an opening to organise for those with other concerns such as labour issues. Some of the first labour NGOs, as they came to be known, grew out of the ripples flowing from the UN summit. Astute activists capitalised on the implicit licence to establish NGOs and set up organisations relevant to female migrant workers. Journalists, lawyers, and academics leveraged their positions and contacts to create new organisations addressing migrant workers' rights and issues. Hong Kong academics and activists also used these openings to start organisations offering services for female migrant workers. International organisations such as aid agencies and foundations played a vital role in promoting concepts such as gender equality, facilitating international links, exchanges, and visits, offering advice on organisational development, building networks, and providing small funds for activities. Through these experiences, female activists and academics, as well as international organisations, accumulated contacts, knowledge, networks, and connections with sympathetic government officials.¹ New ideas, approaches, contacts, and international awareness began to extend beyond gender inequality concerns to other issues.

In the late 1990s, there was but a handful of labour NGOs, mainly concerned with female migrant workers. Perhaps the most well-known of these were the China Working Women's Network in Shenzhen, established by a group of concerned activists and academics in Hong Kong, and the Female Migrant Workers' Club in Beijing, which was initiated by a prominent female journalist. With good connections to the Party-State, these women were able to sustain these groups despite periods of government harassment and suspicion. However, a further tidying up of the regulations governing social organisations in 1998 curtailed any substantial growth or development of NGOs. Indeed, many of the existing NGOs were in a state of limbo, neither banned nor registered due to the strict criteria for registration and the reluctance of government departments to sponsor them, as required. It was with China's entry into the WTO in 2001, and the subsequent rapid globalisation of China's economy and society, that labour NGOs began to proliferate and blossom.

Blossoming (2002–2012)

Several interlinked factors underpin the proliferation and blossoming of labour NGOs from 2002 to 2012. These include China's entry into the

WTO in 2001, a change in leadership, the growing presence of international organisations, and the lameness of the All-China Federation of Trade Unions (ACFTU). At the end of the 1990s, there was just a smattering of labour NGOs in China, mainly located in Beijing, Shenzhen, and Guangzhou. By 2012, estimates of labour NGOs across China varied from forty to 100—precise statistics were not available because most were not registered. A key factor enabling the growth of labour NGOs was China's entry into the WTO in 2001. This not only opened China to more foreign investment and trade, but also spurred Chinese firms to 'go global' and seek investment abroad. Through these expanded economic relations, travel opportunities for government officials and ordinary citizens increased. There was more exposure to international ways of doing things, whether economically, culturally, or politically. Personal connections developed between businesspeople, academics and students, NGOs, labour activists, and trade unions, seeding partnerships, exchanges, and joint initiatives.

WTO entry coincided with a shift in the types of NGOs that were emerging. By now the social consequences of economic reforms were becoming more evident. This was soon mirrored in the growth of NGOs concerned with social issues and marginalised groups such as autistic children, migrant workers, or people living with HIV/AIDS. The Wenchuan earthquake of 2008 marked a turning point in state-NGO relations as the Party-State began to recognise the contributions that NGOs could make in disaster relief and in addressing social issues. Nevertheless, difficulties remained in gaining legal status through registration, and many groups affiliated with other organisations, such as research institutes or the ACWF, registered as companies or not at all. By 2012, unregistered groups were reported to far outweigh those that had registered.

The year 2002 also heralded a change in leadership, with Hu Jintao as Party General Secretary and Wen Jiabao as Premier, replacing, respectively, Jiang Zemin and Zhu Rongji. Like all leaders, they sought to put their own mark on their period in office. Central here were notions such as 'harmonious society' (和谐社会) and 'people-centred development' (以人为本), which subtly acknowledged the growing inequalities in China and 'the three rural issues' (三农问题), which signalled a move to address rural grievances. This rhetoric pointed to a leadership that strove not only for continued growth but also to improve the lot of those not benefiting as much from the reforms. It was a time of greater openness and experimentation, enabling new forms of government-NGO relations

to develop, including those with labour NGOs. The outward thrust of the economy and society created more space for international institutions that provided aid, support, and opportunities not only for government officials but also for Chinese scholars and NGOs. The International Labour Organisation, for example, regularly discussed labour issues with businesses, the ACFTU, and the government, and also engaged with the emerging labour NGOs. The support of international NGOs, bilateral development agencies, and foundations was pivotal to the growth of some NGOs in China, especially those with a rights orientation.

Given Hong Kong's proximity to Guangdong Province, Hong Kong NGOs also began to enter China to establish new labour NGOs or partner with emerging ones.² Guangdong Province was home to the greatest concentration of foreign investment and attracted swathes of migrant workers to labour in the export-oriented factories (see O'Donnell's essay in the present volume). Working conditions in China were already under the spotlight in the mid-1990s, leading to a raft of new labour laws to protect workers (see Biddulph's essay in the present volume). But with this surge in export production, there was growing concern within China and abroad about the sweatshop conditions of labour. While in the early years of the millennium there was a greater concentration of labour NGOs in Guangdong Province, over time, these organisations began to sprout across the Yangzi River Delta and in other Chinese cities such as Hangzhou, Chengdu, Shanghai, Beijing, and Chongqing. The types of issues that labour NGOs took up varied according to the nature and degree of labour activism, the orientations of their founders (such as their interests in gender, law, journalism, occupational health, and so on), the type of enterprise (such as state, private, or joint venture), and the industrial sectors specific to certain geographic locations. The field of labour studies in China expanded as researchers analysed labour relations, while trade unions and labour NGOs abroad observed the rising number of protests and strikes and sought connections with activists and researchers. Furthermore, as labour NGOs raised awareness about labour laws, workers increasingly sought redress through mediation committees and courts.³ Though most workers tended to vote with their feet, a growing minority was ready to voice their concerns, lobbying the Labour Bureau and local government officials, and leading workers to action and organisation.

As the official trade union, the ACFTU, proved ineffective in coming to the defence of workers, labour NGOs found fertile soil on which to grow. Though the ACFTU had a monopoly on the representation of labour, this was largely confined to state-owned enterprises (SOEs), whose workers enjoyed better working conditions, at least until SOE reforms in the mid-1990s (see Ching Kwan Lee's and Hurst's essays in the present volume). The ACFTU functioned as a transmission organisation, mediating between workers and government.⁴ In practice, it was an appendage to the state, limiting itself to benign tasks such as arranging entertainment and rarely taking the side of labour against capital and local governments. In any case, it lacked the skills, desire, and capacity to bring migrant workers into its fold. In the new foreign-invested factories, the head of the trade union was often the owner of the factory or a relative of the owner. Under these conditions, workers had little incentive to seek ACFTU support. As most surveys revealed, workers viewed the ACFTU as ineffectual.

Having outlined some of the factors driving the development of labour NGOs at the beginning of the millennium, it is important to understand some of their basic features. There was considerable variation across NGOs in terms of size, activities, goals, origins, and relations with government. Most were small in scale, with few paid staff, relying on volunteers who were students or migrant workers.⁵ Some were founded by academics, others by former workers, and some by lawyers. Their activities included providing services, such as legal counselling, secondhand clothes shops, libraries, hotlines, awareness-raising about law and labour rights, proffering advice in disputes, assisting workers injured in the workplace, and organising workers through choirs and cultural activities.⁶ Some also engaged in advocacy work, seeking to influence government and trade union policies. Whether offering services or conducting advocacy, labour NGOs couched their activities in a language of rights that echoed the official discourse of the law. By appropriating the official legal language of rights and interests, they could protect themselves from potential accusations of seeking to undermine the regime.

Labour NGOs were different from independent trade unions in that they did not seek to become membership organisations that took up workers' grievances with management in the workplace. Compared with the ACFTU, labour NGOs were more innovative and experimental, introducing new ways of approaching and mobilising workers, such as contacting workers in dormitories or organising a mobile bus to provide advice and information on labour issues in industrial sites. Some engaged

in corporate social responsibility activities for foreign brands such as monitoring codes of conduct. However, NGOs with transformative agendas insisted on doing this only if they could also undertake training in the factories, which would allow them to raise issues of legal rights and engage in consciousness-raising.⁷ Some labour NGOs also became involved in supporting workers in collective bargaining processes, especially during and after the Honda strikes in 2010 (see Chris Chan's essay in the present volume).⁸

Nevertheless, labour NGOs were also controversial among some academics. In particular, Lee and Shen criticised labour NGOs for being 'anti-solidarity machines'.⁹ They argued that many labour NGOs were predominantly concerned with individual workers seeking redress through the law rather than organising alternative trade unions or collective action. Though the criticism was harsh, it also generated debate and perhaps a more measured understanding of the contribution that labour NGOs made in redressing workers' grievances and in shaping a labour movement.¹⁰

During the Hu–Wen period, relations between government and labour NGOs were a mix of ongoing repression, toleration, and occasional collaboration. Repression involved a spectrum of actions, such as detention, physical brutality, harassment, surveillance, and spot-checks.¹¹ Labour NGOs were often forced out of their premises, only to relocate elsewhere and face further eviction a few months later.¹² However, they were also tolerated by some trade union and government officials who saw the NGOs' activities as providing services for which they lacked the capacity and skills. In some cases, local governments and trade unions even provided some funding to NGOs to deliver services such as legal counselling or support to migrant workers' children. However, there was always a constant drone of repression that rendered the existence of labour NGOs precarious. Indeed, the situation for most labour NGOs would worsen under the new administration of Xi Jinping from 2012.

Crushed Petals

The Chinese Government had long looked on NGOs with considerable suspicion. Yet government officials in the Ministry of Civil Affairs—which was responsible for welfare provision and NGO registration—were increasingly aware of the benefits of NGOs in addressing new welfare needs and filling service gaps. However, the regulatory environment was overly

restrictive, preventing the government from capitalising on civil society initiatives. In the Hu–Wen period, pilot programs were launched from 2003 in contracting government service provision to NGOs.¹³ The risk for government officials was how to achieve this without enabling the expansion of rights-based NGOs and sensitive groups.

It was under Xi Jinping that the strategy of welfarist incorporation was generalised across the country.¹⁴ In this way, civil society was bifurcated into two distinct strands: service-delivery organisations and rights-based groups. While the government introduced a swathe of regulations enabling NGOs to register more easily and apply for government contracts, it also set about draining rights-based groups of external funding and clamping down on activists in general. In this way, the government could advance its goals of streamlining the public sector and reforming welfare, while mitigating risks.

To address the risk that purposively fostering the development of a services-oriented NGO sector might also encourage growth of rights-based and sensitive groups, the government used its coercive agencies to clamp down on perceived troublemakers. As Franceschini and Froissart relate in their essay in this volume, 2015 was a landmark year, when security agencies made a sweep of rights-based organisations and activists, including rights lawyers, feminists, dissidents, critical academics, and labour activists. This was followed in late 2016 by the passing of the Foreign NGOs Management Law, which severely constrained the room for manoeuvre of foreign foundations, NGOs, and other external funders, leaving rights-based groups starved of resources.

This strategy of welfarist incorporation took its toll on labour NGOs and activists. While labour NGOs had faced the constant threat of repression, the wave of arrests in 2015 also swept up several prominent labour NGO leaders, lawyers, and labour activists, who were detained and in some cases sentenced to prison. Over the next few years, the leaders of several labour NGOs were detained across the country, leading to the organisations becoming moribund or closing completely. In light of this, other activists and NGO leaders halted their activities, kept a low profile, distanced themselves from foreign actors, and sought alternative sources of income on which to survive.

However, repression was not the only story. Local government and trade union officials continued to court some labour NGOs to apply for government service contracts such as hosting activities for migrant children. Those that did so trod carefully, limiting their activities to the

least controversial issues such as afterschool work with the children of migrants, and eschewing rights and advocacy work. Not all labour NGOs chose to take this path, fearing, like NGOs in other fields, that accepting government contracts could compromise their autonomy and goals, while inviting greater control over their organisations. As the trade-offs and uncertainties of contract renewal became evident, the option of government service contracting became less appealing. For most labour NGOs, it was a question of lying low until the repression lifted or adapting activities towards services funded through other means, and perhaps discreetly fitting in some rights work. Hong Kong labour NGOs also halted activities on the mainland, though maintaining contact and providing advice where possible.

The End of Labour NGOs?

Does this signal the end of labour NGOs in China? In smothering the rights-based work of labour NGOs, the Xi period also brought to a halt any innovation in approaches to resolving workers' grievances, such as collective bargaining with labour representation. Despite this, workers have continued to strike and protest, suggesting that the legacy of past activism has not been wholly lost. The experiences of worker organising and labour NGOs during the Hu–Wen era have left a significant residue of memories, connections, and tactics that can be leveraged for the future. The violation of labour laws and poor conditions of work continue to vex workers, who carry on striking, protesting, or voting with their feet. There is still a place for labour NGOs, which, though different to trade unions, have a role to play in improving worker conditions and building a labour movement. However, this may not be in the immediate future. The restrictions on foreign institutions funding NGOs in China, coupled with the imposition of the National Security Law in Hong Kong, severely constrain the possibilities for international support. Moreover, many labour NGO activists and rights lawyers remain in detention or under surveillance. If political conditions loosen, there may be space for labour support groups to reemerge, but whether they will take similar forms or harbour similar goals to those that operated in the past decades remains to be seen. Nevertheless, the genie is already out of the bottle and cannot easily be put back in. Crushed petals can still become new green shoots.