
Explaining compliance: A multi-actor framework for understanding labour law compliance in China

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Abstract

I argue that there is increasing evidence that multiple stakeholders, such as labour intermediaries and independent workers, are involved in the regulation of labour standards in China, resulting in increasing compliance with labour laws. In addition, I argue that the differential interests of multiple stakeholders lead to a variation in compliance across different labour law provisions. I find support for these arguments using original factory-level compliance data collected in southern China between 2009 and 2011. There is ‘thick’ compliance when stakeholders’ interests converge, as observed in the case of written contract requirements. There is ‘thin’ compliance when there is less convergence in stakeholder interests, as observed in the case of compliance with social insurance provisions. Finally, there is no compliance when there is convergence toward non-compliance in stakeholder interests, as observed in the case of overtime hour limits.

Keywords

China, compliance, enforcement, labour law, multi-actor framework

Introduction

A well-documented side effect of China’s rapid economic growth has been the increase in labour abuse. There is widespread evidence that factories violate legal provisions and subject their workers to unpaid or underpaid wages, excessive and forced overtime (OT), and health and safety risks (Chan, 2001; Lee, 2007; Pun, 2005a). The Chinese

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government enacted a series of pro-labour laws in 2008 in response to increasing concern over working conditions in China. The Labour Contract Law (2008) includes a series of worker protections and encourages workers to bring their grievances to the legal system; the new Mediation and Arbitration Law (2008) also encourages aggrieved workers to 'use the law as a weapon' (Gallagher, 2005) through streamlined grievance procedures. However, many are skeptical about how well the law is being implemented, given the importance of low labour costs to China's manufacturing exports, the government's restricted capacity to enforce the law, differential enforcement interests of central and local governments, and the lack of labour voices owing to the absence of strong, independent labour unions in China (Chen, 2007; Friedman and Lee, 2010; Kuruvilla et al., 2011).

Against this backdrop, I examined the enforcement of, and compliance with, labour laws. Building on earlier studies about the rise of various non-state actors in the labour arena, I argue that labour law enforcement reflects a more pluralistic and pragmatic approach. In the pluralistic approach, the state agency is not the sole source of pressure on employers for adherence to better labour standards; there are two new stakeholders (i.e. various labour intermediaries and independent workers, specifically second-generation workers) who play increasingly important roles in influencing employer compliance with labour laws. I characterize the approach as pragmatic because it reflects the stakeholders' varying attitudes toward different legal provisions that employers consider in their compliance. When the interests of these three stakeholders converge, the employer response is clearly toward either compliance with or violation of the legal provisions. However, there will be weak compliance when the stakeholder interests are divergent.

I provide evidence of this 'pluralistic, pragmatic' approach through an analysis of an original factory-level compliance dataset collected in one special economic zone in southern China between 2009 and 2011, and through qualitative interviews. The findings indicate that overall increase in employer compliance over time is attributable to the bottom-up pressures of multiple stakeholders. The significant variation in compliance across legal provisions is explained by the variation in stakeholder interests. When all three stakeholders (i.e. local government, labour intermediaries and workers) were united in their demand for following a particular legal provision, employers quickly complied, and the compliance rate increased steadily. Similarly, when stakeholder interests converged in disregarding a particular provision, there was outright violation of this provision. Additionally, when stakeholder interests diverged regarding a particular provision, employer compliance was generally weak. In the next section, I integrate prior literature on compliance with my inductive observations of how different stakeholders are increasingly active in Chinese labour law enforcement.

Relevant literature and argument

In general, there is agreement in the literature that local governments did not strongly focus on labour law enforcement in China (Cooney, 2007a, 2007b; Friedman and Lee, 2010). Local governments prioritized economic development and the attraction of foreign investment. Thus, these governments often de-emphasized enforcement or had different legal interpretations that slowed enforcement, a process that some have referred to as 'loopholization' (Kuruvilla et al., 2011). Given that labour unions and civil society did

not pressure employers to comply, it is not surprising that workers have increasingly taken the issue to the streets (Chan and Pun, 2010; Hurst, 2009; Su and He, 2010).

In recent years, there has been renewed interest in labour law compliance by both state and non-state actors. First, the state has strengthened labour laws and streamlined dispute resolution procedures (Hendrischke, 2011; Josephs, 2009; Zhao, 2009). The Labour Contract Law (2008) encourages aggrieved workers to use legal mechanisms to address their grievances. This law has greatly increased fines for violating employers and financial returns for filing workers; for example, Articles 10 and 82 stipulate that failure to sign a written contract within one month leads to a double wage penalty for any time served without a contract. Articles 46 and 47 stipulate that workers can voluntarily terminate their labour contracts and still receive severance pay if they resign because of employer violations. This degree of tangible compensation for filing workers is quite distinctive compared with labour laws in other developing countries. Moreover, the revised Mediation and Arbitration Law (2008) has streamlined dispute resolution by simplifying arbitration procedures, shifting the proof burden to employers, canceling arbitration fees, extending filing periods and introducing partial awards (Zhao, 2009). In this manner, the recent changes to China's labour law framework have noticeably increased possible punitive damages for illegal labour practices, and employers' heightened concerns have created important incentives for increased compliance.

A second impetus toward increased compliance can be seen in multinational corporations' (MNCs') efforts through their corporate social responsibility (CSR) programs (Hui, 2011; Yu, 2008). There has been significant growth in MNC codes of conduct in China, and numerous MNCs (e.g. Apple and HP) report on labour standard monitoring in their Chinese factories in their annual reports. While there is an ongoing debate regarding the effectiveness of CSR approaches (e.g. Anner, 2008; Esbenshade, 2004), academic studies and non-governmental organization (NGO) reports indicate that CSR-based supplier monitoring has brought only marginal improvements in labour law compliance in the Chinese context (Chan and Siu, 2010; Hui, 2011; Pun, 2005b; Sum and Pun, 2005; Verité, 2004; Yu, 2008). A recent *New York Times* article about Apple's supplier monitoring in China accurately highlights the structural limitations of CSR efforts (Duhigg and Barboza, 2012).

More recently, there has been increasing focus on the roles and importance of non-state actors in the labour arena (Cooney et al., 2013; Friedman and Lee, 2010; Lee and Shen, 2011). Recent studies identify the active legal assistance of university legal aid centers (Gallagher, 2006, 2007; Woo et al., 2007), lawyers (Fu and Cullen, 2008; Lee, 2010; Liebman, 2005; Michelson, 2006, 2008), labour or migrant worker NGOs (Halegua, 2008; Lee and Shen, 2011; Xu, 2013; Zhang and Smith, 2009), trade unions (Chen, 2004; Lee, 2009; Pringle, 2011) and student NGOs (Friedman, 2009; Xu, 2012), all of which has resulted in increased pressure on employers to comply with labour laws. Although these actors differ in terms of their organization and focus, they share a common interest, that is, to help marginalized and aggrieved workers resolve their issues but in ways that channel their discontent into legal avenues rather than taking it to the streets (Friedman and Lee, 2010; Zhang and Smith, 2009). The media are other such actors. Newspapers, magazines and television programs increasingly focus on labour abuse and have thus become valuable partners for other labour stakeholders (Gallagher, 2006;

Liebman, 2005). The media act as windows and conduits by which workers and other organizations encounter and learn more about relevant laws and government policies. In addition, the media are shedding light on popular worker-related grievances, by, for example, offering sensational and moralistic coverage of exploited migrant workers (Stockmann and Gallagher, 2011).

The effectiveness of non-state actors in labour law enforcement remains largely unclear. One could argue that their effectiveness is likely to be limited, as they cannot address workplace issues (e.g. union organizing) or become involved in collective labour disputes (for fear that they will be considered to be 'inducing social unrest'). The government monitors their activities (Lee and Shen, 2011) and, thus, these non-state actors must prioritize the government's interests over those of the workers. Consequently, their role is likely to be more passive, guiding aggrieved workers through the state-designed mechanism after the case occurs (Cooney et al., 2013; Friedman and Lee, 2010). However, there is evidence that societal forces in labour rights activism clearly push employers to rethink their workplace practices. In my fieldwork, employers increasingly expressed serious concerns about possible legal risks resulting from these actors.

Most studies of such societal pressures have focused on the legal mobilization of individual actors (e.g. the media, labour NGOs and regional ACFTU [All-China Federation of Trade Unions]), but relatively few studies have considered the impacts of these actors on employer compliance, particularly after the 2008 institutional changes (for a few exceptions, see Becker and Elfstrom, 2010; Ho, 2009; Li, 2011). These studies relied on employer or worker surveys. There is some evidence that these non-state actors work together. For example, trade unions and lawyers cooperate for legal consultation (e.g. the Guangzhou ACFTU [All-China Federation of Trade Unions]); labour NGOs and lawyers use cooperative networking to obtain better mediation results (e.g. Little Bird in Beijing in Halegua [2008]); and newspapers and lawyers cooperate to provide legal advice columns (e.g. lawyer Bao in the *Beijing Evening News* in Michelson [2008]). In this article, I use qualitative data (interviews with key stakeholders, including employers) to assess the combined effect of labour intermediaries on employer compliance.

I view compliance as being in accordance with a set of legal requirements. Enforcement is defined as the application of a variety of informal and formal legal tools to ensure compliance with relevant legal requirements. Enforcement includes diverse regulatory tools – from informal (e.g. phone calls and warning letters) to formal tools (e.g. administrative orders and criminal enforcement). Enforcement is a necessary but insufficient means of ensuring compliance (Ronconi, 2010; Weil, 2010). There are many other factors influencing compliance, such as the compliance cost, knowledge, internal norms, inspection style and the integration of HR and/or production systems (Bardach and Kagan, 1982; Kagan and Scholz, 1984; Locke et al., 2009). I view workers and labour intermediaries as largely engaging in labour law enforcement indirectly; they provide useful information to relevant agencies, publicize employer wrongdoings and push complacent labour officials to act according to the law. Some labour intermediaries (e.g. labour arbitrators and regional union cadres) can directly engage in law enforcement by offering final awards in arbitration committees or conducting workplace inspections.

Labour intermediaries

Labour intermediaries are defined as actors outside the labour bureaucracy that directly and/or indirectly engage in labour law enforcement and have a relatively high level of technical knowledge of labour/employment issues. Labour intermediaries range from more principled actors, such as regional trade unions (i.e. union cadres), labour arbitrators, labour-related NGOs (i.e. activists), legal clinics (i.e. clinic staff) and local media (i.e. journalists), to more interest-oriented actors such as law firms (i.e. labour lawyers), barefoot lawyers and labour consulting firms (i.e. labour consultants). In terms of their relationships with the state, labour intermediaries can be divided into non-state actors (e.g. NGO activists, lawyers, journalists and HR/labour consultants), semi-state actors (e.g. union cadres) and state actors (e.g. labour arbitrators, who largely consist of labour officials).¹ I examined a variety of intermediaries who were active in my research location, including local labour lawyers, local media, local arbitrators and local HR/labour consultants. Despite organizational differences and differing interests, these intermediaries share some common ground. First, their status has dramatically changed over time, filling the gap left as the state withdrew from the workplace. I argue that these intermediaries now exert considerable discretion in judging the legitimacy of specific legal provisions when the weaknesses of labour law and its implementation structure allow these actors to locally interpret and apply the laws (Lorentzen, 2008; Nathan, 2003; Shambaugh, 2008). My account of labour intermediaries resonates with the studies on professionals' influence on workplace practices in the US setting (Dobbin and Sutton, 1998; Edelman et al., 1992; Kelly, 2010; Sutton et al., 1994). These studies demonstrate that HR professionals contributed to diffusing organizational practices and shaping the understanding of employers. Similarly, my study demonstrates that at the local level in China, labour intermediaries, as labour/employment specialists, contribute to shaping local norms in certain areas and thus influence employers' compliance decisions.

My fieldwork highlights four ways that labour intermediaries influence employer compliance. First, they publicize employer wrongdoings (especially journalists, pro bono lawyers and local union cadres). Drawing on state slogans such as 'Harmonious Society' and 'Inclusive Development,' they actively bring previously hidden labour abuses to the public's attention. These activities have contributed to creating local-level norms that expect unethical employers to be punished. Second, they facilitate workers' bottom-up filing or reporting by enhancing workers' legal awareness and representing them in grievance procedures (especially local union cadres, lawyers, journalists and NGO activists). Third, they offer employers acceptable standards and solutions (especially labour arbitrators, lawyers and HR/labour consultants). Owing to a perceived gap between law and reality, employers are uncertain about exact requirements and often seek the advice of and pragmatic solutions from these intermediaries. Finally, they forward bottom-up voices to local government leaders and suggest realistic guidelines for local labour policies (especially labour lawyers, arbitrators, journalists, union cadres and NGO activists). Local governments often hold seminars and seek to understand how employers and workers feel about new regulations via these non-state actors. In summary, all of these activities push employers to rethink the working conditions in their factories.

Independent workers

My fieldwork also revealed the importance of a new generation of workers, which is consistent with prior research that has argued that these young workers, who account for over 60 percent of all workers in China, differ from their predecessors in several socio-economic respects (Chang, 2009; China Labour Bulletin, 2011; Davis, 2000; Jacka, 2006). They are better off materially, are better educated, display strong rights consciousness (Chan and Pun, 2009; Pun and Lu, 2010) and are thus less tolerant of employer abuse and more willing to defend their rights, in sharp contrast with their parents' generation, which endured extreme labour abuses (Chan, 2011; Froissart, 2005). Backed by a series of pro-labour policies, these workers use labour laws and official mechanisms as their source of leverage. Moreover, in asserting their rights, these young workers are able to utilize new technology, including mobile phones and the internet (Roberts, 2010); recent strikes at Honda and LG Display indicate that young workers actively exchange their thoughts using online tools, such as discussion boards and blogs (Cheung, 2011).

The connection between labour intermediaries and workers is also relevant here. Workers can enhance their legal knowledge and willingness to file a grievance with the help of diverse societal actors. When I asked workers about their source of legal knowledge and rights awareness, most mentioned diverse outlets, including television programs, newspapers, blogs, online forums, the local union's legal clinics and local job center pamphlets. Many interviewed workers were aware of some critical legal provisions and demonstrated a willingness to report to the local labour bureau to receive financial awards when faced with an employer's violation of critical legal provisions. I argue that these characteristics directly and/or indirectly push employers to move toward compliance.

Taken together, I argue that the influence of various labour intermediaries and the workers themselves constitute the beginnings of a bottom-up enforcement mechanism. This argument is consistent with an emerging consensus in the regulation and enforcement literature regarding the shift from top-down enforcement to more participatory approaches, including the participation of various stakeholders (Black, 2002; Gunningham et al., 1988; Seidman, 2007; Weil, 1991). Existing studies indicate that unions (Morantz, 2011; Weil, 1991), private firms' CSR efforts (Locke et al., 2007), worker centers (Fine and Gordon, 2010) and community stakeholders (Luce, 2005) can improve enforcement capacity and largely enhance working conditions. This argument is also consistent with recent studies regarding the roles of non-state actors in authoritarian regimes; environmental protection has seen an increasing role of societal forces in improving enforcement capacity in authoritarian countries, such as China and Vietnam (Lo and Fryxell, 2005; O'Rourke, 2003; Van Rooij, 2012; Van Rooij and Lo, 2010). My view of the influence of these stakeholders is what leads me to consider this emerging enforcement model pluralistic, as summarized in Figure 1.

The second strand of my argument is that the various stakeholders, that is, local government, labour intermediaries and workers, often have diverse interests in different aspects of labour law. This pragmatic phenomenon provides employers with some degree of flexibility in compliance but increases compliance with the more salient legal provisions. I noted that these stakeholders act differently according to their varying interests

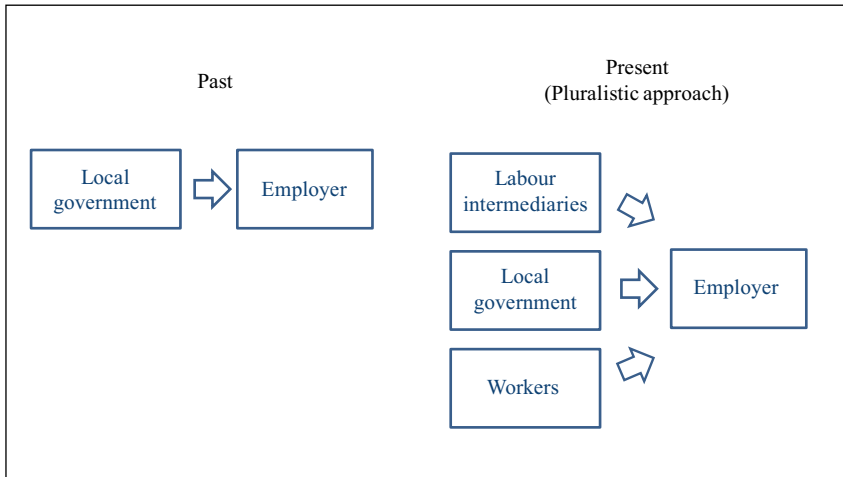


Figure 1. From a dyadic relationship toward multi-actor interactions in labour regulation.

in each legal provision; they display keener interest in and/or deeper knowledge of certain issues while showing little to no interest in other issues. Local officials and labour intermediaries, rooted in local circumstances but with growing agency and discretion, tend to take different approaches depending on the issues, considering local economic realities, their normative pro-labour missions and sympathy toward workers.

My fieldwork revealed this variation in stakeholder approaches. I see different attitudes toward compliance, such as ‘strict’, ‘instructive and sympathetic’, and ‘passive’ that are consistent with the different enforcement/inspection styles noted in the regulatory compliance literature (Ayres and Braithwaite, 1992; Bardach and Kagan, 1982; Gunningham et al., 2003).² On certain issues, such as written contract requirements, I noticed that local governments act as strict enforcers of the law; they do not provide a grace period but instead force employers to correct the problems immediately. Similarly, labour intermediaries respond quickly to workers’ grievances and actively facilitate workers’ bottom-up legal activism on this issue. Workers also display keener interest and deeper knowledge about contracts and tend to report quickly contract violations to local agencies or actively seek help from labour intermediaries.

However, regarding social insurance, local governments and labour intermediaries take an ambivalent attitude and do not exert unified, consistent pressures on employers. Local governments often see social insurance as a long-term issue, and feel that companies must develop the capacity to resolve it in the long term, reminiscent of the Latin model (Piore and Schrank, 2008; Schrank, 2009; Schrank and Piore, 2007). Labour intermediaries’ typical responses to the social insurance issue have also been ‘to take time and have a look at it.’

Finally, I realized that stakeholder interests tend to be ‘passive’ about legal aspects that they do not deem important (e.g. OT hours). Here, local governments act as reluctant enforcers; they try to persuade aggrieved workers to make a deal with their employers.

Labour intermediaries do not heed workers' grievances unless employer violations are considered excessive. Similarly, many migrant workers display relatively little interest in this issue.

There is interaction between the interests of various actors. When there is pressure from the bottom, often the government response is strict enforcement. Labour officials cannot ignore worker complaints as they will be sanctioned for their inaction if workers then report them to upper-level agencies. In contrast, governments do not act when there is little pressure from workers or intermediaries, partially because local governments also see the law as being removed from reality because it imposes extremely high standards on employers. Their responses include 'xx regulation is absurd' and 'the central officials are ignorant of local circumstances because they never leave their office.' However, there is considerable variation among local labour officials as well as within and across different departments, which is consistent with prior research on policy implementation (Lampton, 1987; Lieberthal and Oksenberg, 1988).

Similarly, I found attitude variation, depending on the issues, among different labour intermediaries. For example, lawyers prefer cut-and-dried cases that do not require any special preparation to win. The media are willing to expose certain violations, especially when they involve a well-known employer. Many intermediaries use 'morality' as the basis for their responses. Common responses included the following: 'Migrant workers are human beings as well . . . We should treat them well'; 'They are my sons and daughters'; and 'Look at the life of migrant workers. It is our responsibility to take care of them.'³ Thus, labour intermediaries appear to have developed their own criteria for handling cases (e.g. 'Regardless of employer circumstances, some legal provisions must be observed'). However, their criteria appear to be flexible depending on the issues. Most importantly, they appear to take a pragmatic approach, displaying flexibility between strict enforcement of an 'ideal' labour law and local economic and social realities. Many highlighted this issue of local realities: 'That is the reality of our country'; 'In principle . . . , however, the reality is . . .'; 'Our country is too huge to implement such an ideal policy. It may take a long time'; and 'This issue is not a short-term goal, but rather a long-term goal.' Accordingly, labour intermediaries' typical responses are 'to take time and have a look at it.'

Workers also appear to demonstrate this pragmatism. On the one hand, I found workers to be more aware of their rights and of the financial rewards that come from reporting violations on certain issues. For instance, most interviewed workers were aware of the 'double wage' rule, which states that an employer's failure to sign a written contract can later benefit workers with double-wage compensation. However, they displayed limited awareness of other provisions. Workers' lack of knowledge is partially attributed to the flexible attitude of labour officials and labour intermediaries, whom an aggrieved worker might first encounter regarding grievances. Although labour officials and intermediaries are willing to give additional help to aggrieved workers on some critical issues, workers cannot expect additional help or tend to face substantial discouragement in their interactions with these enforcers on many other issues. In addition, given that most migrant workers do not have an urban hukou (a common name used in mainland China for the household registration system in various parts of East Asia), they are less interested in contributing toward social insurance, which tends to be locally disbursed.

In summary, these two contrasting pressures (i.e. enforcement-inducing pressures and enforcement-constraining pressures) and their interaction determine the attitudes of three pressure-creating stakeholders. I examine this emerging 'pluralistic and pragmatic' approach through my interviews and an analysis of original data collected between 2009 and 2011 in one special economic zone in southern China.⁴

Method

The 23 companies (factories) that I sampled include Chinese, Taiwanese, Hong Kong and Korean electronic components factories. I focused exclusively on the electronics industry in one special economic zone in southern China to ensure a systematic comparison by controlling for industry and region. Compliance in this sector is worthy of investigation owing to the recent controversies about labour standards in the electronics industry (e.g. labour abuses in Foxconn factories).

I obtained compliance data (written contracts, social insurance and OT practices) from 11 factories for three years (2009, 2010 and 2011) and from 20 factories for two years (2010 and 2011), which allowed me to compare the compliance level over time. The compliance record was validated and complemented by qualitative interviews with workers and nearby staffing agencies, which possessed diverse real information about the sampled factories. In addition, I conducted multiple rounds of interviews with local labour-related stakeholders (e.g. over 100 HR managers, 27 union cadres, 24 lawyers, over 100 workers, nine labour scholars, two labour NGOs, seven labour officials, four arbitrators and four labour consultants). These interviews enabled me to gain a deeper understanding of employer compliance. For instance, I learned how to calculate the factory's approximate OT hours using the data of a factory's base wage and workers' total income, which helped me assess the reliability of the data collected from employers. In addition, I realized that staffing agencies cleverly exploited an at-that-time legal void: they purchased social insurance for dispatched workers who were sent to customer factories but registered workers in a remote region where social insurance was far cheaper to save on labour costs.

I specifically examined compliance with three different labour law provisions: written labour contract requirements, social insurance purchase and OT work restrictions. These three legal provisions were chosen because they had recently received considerable attention from the Chinese government, civil society, MNCs and international labour groups (e.g. Apple's Supplier Responsibility Reports, 2013; SACOM, 2011; Verité, 2004, 2012). I used multiple methods to collect qualitative and quantitative data. In most cases, I used the snowball sampling method, that is, relying on different interviewees to provide access to other interviewees and factories. This method is considered realistically possible and acceptable in Chinese study given the difficulty in systematically collecting data (Sun et al., 2007). In addition, the regulatory compliance literature has shown that random sampling would not be ideal for legal compliance studies requiring 'deep' research (Gray and Scholz, 1991).

Results

Overall, the analysis results support the article's arguments. Table 1 reports compliance data for all factories, and Table 2 reports the compliance data for the 11 factories that had three-year data.

Table 1. Written labour contract requirements in all sample companies (2009–2011).

Company (factory)	Year		
	2009	2010	2011
Written labour contract	91%*	95%	100%
Within a month	64%	90%	91%
A copy given to workers	45%	85%	87%
Minimum wage	91%	95%	100%
All companies (#)	11	20	23

*The percentage of companies that signed a *written contract* out of all companies in the sample.

Table 2. Written labour contract requirements in 11 companies (2009–2011).

11 companies (longitudinal)	Year		
	2009	2010	2011
Written labour contract	91% (10 factories)	91% (10)	100%
Within a month	64% (7)	82% (9)	100%
A copy given to workers	45% (5)	73% (8)	91% (10)
Minimum wage	91% (10)	91% (10)	100%
All companies (#)	11	11	11

Written labour contracts: Thick compliance

I examined two aspects of the legal provisions for written labour contracts (WLCs): the contract signing process and labour contract content. In terms of the process, the Labour Contract Law (2008) stipulates that (1) an employer is to sign a WLC with an employee⁵ within one month and that (2) a copy of the employment contract is to be given to the employee (Articles 10, 16 and 18). Table 1 illustrates that in 2011, 91 percent of the sampled factories (21 out of 23) signed a WLC with workers within one month, and 87 percent of the factories provided a copy of the contract to the worker after signing it. Three companies (factories 6, 10 and 20) did not provide a copy of the contract to their workers, keeping it at their offices instead. In terms of agreement content, prior studies and media reports indicated that it was not uncommon for workers to sign either blank contracts or foreign-language contracts or to have their contracts modified later without their consent (e.g. Chan, 2009). However, my study indicated that these findings were not true, at least in the electronics industry. No factory in the sample used blank or foreign-language contracts, and no company was willing to change its contracts without worker consent. Most sampled factories bought labour contract forms from the local government. In addition, in 2011, all sampled factories complied with the minimum wage provision.

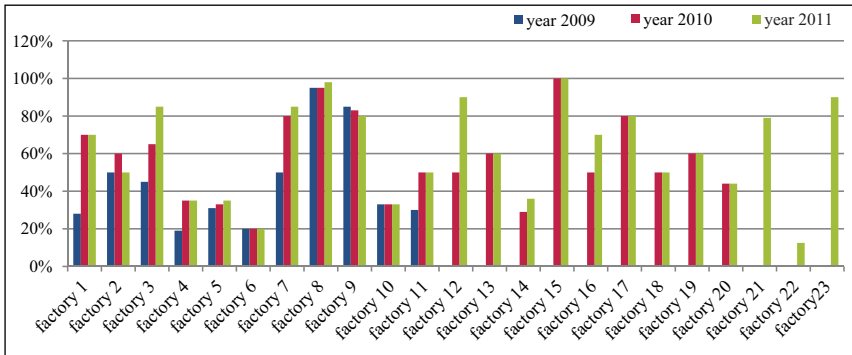


Figure 2. Social insurance coverage of workers in each company (2009–2011).

The data in Tables 1 and 2 illustrate a steady improvement in terms of compliance with the contract provision. Tables 1 and 2 indicate that overall, ‘signing a written contract within one month and a copy given to workers’ has been institutionalized at a fast rate. With regard to the minimum wage provision, all factories complied in 2011, whereas this figure was 95 percent in 2010 and 91 percent in 2009. When narrowing the sample to the 11 factories with three-year longitudinal data, the findings clearly indicate increased compliance over time (Table 2). In summary, the findings indicate increasing compliance over a short period of time with regard to WLC requirements.

Social insurance payment: Thin compliance

Workers’ social insurance consists of five insurance benefits programs: retirement, medical, maternity, work-related injury and unemployment. Employers are not allowed to divide the insurance program into separate parts, and are legally obliged to register the total number of employees on payroll and purchase social insurance products. The findings indicate that there was significant variation in compliance with social insurance provisions. Figure 2 indicates that only one factory purchased the entire insurance package for all workers in 2011. The other factories did not purchase social insurance for all employees. Seven factories bought social insurance for 80 to 100 percent of their employees, eight factories for 50 to 80 percent of their employees and seven factories for less than 50 percent of their employees.

Despite this variation in social insurance compliance, the data indicate that overall compliance was increasing, but at a relatively slow rate (compared with the increase in compliance with written labour contracts). Table 3 indicates that social insurance covered 3573 out of 7715 workers (46.3%) in 2009, 16,765 out of 27,730 workers (60.0%) in 2010 and 16,945 out of 27,908 workers (60.7%) in 2011. When comparing 11 identical factories over three years (2009–2011), the results display a similar pattern (Table 4; for temporal variation, see Figure 2). Overall, the findings indicate that unlike the case of WLC requirements, employers responded slowly to the social insurance provision.

Table 3. Social insurance coverage of workers in all sample companies (2009–2011).

Company (factory)	Year		
	2009	2010	2011
Covered workers (#)	3573	16,765	16,945
All workers (#) in sampled companies	7715	27,730	27,908
Insurance coverage	46.3%	60.0%	60.7%

Table 4. Social insurance coverage of workers in 11 companies (2009–2011).

11 companies (longitudinal)	Year		
	2009	2010	2011
Covered workers (#)	3573	5406	5159
All workers (#)	7715	8880	8793
Social insurance rate	46.3%	60.8%	58.7%
All company (#)	11	11	11

Overtime hour restriction: Non-compliance

Excessive OT, which has become a chronic problem in China (Verité, 2004, 2012), is also a problem in the sampled factories. Most factories followed a similar work hour schedule. The typical shift was from 8 a.m. to noon and then from 1 p.m. to 5 p.m., with 10 to 15 minute breaks every two hours. Evening OT shifts were generally from 6.30 p.m. to 9.30 p.m. This same schedule was followed on weekends, with usually one to three Sundays off per month. Accordingly, OT work exceeding 100 hours per month was prevalent in this area. No factory complied with the OT hour limit. Figure 3 indicates that 19 out of 23 factories allowed more than 100 OT hours per month, and five factories allowed over 150 hours. Compliance with OT legislation displayed no improvement over time. Figure 3 indicates that factories had similar OT hours between 2009 and 2011.

Discussion

My study found that a pluralistic, pragmatic approach to labour standard regulation could provide a better explanation of these results. More specifics are detailed below.

Written labour contracts (interest convergence toward compliance)

Overall, the increased compliance with WLC requirements is impressive compared with previous compliance levels in national statistics (e.g. 20% in 2002). For local governments, given their restricted enforcement capacity, checking factories' WLCs was seen as the simplest and most efficient way to reach compliance goals. When the law went into effect in 2008, local governments conducted campaigns focusing on formal contract

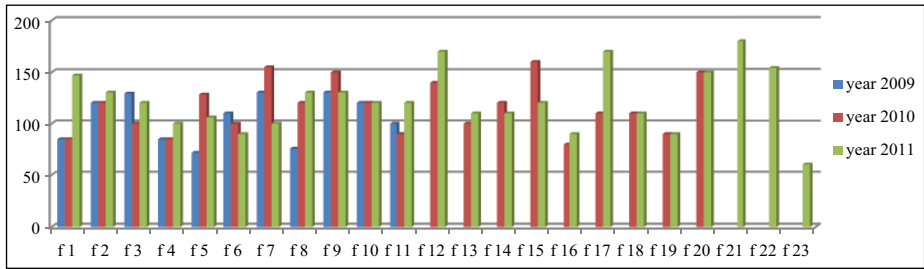


Figure 3. Overtime hours per month in each company (2009–2011).

signing. Labour officials made phone calls to managers and explained their campaigns for formal contract signing. The interviewed managers commonly stated that these phone calls increased their knowledge about the importance of signing contracts.⁶ Moreover, pressures from the bottom (e.g. labour intermediaries and independent workers) have pushed even pro-business local governments to strongly support this legal provision.

However, local governments’ attention alone does not fully account for the rapid increase in WLC compliance, as China’s employment protection system is entirely complaint-based (‘no complaints, no enforcement’). Labour intermediaries have also been ‘strict’ about WLCs. Most area intermediaries actively facilitated workers’ bottom-up legal activism. They quickly responded to workers’ grievances and actively gave workers advice about how to address their grievances. They publicized unethical employers who do not sign labour contracts with employees. In addition, they often passed the list of violators to labour agencies and helped local inspectors identify so-called problematic employers.

Workers also appear to consider this provision essential. As they may quit at any time, they generally prefer a clear contractual relationship to calculate payables and receivables. Moreover, most interviewed workers suggested that their media exposures had made them consider WLCs more seriously. Many were aware that they could directly receive fairly high financial returns from a violating employer (e.g. double wages for any time served without a WLC). After they arrived in the area, workers increase their legal knowledge and willingness to file grievances regarding the lack of a labour contract with the help and encouragement of local labour intermediaries. Overall, workers appear to be most insistent about signing labour contracts with employers compared with other legal provisions.

Area employers strongly preferred not to sign a WLC with workers because the lack of a formal relationship allowed employers to keep labour costs down (e.g. by evading social insurance fees – a worker without a formal contract is not reported to the labour bureau – and/or by avoiding legal responsibility for worker injuries) and to enjoy labour flexibility (e.g. by easily replacing workers depending on market circumstances). The possible benefit, such as workforce stability, from formal employment relationships is relatively small, particularly in labour-intensive electronics factories; the average monthly turnover rate exceeds 15 percent owing to the weekly-turned, three-shift, hard-work system, and the young workforce is known for its nomadic tendency. In this

situation, it is the aforementioned external bottom-up pressures that have forced employers to comply.

In summary, these three actors' united interests toward compliance with WLCs have created heightened (top-down and bottom-up) pressures on employers. With these strong bottom-up pressures, employers are motivated to sign WLCs, thereby leading to increased compliance and rapid institutionalization of this practice.

Social insurance purchase (a diverse spectrum of interest)

Interest convergence was notably absent in the case of the social insurance provision, which displays notable variation in employer compliance. I found that local governments do not exert unified, consistent pressure on employers, as there is variation among labour officials and across departments.⁷ Although some labour officials strongly supported social insurance regulations, others expressed sympathy for employers who face greater financial burdens owing to the new regulations. For example, during the recent serious economic recession, some regions allowed employers to break up the insurance program and buy only some of the five parts. In addition, because their legal knowledge of social insurance varied, officials often failed to provide timely or precise answers to aggrieved workers. Legal knowledge varies because laws and regulations change frequently, and enforcement specifics also fluctuate depending on local circumstances.⁸

Similarly, labour intermediaries have taken inconsistent attitudes toward social insurance cases. Their typical response is 'to take time and have a look at it.' Most local arbitrators tend to take only 'outright non-purchase of social insurance for an entire payroll' seriously. In most other cases, they try to encourage workers to collaborate with their employers. Local arbitrators generally only accept cases for which workers submit precise and complete documentation. Similarly, local lawyers will not accept social insurance cases unless they involve a large compensation for work injury. Local media also pay less attention to these low-profile cases than to WLC requirements. In addition, many interviewed labour intermediaries also did not have in-depth knowledge of social insurance regulations, as they have only recently become engaged with them. In summary, labour intermediaries' ambivalent attitudes and arbitrary criteria application causes wide internal variation among labour intermediaries, thereby providing inconsistent, weak signals to other stakeholders, including local governments, workers and employers.

Workers generally have a poor understanding of and less interest in social insurance compared with WLC requirements. My interviews suggested that workers did not have a clear idea about which insurance they are covered by and what rights they are entitled to (e.g. in case of a work injury). To make matters worse, the labour intermediaries and/or labour officials that an aggrieved worker might first encounter for social insurance grievances are not as enthusiastic about social insurance issues as they are about WLCs. Thus, labour intermediaries do not give aggrieved workers the same assistance with social insurance as they do with WLCs. Finally, many migrant workers with *hukou* elsewhere are not interested in contributing to social insurance. They do not believe they will be located in the area for a sufficiently long time to benefit from some insurance

provisions (e.g. pensions), given the uncertainty that many faced in transferring these benefits to their hometowns when they leave.

Employers have traditionally attempted to circumvent this legal provision, primarily owing to the financial burden. However, unlike in the past, when employers easily ignored this legal provision, recent bottom-up pressures that trigger labour inspection and subsequent (often retrospective) penalties have made the provision difficult to ignore. In this situation, inconsistent and ambivalent attitudes, within and across the three pressure-creating stakeholders, give weak signals to employers, which explains the more gradual change and 'thin' compliance.

Overtime hour limit (interest convergence toward non-compliance)

The findings indicate that all companies violated the OT hour provision. Stakeholders' complete lack of consideration and concern for compliance with OT hour restrictions has caused outright violation of this provision. Local governments do not see OT violations as a problem, and their attitudes have not changed over time.⁹ Local governments understand the limits on their community's economic development; employers, especially at labour-intensive factories, cannot easily expand their facilities and they instead seek to make the most of their current facilities by allowing for considerable OT. Many officials said that OT hour restrictions were only an ideal to be realized 'one hundred years from now or perhaps never.' Of course, this attitude does not mean that local governments ignore bottom-up complaints. As with other provisions, labour agencies still ensure that filed cases are addressed because upper-level government is paying increasing attention to labour unrest. Nevertheless, local officials still do not consider OT hour regulation to be legitimate. Overall, local officials very reluctantly enforce OT hour restrictions only when a complaint is received.

Labour intermediaries are united in their lack of interest in violations of OT rules. Local media do not cover OT issues unless excessive OT involves child labour. Labour lawyers are reluctant to accept OT cases because providing relevant evidence for OT violations is time-consuming and difficult. HR/labour consultants also do not take this issue seriously and thus do not spend a majority of their consulting time addressing OT violations. Many labour intermediaries tend to link recent OT hour controversies to what they see as the weak mentality of young migrant workers. These intermediaries commonly complain that young people do not want to 'eat bitterness' and are unwilling to do 'hard work.' Another lawyer mentioned that 'in the 1980s and 1990s, migrant workers were very hard-working and willingly stayed for over 12 hours per day at the factory, but today our daughters and sons don't know what hardship is.' These expressions sharply contrast with those heard in the case of WLC and social insurance issues. However, a notable dark side of this local adaptation is that some young workers who initially felt uncomfortable and complained about overly long work hours have gradually internalized this practice in the local atmosphere, in which most relevant third parties or stakeholders remain silent about OT violations. In this sense, labour intermediaries contribute to delegitimizing OT hour restrictions and institutionalizing non-compliance with this provision.

Interviews with workers suggested that they had to work OT to meet monthly expenses. Thus, workers are not interested in the rules about OT hours; they are far more interested in the OT premium, which is well observed by all factories.¹⁰ Furthermore, workers who lived in factory dormitories located in an economic development zone (*kai-fa-qu*) had little else to do. For these reasons, workers do not complain about excessive OT. However, younger workers resist weekend work. Nevertheless, more than 50 percent of sampled factories violated the legal provision of ‘four Sundays off per month.’ Although many workers do wish to complain about this violation, they told me that the previously signed consent form acted as a psychological obstacle to their willingness to file or report such claims. Neither the government nor labour intermediaries appear to have focused on this type of ‘forced preference for excessive OT work.’ In sum, interests converged here in that neither stakeholders nor employers were interested in following the OT restriction of 36 hours per month.¹¹

Alternative explanations

There may be alternative explanations for my study results. One could argue, for example, that the compliance increase is largely owing to firms’ CSR approaches, and is less driven by stakeholders’ bottom-up pressures. The CSR approach primarily covers core suppliers of MNCs, such as Foxconn. The studied factories, which are small or medium-sized and labour-intensive, are at least in the 4th-tier or lower in the electronics industry’s complex global supply chain. Therefore, they are less likely to receive any direct influence from MNCs’ voluntary enforcement.¹²

The variation in compliance across different labour law provisions can also be explained by the ‘selective enforcement thesis,’ that is, local officials do not have sufficient resources to conduct their jobs and thus tend to selectively enforce/implement laws by focusing on critical issues or tasks that do not require considerable time and commitment (Edin, 2003; O’Brien and Li, 1999). However, local officials in China largely rely on complaints rather than proactive inspections (Von Richthofen et al., 2010). Although China has recently focused on worker protection (Cooney et al., 2013; Von Richthofen et al., 2010), enforcement agencies are still underfunded and understaffed. Therefore, at the local level, labour inspection is still largely triggered by complaints and labour agencies tend to focus on a few key issues. In an extreme case, even an employer who ignores labour laws outright can avoid enforcement consequences as long as no employee complains. Equally important, this deterrence-based selective enforcement explanation tends to overestimate enforcement agencies’ roles in enhancing compliance, to underestimate the role of other enforcement-related actors (i.e. ‘third parties’) (Hutter and Lloyd-Bostock, 1990), and to overlook other employer factors, such as incompetence and ignorance (Bardach and Kagan, 1982; Gunningham et al., 2003; Kagan and Scholz, 1984; also see Piore and Schrank, 2008; Schrank, 2009).

A third explanation centers around the variation in worker interests: labour law compliance increases when workers are attentive, whereas compliance does not change when workers have no interest in or actively oppose the law, and uneven compliance occurs when worker preferences are divided. This explanation is parsimonious but insufficient to explain all aspects of employer compliance. My research indicates that workers’

diverse interests about each legal provision were not *predetermined*; instead, they were largely *formed* through interaction with local labour stakeholders (e.g. local government and labour intermediaries) after they arrived in the area.¹³

A final alternative explanation rests on the employer. Compliance costs and the degree of knowledge can cause compliance variation (Kagan and Scholz, 1984; Winter and May, 2001; also see Piore and Schrank, 2008; Schrank, 2009). In terms of compliance costs, each of the studied legal provisions has a distinct compliance cost. Written labour contracts can cause both additional financial costs and organizational burdens (that is, the restriction on management's HR autonomy). The lack of a formal relationship allows employers to keep labour costs down (by evading social insurance fees and/or avoiding legal responsibility for worker injuries) and enjoy labour flexibility (e.g. by easily replacing workers, depending on market circumstances). This tendency was more salient in small labour-intensive factories, where employers signed formal contracts with only a small proportion of workers. Similarly, the social insurance provision requires a notable financial burden on employers because it requires them to contribute an additional 30 percent of worker wages. Compliance with the OT hour restriction is also a considerable financial burden because most electronic components factories rely on maximizing their output by allowing OT overages with a relatively small number of workers. In regard to the influence of knowledge on the variation in compliance (that is, 'employers violate because they are ignorant'), my research indicates that all factory managers had a clear understanding of the OT hour limit (36 hours per month), but completely ignored it. In this manner, none of the three legal provisions can be easily classified in terms of the cost of compliance and degree of knowledge. Hence, an employer-based explanation cannot fully explain the variation in compliance.

Conclusion

In this article, I argued that the beginnings of bottom-up pressures, mainly created by the recent changes in China's labour law framework, have helped increase compliance with labour laws. These pressures have come from new stakeholders, notably labour intermediaries (in this case, local labour lawyers, local media, local labour lawyers, local arbitrators and local HR/labour consultants) and workers, who are directly and/or indirectly active in law enforcement. They work independently but also in conjunction with other stakeholders, leading to increased compliance. Further, I argued that when various stakeholders' interests converge toward compliance with certain legal provisions, the compliance rate is higher and increases dramatically. When stakeholder interests diverge, the compliance rate is lower and grows more slowly. The evidence supported these arguments.

From a practical perspective, my study highlights feasible solutions to enhance labour standards in Chinese workplaces. First, existing entities (e.g. local ACFTUs, local media and labour bureaus) can act as important platforms. These platforms provide more opportunities for local labour intermediaries by organizing street-level legal aid sessions, offering newspaper column sections for employment/labour issues and holding labour advisory board meetings. For example, one informant who I followed over three years built his labour law career while serving as a part-time labour arbitrator and on the local

ACFTU advisory board. Then, he began writing a labour/employment column in the local newspaper and acted as a labour consultant for local factories, helping to shape local employer norms. An arbitration committee and the local ACFTU became a critical learning center for this aspiring pro-labour specialist. Therefore, increasing the number of legal aid events and forming local-level labour advisory boards can potentially boost these platforms.

The findings also suggest ways to encourage workers to voice their thoughts and complaints. During my field research, in the face of increasing number of worker suicides around 2010 and 2011, the local government held several worker day events with the local media and local ACFTU. Workers were encouraged to introduce themselves and voice any concerns, from personal issues to workplace complaints – even management's unfair treatment. Young workers, who were extremely quiet at an early stage of the event, began to ask questions, discuss diverse issues and make relevant suggestions. Through worker day events, they also learned how to contact a local government hotline when they had a complaint. Thus, stakeholder interactions matter.

However, my study does have limitations. First, it only focuses on one industry in one region with non-random sampling. The sampled factories' compliance levels might be skewed high because electronic factories in the coastal areas tend to exhibit a higher compliance than those in other labour-intensive industries (e.g. toy and garment manufacturing factories) in China's inland areas. Future research can benefit from expanding to other industries and regions for a more systematic analysis and far-reaching generalizations. Second, although I highlight stakeholder interactions, I do not formally test for those interactions; thus, my study should be viewed as only a starting point for further research. Finally, I acknowledge that I focused on *various* actors together but did not study each of these labour intermediaries in greater detail. Future research should pay closer attention to the variation among labour intermediaries.

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Notes

- 1 In my research location, a growing number of non-state arbitrators (i.e. lawyers, labour consultants, retired officials and scholars) actively participate in local labour arbitration committees, but local officials still comprise a major group of arbitrators. Additionally, although regional union cadres have become more assertive about workers' rights with more discretion, the ACFTU is still part of the state apparatus.
- 2 With similar rationale, distinguishing itself from the Anglo-American model, the Latin model emphasizes that labour inspectors, with considerable discretion, can act as advisors or consultants for small to medium-sized companies that largely lack knowledge and capacity (Piore and Schrank, 2008; Schrank, 2009; Schrank and Piore, 2007). Considering that China's

- labour officials were largely forced to use cooperative strategies owing to local governments' development-oriented direction (Cooney et al., 2013), labour officials' growing discretion and different enforcement styles in China merit further attention.
- 3 The findings were based on the interviews with 60 labour intermediaries.
 - 4 Regarding the question of whether the pluralistic, pragmatic approach is intended or unexpected, local opinion leaders (e.g. the highest-level local officials, journalists, lawyers and judges) who I interviewed largely agreed that a pluralistic direction was desirable (given the restricted state capacity) and that a pragmatic direction was realistic (given the gap between the ideal and local circumstances). Although these people had not necessarily expected or designed the current pluralistic and pragmatic ways, they were clearly aware and supportive of the current direction.
 - 5 In my study, employees include regular workers, part-time workers and dispatched workers. However, the local norm in the electronics industry was that employers did not use part-time workers. Furthermore, there were some variations in the use of dispatched workers across localities. In the region where my study was conducted, factories did rely on dispatched workers, but these workers comprised less than 15 percent of all workers.
 - 6 Thus, the government campaign for formal contract signing was conducted in a more *cooperative* style, whereas complaint-based inspection was conducted in a more *policing* style. Thus, it can be said that the government-driven campaign had a more educational focus and contributed to enhancing management's awareness of formal contract signing.
 - 7 Notably, retirement (pension) and medical (health) insurance had different meanings for local governments. Local governments considered the pension of migrant workers to be a major income source owing to its non-transferability, whereas health insurance was viewed as an expense because urban medical resource had to be allocated for medical services to migrant workers (for details, see Wu [2008] and China Labor News Translations [2010]).
 - 8 For example, during the recent serious economic recession, some regions allowed employers to divide the insurance program and buy only some of its five parts.
 - 9 Multiple interviews with local officials in July 2008, June 2010 and June 2011.
 - 10 Although I did not collect a systematic dataset regarding the OT premium, I found that it displayed a rapid increase in compliance. According to multiple informants, this compliance level primarily resulted from local governments and labour intermediaries being strict about this issue, as they are with written labour contracts. For example, if one worker files a complaint concurrently about OT hours and premiums, then labour bureaus and labour intermediaries largely try to ignore the OT issue and focus on the premium issue.
 - 11 Given the exploratory nature of my study, I used the grounded theory approach (Glaser and Strauss, 1967). I iterated between data collection and analysis. Qualitative data were collected from explanatory open-ended questions at an initial stage and also from final stage questions, which were more confirmatory, such as 'What do you think about the pluralistic, pragmatic approach? Do you agree?' The number of final stage interviews can be conservatively estimated as 25. These 25 informants' answers can be categorized into three categories: 'completely agree,' 'agree,' and 'have no idea,' with each category representing approximately one-third of all responses. Here, street-level officials, HR managers and ordinary workers answered 'have no idea.' Fully tied to everyday work, these people appeared to have little interest in the current enforcement methods.
 - 12 A growing body of studies have proposed a commitment-based CSR approach, distinguishing itself from a typical punitive CSR approach (Locke et al., 2009, also see Frenkel and Scott, 2002). Although convincing, this commitment-based monitoring is still at an explanatory stage, conducted by several attentive MNCs. Therefore, this approach is not relevant in explaining my findings.
 - 13 For details about workers' contrasting experiences, see pages 20 and 23–24.

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