

Can party-led trade unions represent their members?

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This article examines the implications of party leadership for the ability of trade unions to represent the interests of their members by comparing the cases of China and Vietnam, where the trade unions are under the leadership of the Communist Party, with that of Russia, where the trade unions have been politically independent for almost two decades. The article examines the changing role of trade unions in the transition from a command to a capitalist economy and the pressures for trade union reform from above and below. The key finding is that the form and extent of independent worker activism, and the response of the state to such activism, are a much more significant determinant of trade union development than is the legal and institutional framework of industrial relations, while the main barriers to trade union reform are the inertia of the trade union apparatus and the dependence of primary union organisations on management.

State-socialist trade unions in transition to a market economy

Trade unions in state-socialist countries nominally represented the interests of the whole of the working class, under the leadership of the Communist Party, and as such were an integral part of the party–state apparatus. State-socialist trade unions played virtually no part in the regulation of the employment relationship, since the terms and conditions of employment were determined administratively by the state. The primary functions of the trade unions were to maintain labour discipline, encourage the production drive and administer a large part of the state housing, social and welfare apparatus, the benefits of which were delivered through the workplace as a means of stimulating labour motivation. The trade unions did play some protective role in the workplace, sometimes representing individual workers in the event of disputes over such management failings as the miscalculation of wages or pension entitlements or illegal punishment by the employer. In theory they were also supposed to enforce the protective clauses of the labour law and regulations and to maintain minimal standards of health and safety at work. In practice these tasks were often overlooked as the priority of production overruled all other considerations. Overall, the role of the trade unions was to harmonise the interests of labour and management rather than to represent the interests of their members in opposition to management.

The transition to a market economy in the former state-socialist countries has transformed the environment in which the trade unions operate and has undermined, to differing degrees, the pillars on which their activity was constructed. In particular, the transition from a command economy to a market economy removed the enterprise from direct state control so that trade unions, at least in the workplace, ceased to be agents of state regulation and control of the labour force but instead mediated the relationship between the labour force and the employer. The Soviet trade union law of December 1990 defined the role of trade unions as being the

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defence of the socio-economic and labour rights of workers. Article 2.1 of the 1990 Vietnamese trade union law defined the responsibility of the trade union to 'represent and protect the rights and legitimate interests of the workers', while in China the trade unions were supposed to 'represent the legitimate rights and interests of workers and staff members' (1994 Labour Law, Article 7, and 2001 Trade Union Law, Article 6).

The corollary of this structural transformation was the transformation of the trade unions from governmental to non-governmental organisations, from agents of the state to representatives of employees. The trade unions (and behind them the party) in all three countries were well aware that the transition to a market economy implied that they would have to play a more active role in representing the distinctive interests of workers in the transition. Reform stimulated workers' aspirations, which were often thwarted by increasing inequality and insecurity and, above all, a sense of injustice, leading to increasing levels of spontaneous worker protest outside the official trade unions. In all three countries there were moves to declare the independence of the trade unions from the party-state. The All-China Federation of Trade Unions (ACFTU) had vainly tried to assert an increased measure of independence in the mid-1950s. The issue was raised once more in the 1980s, as the impact of economic reform made itself felt, with inflation eroding living standards and an increase in wildcat strikes and protests highlighting the failure of ACFTU to protect its members' interests in the face of economic reform (Howell 2003, p. 113). The 11th ACFTU Congress in October 1988 called for 'drastic changes', including greater independence for the unions to enable them to head off the threat of independent worker organisations. The ACFTU supported student demands for negotiation with the government in 1989, but the crackdown after Tiananmen, which was particularly directed at independent worker organisations, immediately closed off the avenue of trade union independence and brought ACFTU firmly back under the wing of the party (Wilson 1990, White 1996, Taylor *et al.* 2003, Chapter Two).

In Russia the All-Union Central Council of Trade Unions (VTsSPS) declared its independence of the party-state as early as 1987, although at this time the change reflected the desire of the conservative trade union leadership to dissociate itself from more radical economic reform rather than any aspiration to transform the trade unions into more representative bodies. Following the 1989 strike wave, the independence of the trade unions from the party was sealed in 1990 by the amendment of the Soviet constitution and the passage of the Soviet trade union law, which decreed that 'trade unions shall be independent of state or economic bodies and of political or other public organisations, they shall not be accountable to such bodies or subject to their control' and (perhaps inadvertently) established trade union pluralism.

Vietnam initiated the process of reform (*doi moi*) in December 1986, but proceeded more cautiously than did China and the Soviet Union in the reform of state-owned enterprises, while the legalisation of private enterprise resulted in a rapid growth of small businesses in agriculture and services. The Vietnamese regime observed the political turmoil in the rest of the communist world in 1989 and reversed its tentative political liberalisation, but did not experience significant worker protest and did not relax control of the state sector of the economy. Nevertheless, in Vietnam the trade unions declared a degree of independence from the party-state at their 1988 congress although, as in China, their role was still defined legally and constitutionally to function as representatives of the interests of the whole of the working class, under the leadership of the Communist Party.

From the point of view of the international trade union community, the continued subordination of the Chinese and Vietnamese trade unions to the ruling Communist Party disqualifies them from being considered as *bona fide* trade unions. Thus, while the traditional Russian Trade Union Federation, FNPR, was admitted to membership of the ICFTU in 2002, most national and international trade union organisations have until recently adopted either a

cautious approach to engagement with the ACFTU or refused to acknowledge the organisation as a trade union and opposed the election of ACFTU's representative to the ILO governing body, although many GUFs and national trade union centres have established bilateral relations with the Vietnamese VGCL, despite the fact that it continues to be a loyal member of the rump of the Communist WFTU. In this article we want to explore the extent to which the political affiliation of the Chinese and Vietnamese trade unions disqualifies them from serving as representatives of the rights and interests of their members by comparing their development with that of the traditional Russian FNPR.

State-socialist trade unions in a capitalist economy

The transition to a capitalist market economy had fundamental implications for the employment relation in state-owned enterprises. In place of the traditional employment for life as a servant of the state, the employment relation became a contractual relation between the employer and the employee. This is necessarily a relation between two parties who have conflicting interests, with clear implications for the role of the trade union. Nevertheless, the change in the character of the employment relation did not have an immediate impact on trade union structure and practices, with trade unions remaining dependent on management in the workplace (Zhu 1995, Zhu and Campbell 1996, Chan 2000, p. 39, Ashwin and Clarke 2002, Chapter Eight, Ding *et al.* 2002, pp. 445–447, Taylor *et al.* 2003), and the trade unions continued to fulfil their new role through the political process, lobbying within government structures for appropriate regulation. In all three countries a raft of legislation was introduced or amended during the 1990s to regulate the employment relation, including labour laws which prescribed the minimum terms and conditions of employment in some detail, trade union laws which defined the role, rights and obligations of trade unions, and labour dispute settlement procedures. In all three countries provision was made for binding collective agreements to be signed between the employer and employee representatives, and in Russia and Vietnam, though not in China, the laws defined quite stringent conditions under which it was possible for a trade union legally to call a strike. In all three countries the passage of the legislation was by no means a formality, and the trade unions in each case were very active in pressing for their favoured clauses and in lobbying for subsequent revisions of labour legislation.

In China the strict subordination of the trade unions to the party did not necessarily imply that they would serve merely as an instrument of the state. ACFTU president Ni Zhifu noted after the Tiananmen events, anticipating developments to come, that

the trade unions must avoid simply acting as agents of the government and work independently so as to increase the attraction to workers and enjoy more confidence from the workers, leaving no opportunity to those who attempt to organise 'independent trade unions' (Xinhua News Agency, 25 July 1989, cited Ng and Warner 1998, p. 55).

Thus, by 1992 the ACFTU was lobbying actively for measures to protect workers' interests and promoted its own position in debates regarding the legislative and policy framework of reform, with considerable success (Chan 1993, pp. 52–55). In particular, ACFTU pressed strongly for the collective regulation of labour relations, against the regulation on the basis of individual contracts that was favoured by the Ministry of Labour, and provision for collective contracts was made in the new 1992 trade union law (Ogden 2000, Clarke *et al.* 2004). Wei Jianxing, reformist chairman of ACFTU from 1993 to 2003, was a high-ranking member of the CPC Politburo from 1997 to 2002, which gave him the authority to press the ACFTU's views on the Ministry of Labour, and ACFTU has continued to play a leading, and successful, role in lobbying for labour legislation.

In Vietnam, its historical role ensures that VGCL enjoys even higher political status than does ACFTU in China. The chairperson of VGCL has ministerial rank and must be a member of

the Central Committee of the Communist Party. Until 2007 VGCL was directly involved in drafting all labour legislation, and it continues to have the statutory right of consultation. Over the past five years VGCL has taken an increasingly independent position in pressing its own views on the government, most notably in criticising the inadequacy of government enforcement of labour legislation, in pressing for increases in the minimum wage and in insisting on the retention of the right to strike in the 2006 revision of the Labour Code.

The Russian trade unions enjoyed their traditional 'right of legislative initiative', which allowed them to table draft laws, until El'tsin introduced a new constitution after his tanks had dissolved Parliament in 1993. Under El'tsin the trade unions sought to constitute themselves as the nucleus of a centre-left opposition, in alliance with the industrial lobby, but the alliance was conspicuously unsuccessful in successive Duma elections (Clarke 2001). Nevertheless, El'tsin never commanded a parliamentary majority and the trade unions lobbied hard and successfully in the Duma to retain most of their legal rights and privileges and to block the government's neo-liberal amendments to labour legislation. The campaign against the government's proposed neo-liberal labour code confirmed the FNPR leadership in the belief that parliamentary lobbying was much more effective than mass demonstrations and protests. The compromise labour code adopted in 2001 significantly weakened trade union and worker rights, but strongly favoured the traditional bureaucratic unions against the new alternative trade unions.

Following Putin's election as President, the presidential administration succeeded in constructing a parliamentary majority, which was strongly endorsed with the victory of the 'party of power', United Russia, in subsequent federal and regional elections. FNPR could no longer risk associating itself with the opposition, now largely reduced to the Communist Party, and the few trade union-sponsored members of the Duma moved from opposition to join the parliamentary fraction of United Russia. In 2004 FNPR signed a formal cooperation agreement with the United Russia Duma fraction, which was strengthened after the 2007 Duma election. Under this agreement FNPR committed itself to supporting United Russia candidates in federal, regional and local elections and both parties committed themselves to encouraging their territorial organisations to conclude similar agreements at regional and local level. As its *quid pro quo* United Russia committed itself to supporting the gradual increase of the legal minimum wage towards the subsistence minimum, to supporting the strengthening of the system of social guarantees and to including trade unions in the discussion of all social and labour legislation. Similar political pressures brought the traditional trade unions back firmly under the control of the authorities at the regional level.

In all three countries the trade union centre was very active in fulfilling its new function of protecting the rights and interests of workers by lobbying for favourable labour and social legislation, even if such laws and regulations were honoured more in the breach than the observance, but the more active representation of their members' interests was quite another matter. Left to themselves, there was no particular reason for the trade unions to change. They could comfortably perform their new role of representing the lawful rights and interests of employees through their traditional channels and using their traditional methods, lobbying the state for protective regulations and protective legislation and relying on state agencies to monitor and enforce the laws and regulations. Moreover, the continued use of these traditional methods depended on the trade unions retaining the favour of the state apparatus and continuing to subordinate themselves to state policy even where, as in the case of Russia, the trade unions had nominally acquired political independence.

Trade union officials could enjoy a comfortable existence continuing to work in traditional ways, issuing instructions, passing around pieces of paper, writing reports, attending meetings, participating in ceremonies and celebrations, working with management to administer the social welfare apparatus of the enterprise and collaborating with state legislative and regulatory bodies

and government officials. They could meet targets for increasing membership or expanding the coverage of collective agreements in entirely formalistic ways, by arrangement with employers. They had little interest in the hard and often dangerous work of encouraging the greater activism of enterprise trade unions or trying to organise the unorganised. Above all, they did not want to take the risk of articulating conflict that might provoke the social unrest that it was their role to neutralise and contain. Pressure for change in the trade unions was most unlikely to come from within their own apparatus. To identify the sources of such pressure we have to look outside the trade unions, to the pressure of worker activism from below and to political pressure from above.

State enterprise restructuring, worker activism and trade union reform

The transition to a capitalist market economy in all three countries led to a considerable increase in worker activism, initially primarily in state and former state enterprises, where workers faced a significant deterioration in status and in the terms and conditions of their employment. These were enterprises and organisations in which the traditional trade union was well established and was closely integrated into the management apparatus. In these circumstances it was most unlikely that the workplace trade union would articulate the grievances of the workers and organise resistance to management policy, let alone organise or even sanction overt worker protest, and indeed worker activism was primarily expressed in 'spontaneous' strikes and street protests, often organised in Russia by the new 'alternative' trade unions and in China and Vietnam by informal leaders.

In Russia, the strike waves of 1989 and 1991, which had done so much to bring the Soviet system crashing down, had given the impression of a powerful workers' movement, but they had spread so fast and had such a dramatic impact not because of the organisational capacity of the new workers' movement but because the strikes had been harnessed by enterprise directors and regional political leaders in the bid to extract resources from the centre (Clarke *et al.* 1995, Chapters 2–4). The principal strike waves of the 1990s involved public sector workers, primarily health and education workers, who were still paid from federal budget allocations on national pay scales, and coal mining, which depended on massive state subsidies to maintain the high wages of the miners, and were promoted as much by the employers as by the trade unions in the bid to extract money from the government. Once the coal mines were fully privatised, subsidies removed and sectoral bargaining replaced by enterprise bargaining, the coal miners' union lost its bargaining power and the occasional strikes were confined to single mines. The actions of public sector workers were similarly damped down by paying off wage arrears, providing for greater regional flexibility in wage setting and, as in the coal mines, by taking tough disciplinary measures against managers who encouraged strike action. Nevertheless, the public sector unions continued to organise annual 'days of action' involving pickets, protest meetings and occasional work stoppages until Putin introduced his 'National Projects' for health and education, which allocated federal funds for salary increases in priority areas, in 2005. Beyond these sectors, militant worker activism was largely confined to narrow strategically located professional groups, particularly in transport (pilots, air traffic controllers, dockers, bus and train drivers), pursuing their sectional interests through the alternative unions established to represent them on a professional basis (Clarke *et al.* 1996, Chapters 5–7). The most dramatic strikes of the 1990s, which occasionally involved armed confrontations, were associated with struggles for the control of privatised enterprises, with either the incumbent management or prospective new owners mobilising the workers in their support (Clarke and Kabalina 1995, Clarke and Pulaeva 2000).

In China, during the 1980s and 1990s the main challenge of worker activism was posed by the reform of state enterprises, which provoked protest actions as large numbers of workers were

laid off and state enterprises were unable or unwilling to pay social insurance and redundancy payments and even wages. Privatisation only exacerbated these tensions as new owners asset-stripped state and former state enterprises, leaving the enterprise as a debt-burdened shell while they amassed profits elsewhere. Protests by state enterprise workers had the potential to pose a particularly serious challenge because of their strategic location. On one hand, the state enterprises facing large-scale redundancy and closure were concentrated in cities in the core industrial regions of the country. On the other hand, the workers being laid off and deprived of their birth-right were the traditional core of the Chinese working class who were supposed to constitute the leading element in the country. Many of these workers, particularly in North-East China, appealed in their protests to traditional values of post-liberation China such as 'equality', 'honesty' and 'selflessness'. As such their support for 'Chinese socialism' constituted a potential threat not so much to the rule of the Chinese Communist Party as to the current party leadership, which had chosen the reform path away from those traditional values. Laid-off workers are also most likely to address their demands directly to the government rather than to the management of the enterprise, which made their protests potentially particularly dangerous for the authorities.

The crackdown after Tiananmen and a significant rise in wages in SOEs in the early 1990s seem to have kept the lid on protest in SOEs in the first half of the 1990s, but protest escalated from the middle of the decade as reform and associated lay-offs and non-payment of wages and benefits by insolvent enterprises moved beyond small to large SOEs. Early protests took the predominant form of petitions, but by the end of the century more radical forms of protest had become the norm, involving peaceful demonstrations blocking roads or access to buildings and appealing to the local government to act to redress the workers' grievances. Protest by SOE workers was met locally by a mixture of carefully targeted repression and broad concession, the balance between the two depending on the character of the protest, the resources available to the local authorities and the political sympathies of the local state (Hurst 2004), but generally the state handled protests carefully for fear that repression would provoke further protest or spread to workers still in work. The most severe repression was reserved for protests which involved workers from more than one factory, most notably in Liaoyang in 2002, where two of the protest leaders received long prison sentences.

Combined with the effects of the Asian financial crisis, the upsurge of protests temporarily slowed SOE reform at the end of the century. The threat of protests provoked by lay-offs was further averted not by trade union intervention but by government measures to spread the load and facilitate the redeployment of those laid off. Many redundant workers were offered early retirement. Workers designated to be laid off were kept on the payroll and paid a small allowance for up to three years, during which time many took on other work. Re-employment centres were established in SOEs to provide training and job placement, with the trade unions being assigned a significant role in administering these schemes, and tax breaks were offered to enterprises which re-employed laid-off workers. These measures seem to have been effective in averting and damping down protests associated with SOE lay-offs, which might otherwise have become explosive.

Protests by laid-off workers tend to constitute a one-off threat associated with the first stage of SOE reform, albeit one which is politically dangerous because large numbers of workers take to the streets and can provide a nucleus for wider protest. However, the reform of SOEs also opens up new lines of conflict within the enterprise as those workers who remain in work face the erosion of their social and economic status within the enterprise and there are signs that workers employed in privatised SOEs are becoming more militant.

In Vietnam, state-owned enterprises came under severe pressure at the end of the 1980s as they faced subsidy cuts in the wake of the withdrawal of Soviet aid. Between 1988 and 1992

almost a third of SOE workers, 800,000 people, predominantly women and mostly from small local SOEs, were laid off without, it seems, provoking significant protest as many of them returned to the countryside or found jobs in the booming new private sector (Klump and Bonschab 2004, p. 31). The Vietnamese labour code provides for redundancy compensation and, in the event of mass lay-offs, requires that the trade union should be consulted and the local labour bureau notified one month in advance.

The Vietnamese authorities have proceeded cautiously with SOE reform, rationalising predominantly through mergers and sustaining SOEs through credit from state banks, debt write-offs and tax remission. Corporatisation ('equitisation') and privatisation since 1999 have mainly been directed at smaller and more competitive SOEs, so that the larger SOEs in 'strategic' sectors have generally been untouched, though some have faced competition from new entrants (Klump and Bonschab 2004). This cautious approach to SOE reform in the context of rapid general economic growth has meant that employment in the state sector has increased steadily since the early 1990s and lay-offs have not been a major issue, while rising SOE wages seem to have smoothed over tensions that might be created by increasing pay differentials.

Worker activism in former state-owned enterprises in all three countries was largely contained through the 1990s without the trade unions being forced to undertake any radical reform of their structures and practices. Worker activism was on a larger scale in Russia, which is not surprising given the depth of the economic crisis in that country and the scale of the deterioration in living standards and employment security, but worker protest was largely directed at the government, not employers, and was mostly channelled by the trade unions into peaceful symbolic protests and demonstrations. Moreover, privatisation and the decentralisation of government financing depoliticised the protest by removing the federal government from the firing line, while the deteriorating labour market situation enabled employers to intimidate workers and contain their protest. The result was that the traditional trade unions were able to consolidate their position within the new political system and continue in their traditional way as 'social partners' of government and employers.

In China and Vietnam protest by SOE workers was contained by the cautious approach taken by government to state enterprise reform and by provisions made for the compensation and redeployment of redundant workers, with the fear of redundancy being a significant restraining factor for those who remained in employment.

In all three countries the trade unions were made well aware by the political authorities of their responsibility for containing worker protest and maintaining social peace and this included the trade unions being encouraged to play a more representative role in the workplace. However, in all three countries the trade unions carried out this role not so much by articulating the workers' aspirations in the form of demands on management as by, in the best of cases, putting forward what the trade union regarded as 'reasonable requests' and communicating and rationalising management's decisions to workers (Ashwin and Clarke 2002, Chapter 8, Clarke *et al.* 2004, 2007).

Industrial conflict and trade union reform

While the trade unions and governments in all three countries weathered both the potential and actual storm of protest provoked by enterprise restructuring in the 1990s, directed primarily at the government, new forms of industrial conflict typical of a capitalist market economy were developing as employers sought to withstand competitive pressures and to profit by holding down wages, intensifying labour, extending the working day and economising on health and safety provisions.

In Russia, the integration of the traditional trade union into the management apparatus has meant that such conflict has usually been harnessed by the alternative trade unions. On the rare occasions in which collective unrest erupts into strike action this has most often been taken despite the traditional trade union and often in the face of overt opposition by the trade union, which, if it does not ignore the dispute, seeks to confine it within 'constitutional' judicial channels. Even where the enterprise trade union has itself initiated or supported a strike, it often finds its call opposed by higher trade union bodies, whose collaboration with the state apparatus is conditional on their ability to maintain social peace. The result is that strikes are much more likely to be spontaneous, usually without going through the prescribed legal procedures, and supported, and more rarely initiated, by alternative trade unions.

Most alternative trade unions in Russia have been born in the heat of such struggles, organising workers who have been disillusioned by the passivity of the traditional union, particularly small groups of workers in relatively privileged occupations who have some bargaining power. However, once the moment of struggle has passed it proves extremely difficult to sustain such an alternative trade union in opposition to management and to the traditional union. The result is that most alternative unions either fade away to a small nucleus of embattled militants or find an accommodation with management and degenerate into a 'yellow' company union. In Russia today the alternative trade union movement finds itself at an extremely low ebb. The Independent Miners' Union, which was the heart of the movement, has virtually disappeared. The trade unions of dockers and air traffic controllers, originally formed as breakaways from the traditional sectoral unions, are engaged in a possibly terminal struggle for survival. The independent trade union of Ford workers in Vsevolozhsk, Leningrad region, is one of the few success stories on which the alternative unions can pin their hopes, but attempts to build out from this example have so far had very limited success. Nevertheless, the alternative trade unions have acted as a spur to the traditional trade unions in harnessing worker activism. As Mikhail Shmakov, FNPR president, has acknowledged, 'in general the existence of the alternative trade unions is even helpful. Competition does not allow us to stagnate' (*Vesti FNPR*, 1–2, 1999, p. 60).

Since the turn of the century the focus of strikes and worker protest in both China and Vietnam has been in the new private and foreign-owned sectors, which employ vast numbers of migrant workers in poor working conditions, forced to work long hours for minimal wages (Chen 2006). The capacity of these migrant workers to strike has been considerably increased in recent years as labour shortages have emerged in the export-processing zones so that workers have little fear of losing their jobs. In many of these enterprises there is still no trade union, and where there is a union it is in the pocket of management and makes no effort to defend the interests of the workers.

According to the available information, most strikes in both China and Vietnam are organised by informal worker leaders, and strikes are often announced by distributing and posting leaflets around the factory. These leaders tend to be experienced workers, often holding supervisory positions, and, at least in China, usually rely on home-place networks in the organisation of strikes. In Vietnam there are some cases in which the informal leader collaborates covertly with the official trade union leader, even holding regular meetings, and the official leader can exploit threats of unofficial action to negotiate with management. In neither country do informal leaders declare themselves, let alone take on official trade union positions, not least for fear of victimisation.

Faced with growing industrial unrest the trade union and the party–state are forced back into a fire-fighting role. In Vietnam the local office of the Ministry of Labour and Social Affairs (MOLISA) generally takes the lead, persuading the management to meet the workers' demands,

at least to the extent that the strike has been provoked by legal violations, while the local VGCL representative encourages the workers to return to work before the strike spreads to neighbouring enterprises. The police will also be called to maintain order as the workers spill out onto the streets. It is rare for there to be any police action against strikers, although strike leaders, if identified, may subsequently be victimised by the employer. Over the past three years the strategy of containment has been less successful, and strike waves have regularly spread like wildfire across the industrial zones (Clarke 2006).

While the Chinese government relied on severe repression of the supposed leaders, backed up by concessions to the workers, in dealing with the large-scale protests of laid-off state enterprise workers in Liaoning as recently as 2002 (Chen 2002), the balance between repression and concession has markedly shifted towards the latter in the last five years. The typical response of the authorities to strikes in the coastal regions today, as in Vietnam, is to try to settle the dispute as quickly as possible and contain the strike before it spreads to neighbouring enterprises. As in Vietnam, it falls to the local administration to encourage the employer to make concessions and to the local trade union to persuade the workers to return to work, thus performing a mediating rather than a representative role. In China the policing of strikes, which are often associated with marches to the local government offices, is more aggressive than it is in Vietnam and alleged strike leaders may be detained by the police for up to 15 days and subsequently dismissed and blacklisted by employers (or they may be bought off).

The strikes in the new booming capitalist industries in both China and Vietnam have been steadily increasing in scale and extent, so that 'collective bargaining by riot' (Hobsbawm 1964, pp. 6–7) has become the normal method by which workers defend their rights and interests. Workers have developed a very good idea of what they can get away with and how far they can go, so that short sharp strikes and protests have become an extremely prompt and effective way of redressing their grievances. Moreover, not only are the strikes in the coastal regions increasing in scale and number, in both China and Vietnam they are spreading beyond the enterprise in which they first broke out to other neighbouring enterprises in what look to be coordinated strike waves. The response of the authorities to these strike waves in both countries in recent years has been to increase the minimum wage in the attempt to head off mass protest, but this merely raises worker expectations of further increases (Chan 2007, 2009, Clarke *et al.* 2007).

Worker activism and trade union reform

The rise of worker protest in private and foreign-owned enterprises in China and Vietnam has led the trade unions to come under increasing pressure from the party–state to represent workers more effectively and to channel unrest into constitutional bureaucratic forms of dispute resolution. In Russia, there has been a steady decline in worker militancy since the containment of the protest of the 1990s and economic recovery since 1998, but relative social peace and the collapse of political opposition have deprived the traditional trade unions of their political leverage and encouraged the Putin regime to try to marginalise them. In this context the traditional unions had no alternative but to move to revitalise their base in order to defend their political position by demonstrating the value to the government of the institutions of social partnership. In all three countries, therefore, the trade unions have faced increasing political pressure to reform.

In this section we will review the principal steps that have been taken by the trade unions in all three countries to reform their structures and practices to make them more effective representatives of their members' rights and interests.

Legal representation of members

In all three countries the government has sought to channel labour disputes into individualistic judicial forms of dispute resolution, with mediation and arbitration followed by court action. In Russia the judicial resolution of disputes was pioneered by the alternative trade unions as a means of securing the payment of unpaid wages and taken up later by the traditional unions. Between 1993 and 1998 the number of cases submitted to the courts increased from 94,000 to 1.5 million, 1.3 million of which concerned wages, 850,000 relating to non-payment. This was one reason why FNPR considered the further development and rationalisation of the legal services of its member organisations to be a priority direction of development of the trade unions (*Vesti FNPR*, 3–4, 2000, pp. 7–42). FNPR regional organisations reported that in 2006 their member organisations together employed almost 1000 lawyers, who assisted in the preparation of 17,851 collective agreements and in documenting 37,834 complaints to enterprise Labour Disputes Commissions. In addition, trade union lawyers represented workers in 1622 collective disputes and 191 strikes (although only eight strikes were officially recorded in Russia in 2006, involving a total of 1200 workers), securing their demands in 64% of the collective disputes (but only in 13 of the strikes, involving only 45 workers in total). Trade union lawyers dealt with 58,010 complaints and 482,161 individual requests for assistance, over three-quarters of which in each case were satisfied. Altogether trade union lawyers won over three and a half billion rubles compensation for their members (*Vesti FNPR*, 5–6, 2007, Appendix 3).

In China there has been a similar massive escalation in the number of cases going to arbitration and on to the courts. Between 1987 and the end of 2005 1.72 million labour disputes went to arbitration, involving 5.32 million employees, more than half of whom were involved in collective disputes, with a growth rate of 27.3% per year (*China Daily*, 27 August 2007). The number of disputes going to arbitration increased by a further 42% in 2006 over 2005. The majority of arbitration cases are resolved in favour of the worker. In 2001 employees won 48% of cases, employers won 21% and the remaining cases were not resolved unequivocally in favour of either party (Cheng 2004, p. 285).

However, in China the trade unions generally play a subordinate role in the dispute resolution procedure, serving as mediator rather than as worker representative. On occasion trade unions have even appeared in arbitration hearings on behalf of the employer. In any serious collective dispute the trade union is very unlikely to support the workers against the management, and there have been plenty of cases of victimisation of enterprise trade union leaders who have been so rash as to do so (Chen 2003, p. 1017). In the absence of trade union representation, labour NGOs and ‘black’ lawyers have become very active in offering legal support to workers in dispute. Following their example, local branches of ACFTU have begun to sponsor the establishment of legal advice centres for workers on an experimental basis, and in Guangdong in late 2007 even approached labour NGOs and black lawyers with a view to collaboration, on condition that the labour NGOs severed any links with foreign sponsors (Pringle and Chan 2008).

In Vietnam, by contrast, the system of conciliation and arbitration laid down by the law is completely moribund. Although required to set up conciliation committees, many enterprises have not even done so, and almost no cases go to arbitration. It seems that the vast majority of individual disputes are resolved informally within the enterprise without the intervention of the trade union, while collective disputes fester until they erupt into wildcat strikes. Nevertheless, the Vietnamese authorities consider that one major cause of strikes is ignorance of the law and the VGCL has made the provision of legal advice a priority. It has established a substantial legal counselling system which includes 13 centres, 30 offices, 375 legal advice groups and 838 counsellors and collaborators. At each union above the primary level at least one union official is appointed as the focal point for legal advice and education.

Trade union representation in the workplace

The enormous increase in the number of disputes proceeding into the judicial dispute resolution procedures in China and Russia, and the increase in the number of strikes in China and Vietnam, are indicators of the failure of the trade union effectively to represent its members in the workplace. In all three countries there have therefore been attempts by higher trade union bodies to strengthen workplace trade union organisations, in particular to reduce the dependence of the workplace trade union on management.

The election of enterprise trade union leaders is one measure that has the potential to increase the responsiveness of the workplace trade union. In China the issue has been contentious and there has been a series of cautious experiments with the election of enterprise trade union leaders, usually but not always with some control of candidacy being maintained, and in some regions union elections are commonplace (Howell 2006, 2008). Although elections can be effective in improving the quality of enterprise trade union leaders, at least by providing a mechanism for the removal of the most incompetent, it seems that the impact of elections on the character of workplace trade unions themselves has been quite limited.

The limited potential of trade union elections to reform workplace trade unions is shown by the cases of Russia and Vietnam, where the election of workplace trade union officers is the norm. The subordination of the trade union to management is a structural phenomenon, not a matter of the personality of the trade union leader. Workers tend to feel that it is appropriate that their trade union leader should be a manager, who knows how to interact with other managers, a view also held by elements within the higher trade union leadership. Moreover, it proves very difficult to find any candidates for election who are not sponsored by management, because rank-and-file union members are afraid of victimisation, so the process of election makes very little difference to the character of trade union leaders.

Whether elected or not, it is important that trade union officers in the workplace have the skills and knowledge required to represent their members effectively. For this reason there has been an increasing emphasis on the provision of training for workplace trade union officers. In Russia, the collapse of the Soviet Union led to the virtual collapse of the trade union training system. From the middle of the 1990s FNPR attached much greater priority to training, partly as a means of improving the competence of the leaders of trade union primary organisations, but also as a means of increasing the 'discipline' and 'solidarity' of trade union organisations, strengthening the trade union hierarchy that had been undermined by the abandonment of democratic centralism. By 2006 FNPR could report that spending on training had reached 3.2% of the overall trade union budget, with 2.6 million trade union cadres and activists, 70% of the total number, having received some form of training in the previous year (*Vesti FNPR*, 5–6, 2007, p. 88), almost double the number of five years before.

In Vietnam the training of workplace trade union officers is only at a very early stage. The VGCL funds long-term training for professional unionists, 79% of whom work at provincial unions, but there is no regular budget allocation from the VGCL for the training of primary union leaders. However, unions in some of the most industrialised provinces have used their own budget to organise short training courses (from two days to one week) for primary union leaders. These courses cover labour and union legislation, negotiating skills and collective bargaining, labour contracts and dispute settlement procedure.

Like VGCL, ACFTU continues to place the emphasis of its training programmes on the training of officials from the trade union apparatus, rather than officers of primary trade union organisations. However, there are signs that the ACFTU is at least cognisant that it needs to improve the trade union skills of its primary level officers if it is to reduce dependency on

employers. In the more progressive provinces the trade unions hold regular one-day courses for enterprise trade union officers. According to ACFTU data, in 2006 255,000 trade union cadres attended incumbent training given by local and industrial trade unions and 541,000 trade union cadres attended adaptive job training (ACFTU 2007).

Higher-level trade union bodies endeavour to provide support for workplace trade unions in other ways than through training, for example by providing legal advice and support for the negotiation of collective agreements. The minimal, and most common, form of such support is to provide primary union organisations with a model collective agreement, which normally includes only the bare minimum of requirements already provided for by labour legislation. This might be supplemented by a checklist of additional items that may or may not be included in the collective agreement. In all three countries it is rare for officers of higher trade union bodies to participate in the actual negotiation of the collective agreement, although in Russia the primary trade union organisation might be given support if it is unable to reach agreement with the employer on its own account.

The more common means of strengthening enterprise collective agreements in all three countries has been the negotiation of sectoral and/or regional agreements and encouraging workplace trade unions to incorporate the terms of these agreements into the enterprise collective agreement, where they are not binding on the latter. This practice is much more highly developed in Russia, where the trade unions are organised according to territorial-branch principles, than in China and Vietnam, where the territorial principle predominates. Nevertheless, China has been developing local sectoral agreements on an experimental basis. In Vietnam sectoral bargaining was provided for by the 1995 labour code but was largely ignored until March 2007, when VGCL proposed to the Prime Minister that sectoral bargaining provided a way to overcome the ineffectiveness of collective bargaining at enterprise level. With the approval of the PM and the support of MOLISA, VGCL has organised a number of seminars and workshops to discuss the possibility of sector bargaining, but the experiment is stalled at the moment owing to disagreement between MOLISA and VGCL about the coverage of the sectoral agreement.

Extension of trade union organisation

Trade union organisation in state and former state enterprises and organisations in all three countries was inherited from the state-socialist system and membership remains very high in this sector, but the trade unions have very low membership in the new private and foreign-owned sectors, where industrial conflict has been concentrated in China and Vietnam. The decline of employment in traditional enterprises led to a substantial loss of trade union membership, and hence resources, giving the trade unions in all three countries a strong material incentive to expand their organisation. This incentive has been augmented by political pressure since the turn of the century as the party-state in China and Vietnam has looked to the trade unions to stabilise labour relations in these new sectors.

The ACFTU congress in 2003 declared that henceforth migrant workers would be considered to be part of the working class and would be eligible for trade union membership, ACFTU subsequently launching an ambitious recruitment campaign. At its own 2003 congress VGCL similarly declared its main priority to be a campaign to recruit one million new members in the private sector, which it had hitherto largely neglected. The Russian unions, despite having lost half their members over the 1990s, were rather slower to react, FNPR only declaring the expansion of membership to be a priority task at its 6th congress in November 2006 and launching a pilot project to establish primary organisations in small and medium enterprises in May 2007.

The typical way in which new trade union organisations are established in all three countries is for the local higher trade union organisation to contact management to collaborate in establishing an enterprise trade union. Not surprisingly, the outcome is for the enterprise director to appoint the trade union president, typically a senior manager or the human resources director, so that the trade union is constituted as a tool of management. Even when striking workers demand the establishment of a trade union organisation in China and Vietnam, this will be organised in a similar top-down manner in collaboration with management.

Despite the provisions of the law, the difficulty of establishing trade unions in new private enterprises, particularly small enterprises, has led in China to the attempt to establish sectoral and/or local trade union organisations, which can then conclude collective agreements covering all the enterprises in the locality and/or sector. The principal barrier to such attempts is the absence of effective employer organisations to act as the counterpart of the trade union in such agreements, but in some cases this has been by-passed by the relevant government department concluding the collective agreement in the name of the employers registered with it (Clarke *et al.* 2004, p. 249) or by the local party pressing employers to enter into an agreement.

Inspection of workplaces

The traditional means by which state-socialist trade unions defended the interests of their members was by lobbying for protective legislation and regulations and monitoring their enforcement in the workplace. The subordination of the trade union to management meant that such monitoring was always perfunctory, which is one reason why state inspection bodies were established alongside the trade unions, although the inspectorates were also notoriously lax because their intervention threatened to impede the achievement of plan targets by the enterprises.

The inspection of workplaces has been one means by which the trade unions have sought to by-pass ineffective workplace trade union organisations in all three countries. In Russia the functions of labour inspection were taken away from the trade unions in retaliation for their support for parliament in its resistance to El'tsin's second putsch in 1993, with trade union labour inspectors being transferred to the new state labour inspectorate. This not only deprived the trade unions of many of their powers of enforcement and led to the transfer of the personnel responsible from the regional trade union apparatuses, but also led to the virtual collapse of the system of voluntary inspectors in enterprises, which had to be rebuilt in the new circumstances. At the end of the 1990s FNPR made the restoration of the system of voluntary inspectors in enterprises a major priority, although it often proved difficult to find people willing to take on the task, and FNPR has relied primarily on establishing cooperation agreements with the various state inspectorates. Inspections of establishments by trade union inspectors and joint commissions generally reveal a very large number of violations of labour and health and safety legislation and regulations. Sixty-three FNPR regional organisations reported having carried out a total of 107,112 inspections in 2006 which had revealed 343,846 violations.

In Vietnam, labour inspection has been hampered by the acute shortage of both state and trade union labour inspectors (Clarke *et al.* 2007). On 31 December 2007 the VGCL issued Decision No. 1693 to strengthen the inspection and monitoring mandate of primary and higher-level unions. The Decision requires the primary and higher-level unions to prepare annual plans for inspection of employers' compliance with labour and union legislation. The unions can carry out inspections themselves or in collaboration with the authorities. After each inspection visit a written record with recommendations for improvement will be made. If the employer fails to follow the recommendations, the union has the right to inform the relevant authority for further action.

There are more than 3000 labour inspection agencies in China and around 40,000 inspectors (Cooney 2007, p.607), but the inspectorates are dependent on local government for their financing and managed by the local labour bureaux. As such, they are not inclined to offend powerful local interests, and they have very limited powers of enforcement. Regulations on labour inspection oblige these agencies to solicit the views of trade unions and other 'relevant departments' (State Council, 2004, *Regulations on labour inspection*, Article 7). The ACFTU has its own network of labour supervision and inspection committees at various levels. According to ACFTU, almost a quarter of all enterprises and organisations had 'labour protection supervision and examination committees' (*xiaozu*), with 1.621 million labour protection inspectors in 2006, covering over 40% of the workforce, while a third of higher-level trade union organisations also had 'labour protection, supervision and examination organisations'. Overall, the trade unions at all levels participated in 2.301 million safety production inspections in 2006. In practice these committees have no power over working conditions unless they have the backing of the 'relevant government departments' (ACFTU 2007).

Labour activism and the reform of trade unions in Russia, China and Vietnam

In the most general terms one can say that the reform of trade unions has been driven by worker activism, because the primary objective of trade union reform has been to confine worker activism within peaceful constitutional channels of trade union representation. In China and Vietnam this objective has been imposed on the trade unions by the Communist Party, whereas in Russia, since 1993, it has been an objective imposed on the trade unions by threats and opportunities presented by the state. The Chinese party, perhaps haunted by the memories of Tiananmen and challenged especially by SOE worker protest (Pringle 2001), has been much more anxious about the political dangers posed by industrial unrest than has the Vietnamese party, which takes a much more relaxed view of strikes and worker protests, and ACFTU has accordingly come under much more concerted pressure to reform than has VGCL. The greater political weight of VGCL may also have put it in a stronger position to resist pressure to reform. The differences between the three countries are to be explained much more by the level and forms of worker activism and by the response of the state to such activism than by the legal and institutional framework of trade unionism. To this extent our study supports a Marxist rather than an institutionalist analysis of industrial relations.

In China and Vietnam the subordination of the trade unions to the Communist Party has meant that the unions have enjoyed the political support of the party in their attempts at reform, whereas the Russian trade unions have had to reform themselves on their own initiative and using their own resources, albeit under pressure from the state. The trade unions in China and Vietnam have been severely constrained by the party in the steps they can take to reform their own structures and practices, for fear that such reform might encourage rather than restrain worker activism, but the Russian unions have been subject to the same pressures in order to maintain their position in the system of social partnership.

In all three countries the principal barrier to the development of the representative role of trade unions has been the traditional subordination of the workplace trade union to management, which prevents the trade union from reforming in response to pressure from below. Attempts to initiate reform from above have been impeded by the dependence of local trade unions on the local authorities, whose priority of the rapid development of their local economies leads them to support local employers, and by the limited leverage which higher trade union bodies have over their primary organisations, even in China and Vietnam where the trade unions are still governed according to the principles of 'democratic centralism'. This limited leverage makes the higher-level trade unions in China and Vietnam even more reluctant to risk activating their primary

organisations, for fear that they will lose control of such organisations, so they continue to endorse management control as the lesser of two evils. Even in Russia, where the trade unions are nominally independent, higher trade union bodies are reluctant to tolerate grass roots activism for fear of compromising their political alliances with employers and arousing the hostility of the local or federal government.

The most dramatic difference that subordination to the party makes to trade union activity is in the political sphere, where the trade unions in China and Vietnam are excluded from publicly playing an independent political role, while the Russian trade unions have sought to constitute themselves as an effective political force, lobbying regional and federal legislatures and participating in tripartite structures of consultation by mobilising their members in symbolic 'days of action'. Nevertheless, the political weakness of FNPR is shown by the fact that it has abandoned any pretensions to political opposition and aligned itself with the presidential party since 2000. Of course, the trade unions in China and Vietnam play a political role, but this role depends on their privileged position within the party structure rather than on any claims to be representative of their members.

In Russia, the failure of the traditional unions to represent the interests of their members in the workplace created the space within which alternative workers' organisations arose and in which alternative trade unions were able to organise to harness worker activism. 'Freedom of association' was not granted to Soviet workers by the state, it was a right appropriated by workers as the Soviet repressive apparatus crumbled. Alternative trade unions have never been a major force in Russia, and have never constituted a serious threat to the traditional unions, but they have been important as the means by which worker activism has presented a challenge to the traditional trade unions, particularly in the negotiation of collective agreements and the defence of trade union members, and the alternative unions have pioneered new forms of trade union action, which have been taken up by the traditional unions.

We can see embryonic forms of freedom of association in China, in the legal advice centres set up by NGOs to pursue individual and collective labour disputes, which have induced ACFTU to set up its own such centres, and in the informal networks which underlie strikes in China and Vietnam, but the impact of such activities on the practice of the traditional trade unions is strictly limited by the narrow limits within which independent activism is confined by state repression.

The limitation of the right to strike has been by no means as significant a factor as the absence of freedom of association in inhibiting worker activism and the reform of the trade unions in China and Vietnam. The important issue is not so much whether or not a strike is legal as whether or not it is effective. In China and Vietnam strikes have proved to be an extremely effective method for workers to achieve their immediate demands, as the authorities refrain from repressing strikers for fear of exacerbating the situation and press employers immediately to meet the workers' demands, to prevent the strike from spreading. However, the victimisation of worker activists and suppression of independent worker organisation means that strikes are not effective as a means of building the workers' organisational solidarity, which might present a challenge to the traditional trade unions. On the other hand, such wildcat strikes will continue to escalate unless or until workers achieve the freedom of association that will enable them to articulate, represent and negotiate their grievances within the workplace. In Russia, the state has been much more successful in limiting the right to strike precisely because freedom of association means that most strikes have identifiable organisers who can be taken to court and punished for conducting strikes that are not in accordance with the legislation.

The driving force underlying trade union reform in all three countries is independent worker activism, while the main barriers to trade union reform in all three cases are the inertia of the trade union apparatus and the dependence of primary union organisations on management, which deprives the trade unions of any capacity to act as an independent force as representative

of their members. There is progress in all three countries, the most substantial being in Russia, where workers have enjoyed freedom of association and the trade unions have a longer experience of independence and have faced less direct political constraint, but even in Russia progress is very slow.

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