

What can be done for the largest but deadliest manufacturing center in the world?

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[Summary notes for discussion, presented by Wing-yue Trini Leung, a researcher on labour and politics in China. Contact address: trinihk@hotmail.com.]

As China achieves spectacular rates economic growth during the last decades of the 20th century, its health and safety record has made nearly as sensational a leap, but in the opposite direction. Industrial and mining injuries, fatalities and occupational diseases have all risen at a rate surpassing the near double-digit annual growth rate in the economy. It is during the same period that China has become more deeply integrated into the international community and global economy. China at the start of the 21st century is the largest manufacturing center of the world. It is also the deadliest. Alongside the Chinese government, the international community has been pumping millions of dollars trying to revert this chilling reality.

This paper discusses the problems of improving health and safety at work in China . It argues for a new strategy, departing from the previous emphasis on strengthening official machinery and capacity. Building a sound and mature mechanism for representing plural interests, and a culture of participation would offer more promise for reversing the trend of ever worsening violations of rules and standards in China.

The Current situation

In 2001, 9,650 fatal incidents of industrial injury killing 11,047 workers (5,670 of whom were miners) were officially recorded. Industrial accidents rose by 27 % over 2000. The International Labour Organization (ILO) estimates that annual workplace fatality rate in China is 11.1 per 100,000 workers, compared to the rate of 2.19 per 100,000 in the US. Official records of occupational diseases rose by 13% in 2001 over 2000 figures to 13,218 cases with 2,352 deaths. And these are only the *official* records which, like all other official reporting of bad news in China, represents a small fraction of the reality.

A total of 13,218 cases of occupational diseases were recorded by the government in 2001, a rise of 13 percent over the figure in 2000, when 2,352 people died. The government has publicly admitted that "this is only a tip of huge iceberg of health hazards at workplace in China". Fewer than 30 percent of workers who are exposed to dusty environments received health checks for pneumoconiosis.¹ Pneumoconiosis, chemical poisoning and leukaemia are the leading causes of early loss of working ability in China. The high-risk industries for occupational illnesses are coal production, metallurgy, building materials, non-ferrous metals, machinery and chemicals.

The State Administration of Work Safety and the State Administration of Coal Mine Safety were set up by the State Council in 2000, in a central government attempt to rationalize the state machinery of health and safety management. This new organ has galvanized considerable political backing and resources.

The Prevention of Occupational Disease Law was implemented on May 1, 2002.²

The first generic law on health and safety in China, the Work Safety Law (WSL), was finally enacted on 6 July, 2002, and becomes effective on 1 November, 2002. This law is the culmination of over a decade of efforts and resources, from both inside and outside China attempting to provide a legal foundation to address the problem. One week into its effective date, it's not too early to announce that this statute will, just like hundreds of other laws in China such as the Labour Law (1994), become another meaningless document sitting on the shelf while violations go from bad to worse.

The Dangerous Chemicals Handling Directives will also become effective on 15 November, 2002. But this, like numerous other rules, is only an administrative directive from the State Council, and carries even less leverage than statutory law on business and plant operators.

China has not ratified International Labour Conventions (ILC) 155 and 161. The ratification of ILCs would put additional pressure on the government to be held accountable for its performance, and this is badly needed.

As admitted by the Chinese officials, the main stumbling block on H&S does not lie with the institution of laws but rather with the implementation of laws. There are many government decrees and rules, and many more government organs and officials who have existed for decades for the task of enforcing H&S. During the past decade, there has also been a healthy rise in the provision of H&S training and capacity building for various official bodies and personnel. The bulk of the groundwork has been laid, but rules and guidelines continue to be flagrantly breached by employers, local law enforcement officials and, at a different level, the employees. Improvement in H&S will need to tackle this bottleneck.

The worst offenders

Some sectors have been identified as the high risk group on H&S record.

Ownership of enterprises: SOE, PIE, FIE, TVE : who are the worst offenders?

Businesses and manufacturers in China can now be categorized into the public and private sectors on the basis of ownership and control of the enterprises. By this measure, the state-owned enterprises (SOEs) belong to the public sector; while the private and individually owned enterprises (PIEs), foreign-invested enterprises (FIEs) and the township and village enterprises (TVEs) can be grouped under the private sector. About two thirds of the country's 400 million non-agricultural workers are employed in the private sector.

In general SOEs are subject to relatively fewer commercial pressures and hence are under less pressure to skimp on H&S provisions and implement a mean and lean labour regime. Presence of the official machinery, such as the party organs (including the official union), is usually stronger in SOEs. which should help with H&S enforcement. Most workers are employed on a relatively more long-term contract basis and hence have more leverage on the enterprises. Despite all this, however, it is not a rosy picture at the SOEs. Numerous non-implementation, negligence and outright violation of regulations still plague their H&S records. Refusal to provide legally-required and adequate compensation to victims of industrial injuries is very common. Under investment and lack of resources also account for poor H&S provisions and training in the SOEs.

But the situation is many times worse in the private sector. Most enterprises are small and medium sized and are situated in towns, villages and suburban counties. They are typically set up and owned or run by one or small handful of local entrepreneurs, often under the auspices of local authorities. Such factories form the back bone of the export-processing industries; many serve as sub-contractors and suppliers to the major MNCs around the world. The plants are set up with minimum planning and investment, for the pursuit of maximised, short-term returns. Nearly all the workers are employed on short-term contracts; many of them are very young migrants from nearby or from the remote countryside. An extremely exploitative and repressive, and often illegal, labour regime is imposed on the workforce. Workers commonly suffer from long working hours, forced overtime, deprivation of rest days and sick leave, low wages (nearly always on piece-rate), arbitrary penalties and dismissals, and denial of collective bargaining rights. H&S features very low in the investment and management priorities of these enterprises, if at all. The local law enforcement officials are usually willing to turn a blind eye to the situation, either because they are bought off or because they see it in their interests to keep the entrepreneurs and investors happy.

According to the government, about 74 per cent of serious accidents in industrial and mining enterprises occurred in the private sector.³

In general, both in the public and private sectors, large enterprises which have over 3,000 employees are subject to more stringent official supervision and are better positioned to provide better H&S regimes. Large hi-tech joint-ventures with foreign MNCs are also more vigilant about H&S requirements.

Sectoral: agricultural, industrial, mining, construction, fireworks: which are the deadliest jobs?

Mining has undoubtedly recorded the worst work-related casualties. Some 7,000 miners were killed in 2001, 5,600 of them in coal mines. The fatalities were largely caused by mining accidents and explosions. Very disturbingly, it has been established that most of the mines in operation in the country are illegal. Despite efforts taken by the central government in the last few years to clamp down on these illegal mines, only a third of them were officially closed down by 2001. These illegal mines are the death traps for thousands of miners. Independent researchers estimate that about one million miners have contracted silicosis. Most miners are typically transient workers from the poorest parts of China, who have no other means of livelihood than working on the deadliest jobs in the country. It is widely accepted that most of the regular injuries and casualties among miners go un-reported in official records. Many miners are asked to sign a waiver of any legal claims, other than a pitiful lump sum compensation payment in the event of any injuries or fatalities on the job. This is nicknamed as 'life-and-death-contract', "*sheng si zhuang*" in China.

The other deadly, but much less noticed, occupation is with the building and construction industry. There have been few reliable records on construction industry injuries and deaths. Just like the miners, nearly all construction workers are migrants from the more remote or poorer regions of China. Most injuries and casualties go un-reported. Unlike the occurrence of spectacular mining explosions and disasters which have usually caught public attention, accidents in the construction are usually smaller in scale and hence go unnoticed more easily. But as well as accidents, occupational hazards also exist in long-term and invisible toxic exposure such as dust and asbestos. It is estimated that half of the world's pneumoconiosis victims live in China. The Ministry of Health estimates that these number 550,000. Exposure to asbestos is widespread and un-monitored.

Fireworks manufacturing is another high-risk job. There are frequent incidents of explosions and fires in China's fireworks factories. Most such factories are small size or even family operations in small towns and villages. H&S provisions are practically non-existent. Worse still, young children are employed and have been found among the victims of many of the accidents in this sector.

Farmers are easily exposed to pesticide poisoning in the absence of health and safety information and training and regulatory regime. Sale of banned, toxic pesticides is widespread. There has yet to be a comprehensive body of epidemiological data to establish the extent of this problem.

Regional / geographical: the poorer is not necessarily the worst off

Overall, two dividing lines can be drawn in China to delineate level of development and economic affluence, one between West and East and the other between North and South.. The pattern is that the southern and eastern coastal regions are the most developed, and the remote western and northern regions are the most depressed. However, H&S records do not coincide with these patterns of development. While mining disasters usually take place in the northern and western regions, frequent and serious industrial injuries also take place in the more developed regions of the south and eastern coastal areas. This reality illustrates that economic growth does not automatically lead to improvement in H&S.

Factors behind non-implementation of laws and rules

The following official analysis presents quite accurate diagnosis of the problems in health and safety by identifying the real causes in malpractice and corruption rather than in the institution of laws and regulations.

The new work safety law just plugs the loopholes. But accidents are never the result of a single cause. Other malpractice, such as loose implementation of the existing regulations, corruption, and protectionism, are also to blame.

Had they been implemented, current regulations would have been adequate, if not sufficient, to avoid the occurrence of fatal accidents. Unfortunately they were not.

Reports show that the owners of the small mines that exploded did not take measures to create a safe environment for the workers. But they also were not enforced by local law enforcement officers.

Where were those officers? Malfeasance, even corruption, can explain this. Even if some were to rise up and enforce the law, they could encounter a mountain of obstacles due to local protectionism. ⁴

Laws and regulations fail to be implemented because there is an impenetrable mesh of intertwined vested interests between business operatives and local officials. In most instances, this has succeeded in fencing off the central authorities.. There is a triangular deadlock between central government, local authorities (and employers) and workers. The primary victim of this situation is the exploited and oppressed workforce. The triangle is top-heavy with the workers at the bottom enjoying little power of leverage. Many factors account for the deadlock:

Malpractices of employers

Little or ineffective incentives and disincentives exist to deter employers from malpractices. It is often cheaper and easier to violate regulations than to observe H&S standards.

Weak position of the workers

The workers, who have the strongest interest in averting H&S violations, are in no position to assert their demands. They suffer from job insecurity, absence of labour contracts, long working hours, forced overtime, piece rate wages, lack of H&S provisions, and meagre injury compensation. These conditions dis-empower workers from forming a counter force to employers' violations.

Ineffective government institutions

The combination of a non-independent judiciary, powerless lawyers, and corrupt government officials have rendered laws ineffective. The central government often fails to exert or sustain its authority over local officials.

Embryonic civil society

The civil society is very weak. The interests which normally are vital for averting malpractices are not well organized nor represented. China lacks the basics of a healthy civil society which would include independent labour unions, insurance companies, industrial associations, chambers of commerce and community organizations.

Watchdogs in civil society

The essential actors who can function as watchdogs are weak. These include: the press, health professionals, advocacy and campaigning NGOs, academia.

A breakthrough in improved H&S will only occur if ways are found to prise apart the existing complicit interests which leaves the H&S offenders freedom to continue their malpractices. The logical way forward would be to begin by strengthening the interests which could counter the current power imbalance.

Possible solutions

Solutions to corruption and malpractices lies in better monitoring, effective penalty and rewards mechanisms and the existence of counter power or interest intervention. Improving H&S requires work on the government, employers, the employees and the society at large. A culture of H&S needs to be developed.. A sound functioning of the civil society will actually assist the implementation of desirable policies and regulations decreed by the central government. In fact, the new Work Safety Law stipulates that monitoring and supervision of H&S should be exercised by four main actors: the labour unions, the media and public opinion, members of the public, and community organizations.

Civil society: companies, labour unions, NGO, press, lawyers, academia

Employers

Solutions to corporate malpractices lies in an effective monitoring and punishment mechanisms to deter violations. Incentives can also help persuade companies the benefits of good H&S practices. Awareness and capacity training will help management personnel to embark on H&S schemes. Best practice awards can play the role of positive public reinforcement. Stringent and heavy penalties will help deterring offenders. Industry or business associations can provide research and program support on H&S for individual plant operators.

Employees

The solution to the weak position and vulnerability of workers lies in strengthening their capacity to represent their interests and their collective bargaining power. A strong worker representation can act as the best monitor and enforcement of H&S at the workplace. Workers should be given information, training and capacity to play a central role in H&S practices at plant level.

A great deal of research has emphasized the positive role that workers' participation can play in H&S. (Creedy) Existing laws (Labour Law, Trade Union Law, Work Safety Law) encourage the participation of unions in plant H&S committees. For example, Article 19 of the Work Safety Law stipulates that those operators in mining, construction and manufacturing and handling of dangerous goods which employ over 300 workers must set up work safety management machinery, or full-time work safety management staff. The WSL also protects eight rights of the employees: the right to information, to put forward recommendations, to make criticisms, to expose and litigate against violations, to refuse operation, to emergency departure from dangerous workplaces, to legal compensation, to safety equipment and to H&S education and training.

The weakness of current system, however, lies with the inability of the official unions to represent workers' interests and demands. The ACFTU officials are subjectively and objectively seen as accountable to the management and government rather than to the workers. Alternate means of workers' participation will need to be developed to enable meaningful labour representation.

The Press

A watchdog mechanism functioning in a civil society is the most effective and efficient way to tackle malpractice. This role can usually be performed best by an independent press and non-governmental organizations (NGOs). The Chinese press has actually played a crucial role in the past few years in exposing and investigating industrial disasters and injuries. Nevertheless, investigating reporters have been subjected to intimidation and obstruction by local government officials and business owners. Sometimes these journalists receive backing from their media bosses or from the central government authorities; but on other occasions, they are also censored for pursuing "politically sensitive" subjects. Strengthening the culture of investigative reporting by the press will play a powerful role in exposing and deterring H&S malpractices. High-profile press awards on this subject may serve to encourage initiatives in this direction.

NGOs

NGOs play an indispensable role in helping to draw attention to issues, in organizing community efforts and representation, in articulating non-official interests, in voicing demands and recommendations, in public education and information, and in providing community services. There is a slow but steady growth of NGOs in China. Some are working on H&S issues. Very few receive government support or even endorsement. Government needs to be persuaded to give more space and support to the NGO initiatives. Supporting the further development of the NGO community will help a rapid delivery of a cultural change on H&S.

The Legal system and insurance companies

One of the main incentives for H&S violations is the general low costs incurred by employers and other offenders even when their violations are exposed. Offending employers often get away without paying much compensation to their victims. Workers have little support in pursuing compensation. Support for more effective litigation, including lawyers and litigation funds, would provide badly needed facilities to redress this imbalance.

Insurance companies, given the right conditions, could also play a positive role in H&S management and monitoring. Article 43 of the WSL requires all work units take out industrial injury insurance. Insurance companies could add pressure to companies to clean up their health and safety practices or face higher premiums, or even fail to find insurers.

Under the new Prevention of Occupational Disease Law, workers will be able to seek legal aid if their right to work in a safe environment is violated by employers. The highest fine for enterprises violating the Law has been increased tenfold to 500,000 yuan.

Academia

There are many researchers and academics studying and investigating various H&S issues. Given adequate capacity and appropriate platforms, academia could play a crucial role in identifying problems and supporting solutions. Scholarships on H&S would help this development.

Government: labour ministry, state council, local government, judiciary, ACFTU.

Current government thinking of its strategy on H&S is to offer more incentives to employers for good practices and harsher penalties for offenders.

Because all these measures do little to alter the fundamental problem behind the many disasters - corporate failure to ensure adequate safety measures and supervision, either due to negligence or the blind pursuit of cost-cutting and profits.

Unless enterprises take the initiative, it is only a matter of time before more disasters occur. A close review of recent coal mine accidents reveals that big disasters often occurred in small businesses where workplace health and safety are sacrificed to cut costs and maximize profits.

While big companies may be more willing to provide a safe working environment, there are few incentives for unknown small enterprises to follow safety standards. And the penalties for safety breaches are too little to bring a significant shift in attitude among employers.

Lax law enforcement and corrupt officials also play roles in the failure to curb safety violations.

Therefore, to build a safety culture, the government should provide more incentives to get enterprises to ensure safe working conditions for their employees and should also severely punish enterprises that fail to maintain safety standards." ⁵

In addition to the role of the judge, the role of central government lies in creating and maintaining the macro environment for the sound functioning of policies and law and order at local levels. As part and parcel to this role, the government needs to provide the space for more independent and critical civil society to develop and function.

Conclusion: a new strategy of intervention

During the past decade or more, a great deal of resources and efforts have been invested in strengthening the capacity and resources of the various government institutions such as the labour ministry, the state council, local government, the judiciary, and the ACFTU. A vast amount of support has been given by numerous bilateral and multilateral bodies, foreign governments and non-government agencies to strengthen the Chinese government's capacity in this regard. While this investment has borne some fruits in facilitating institutional changes in the central government, the H&S situation has gone from bad to worse.

There is a need for a fundamental review of the previous strategy of focussing on the official machinery.

The US government has in 2002 allocated 10 million US dollars to aid China to improve labour standards and rights. Putting resources into supporting and facilitating the actors, interests, and forces in civil society outlined in this paper would be a more effective and efficient strategy for facilitating the cultural changes needed for workplace safety to be taken seriously.

The strategy of intervention may best lie in partnership with local initiatives (gathering strength), targeting the worst problems (setting priorities) and seeking the most effective entry points (maximizing efficiency). Establishing flagships of best practice can also be an effective way for outside players such as foreign governments and companies to bring about broader change.

Strengthening a society of plural interests and levels of representation is the most promising way to break through the existing impasse between the desire of the central government to improve the situation and the entrenched interests of local authorities and local business owners. Empowering a wider range of actors can shift the balance in favor of the millions of workers who currently face dangers to their health on a daily basis.

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