

The Moral Economy of Capital: Transnational Corporate Codes of Conduct and Labour Rights in China

The Puzzle: Who cares about labour rights in China?

Since the mid 1990s we have witnessed a surge in the practice of producing transnational corporate codes of conduct vis-à-vis labour standards and labour rights in China. This gives rise to a series of puzzles: Who cares about labour rights in China? Why does transnational capital take the initiative to protect Chinese labour? Who can generate institutional support and ethical standard to safeguard the basic rights of Chinese labour which have rapidly deteriorated in the last two decades?¹ For whose interest? At a time when China has been racing to become a “world workshop” providing a huge pool of cheap labour for facilitating global production, we see an increasingly concerted attempt by transnational capital to initiate the regulation of labour standards, especially at the company level. In contrast to the “race to the bottom” strategy that works adversely against labour rights globally, there is a kind of “moral economy” of capital, as we will call it, initiating and shaping new labour standards and regulations in China’s rapidly changing labour relations. Deriving insights from James Scott’s concept of the moral economy, we highlight the role of capital in articulating a notion of economic injustice and the principle of reciprocity and forced generosity by capital to rule out labour exploitation through the institutionalization of labour codes.² In tandem with, if not replacing, the role of the Chinese state in regulating labour conditions, meeting international labour standards and practices, corporate labour codes have been increasingly advocated by transnational corporations (TNCs), often big brand-name American and European retailers, for introduction into their Chinese production contractors and subcontractors.³ This perplexing phenomenon has created a heated contemporary debate on labour rights that deserves deeper investigation.

On the surface, the debate emerging centers on whether this code of conduct movement can enhance labour rights in China. The answer to many is obvious: What can we expect from capital whose interest is looking for cheap and abundant labour in

¹ Anita Chan, “A ‘Race to the Bottom’: Globalization and China’s labour standards”, *China Perspectives*, No. 46, March-April 23, 2003, pp.41-49.

² See James C. Scott, *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven and London: Yale University Press, 1976), p.3.

³ The pioneers in this area are Stephen Frenkel, ‘Globalization, athletic footwear commodity chains and employment relations in China’, *Organization Studies*, issue 4 (2001), pp531-562. Tan Shen and Liu Ka Ming, *Kuaguo gongsi di shihui zeren* (Transnational corporate social responsibility in China) (Beijing: shihui kexue wenxian chubanshe, 2003); and Anita Chan and Hong-zen Wang, ‘Raising Labor Standards, Corporate Social Responsibility and Missing Links- Vietnam and China Compared’, paper presented at Labor Standards in China Conference, March 21-22, 2003, University of Michigan.

China? Instead of jumping into an ideological deadlock, the puzzle of the corporate code of conduct, however, lies on its moral economy - the logic and anatomy of this moral economy, and its potential institutional power equipped with business ethnics to regulate Chinese society and labour in a global context. What is influential in this process, and thus worth investigating, is the increasing incorporation of capital into Chinese society by providing “good” governance on labour conditions and labour standards. This process of incorporation of capital can be understood as an active projection of capital into labour relations by proactively shaping labour standards armed with new business governance and workplace institutions at the conjunction of “state in vacuum” in regulating new labour relations in Chinese society.⁴ To put our questions concretely, why does capital play an active role in providing labour protection in China, a domain presumably belonging to the Chinese state? What is the rationale behind this corporate code implementation in China? What is the response of the Chinese government? What will be the effects on the long-term development of labour rights in China?

Workers’ Perspective

This article aims to discern the logic and anatomy of the moral economy of transnational capital. It is based on an eighteen-month observation of a pilot project launched by an international campaign to promote fair labour and business ethics in China. In addition to some general surveys, NGO documents and media coverage, staff and workers’ views from five companies in the Pearl River Delta which had implemented corporate codes such as Disney, Reebok and MacDonald were solicited to assess labour codes practices. Interviews were conducted in workers’ dormitories between 2001 and 2003; two companies located in Dongguan, one Zhongshan, and two Shenzhen. Two of the companies had to adopt more than one corporate code, but almost all involuntary. To provide a birds-eye perspective at the company level, a systematic

⁴ By “state in vacuum” we do not mean that the state is rapidly retreating from a regulatory role in shaping new labour relations - far from it. The state is intentionally reforming its role via a process of labour legalization and re-institutionalization (See Ching Kwan Lee, “From the Specter of Mao to the Spirit of the Law: Labour Insurgency in China”, *Theory and Society*, Vol. 31, 2002, pp.189-229; Isabelle Thireau and Hua Linshan, “The Moral Universe of Aggrieved Chinese workers’ Appeals to Arbitration Committees and Letters and Visits Offices”, *The China Journal*, No. 50, July 2003, pp. 83-103.). The conspicuous examples are the promulgation of the new Labour Law of 1995 and the setting-up of labour arbitration committees for channeling labour disputes in the new labour situation. However, current studies of the Chinese state and labour also help to highlight the limitation of the state’s role in regulating new management-labour relations as well as providing labour provisions and protection in its rapidly shifting socialist economy, and hence the Chinese state often fails to prevent labour protests and resistance. See March J. Blecher, “Hegemony and Workers’ Politics in China”, *China Quarterly*, No. 170, June 2002, pp. 283-303; Dorothy J. Solinger, “Labour Market Reform and the Plight of the Laid-off Proletariat”, *China Quarterly*, No. 170, June 2002, pp. 304-326; Feng Chen, “Industrial Restructuring and Workers’ Resistance in China”, *Modern China*, forthcoming 2003.

study with in-depth interviews was conducted in a large European production supplier in the Yangtze River region which had signed an agreement with a brand-name European Corporation and the pilot project of the campaign in implementing and monitoring the Corporation Code.⁵ Two field trips were undertaken to the company in April and December 2002.

The cardinal concern of this article is to let the voices of workers be heard at a time when most of the big TNCs such as Reebok, Adidas, Levi Strauss and the GAP are competing to implement codes of conduct practices in China with little or no reference to workers' concerns.⁸ This paper shows that codes of conduct practices, including the establishment of numerous human rights or labour rights departments inside transnational headquarters or regional headquarters in China, represents the implementation of a process of *capital-defined* labour rights in China. Previously the labour rights issue was state corporatist in nature since labour regulations were defined by the state and were entirely under state control, and the sole legal organization empowered to protect labour rights is the All-China Federation of Trade Unions (ACFTU).⁶ This process of incorporation since the 1990s is reflected in three aspects: first, the rapid institutionalization of labour relations driven by the capital imperative at the time when the state has difficulty in regulating labour conditions at workplace level; second, the turning of the labour complaint mechanism and trade union, newly established in some companies, into an economic institution for facilitating the production and business goals of capital; and, third, the possible subsumption of workers' collective power and labour organization since it is deliberately defined in the company code practices as a top-down regulatory process.⁷ This process of

⁵ The European Corporation had also signed an agreement with the pilot project of the international campaign to explore the possibility of setting up a monitoring system.

⁸ I would like to acknowledge that most of the NGOs involving in the labour code monitoring have provided a critical stance in stating that the major limitation of code implementation is lack of workers' participation. The workers have never been invited to participate in the process of draw-up, implementing and monitoring the Corporation code or the international code. See Hong Kong Christian Industrial Committee (CIC), 'Nike, show workers that your commitment to human rights is genuine', *Change*, (Feb 2000) at http://www.cic.org.hk/ce_00feb.htm; LARIC, 'Independent Monitoring Vs Workers' Representation on Labour Practices', *China Labour Bulletin*, issue 55, (July-August 2000), pp1-4; National Labor Committee (NLC), 'Made in China: The Role of U.S. Companies in Denying Human and Worker Rights', (2000) at <http://www.nlcnet.org/report00/introduction.html>; China Labour Watch, 'Reebok's Human Rights Standard and Chinese Working Conditions', (2002) at <http://www.chinalaborwatch.org/reports/reebok.htm>.

⁶ See Anita Chan and Irene Nørlund, 'Vietnamese and Chinese Labour Regimes: On the Road to Divergence', *The China Journal*, no 40. (July 1998), pp.173-197.

⁷ Some of the transnational corporations have debated whether to include the right of collective bargaining power into their codes. In the past few years Reebok has attempted to set up trade union elections in two of their production suppliers in China. In the eyes of workers, according to a union leader, the union election was still initiated as a top-down regulatory process and the union leaders, elected in a general election, could hardly survive in the company if they were genuinely fighting for the workers' rights. Two of the union leaders, one female and one male, were forced to leave the company within one year of the election. Interviews, 20 September 2003 and 10 October 2003.

capital-initiated incorporation of labour rights suggests that the improvement of working conditions as part of a process of rationalization in some enterprises are over-stated.⁸ Rather than leading to long-term labour participation and empowerment, the result is at best managerial paternalism with labour rights, if granted, originating from management above.

This article is structured in three parts. It begins with an investigation into the “why” and “what” questions of codes implementation in China including the international anti-sweat shop campaigns, and an attempt to disclose the “logic” of the moral economy of capital. Second, it offers a micro-focus at the workplace level. Code of conduct practices are assessed not only from the perspective of production workers, but from that of all rank and file workers and staff. This helps to analyze the anatomy of the corporate code vis-à-vis labour conditions and worker’s rights. Third, it shows that through implementing company codes, hidden incorporation by global capital on the issues of labour rights is achieved through the institutionalization of labour codes within the production regime. Systematic procedures, documentation, filing and reporting systems bear witness to this process of corporate shaping and monitoring of labour rights. The moral economy of capital is thus a process of institutionalization of labour rights by capital in order to further shape labour relations. This tends to replace the Chinese state as a *de facto* labour regulator. The consequence could be the shrinking of collective power and labour autonomy as labour protection mechanisms are defined, regulated and constrained by capital.

The Logic of the Moral Economy

The moral economy of capital stems from its active project of establishing labour rights protection by introducing labour codes in the workplace from the side of capital. In contrast to numerous reports in the international media and academic studies that Chinese labour rights were seriously violated in many foreign-invested and private enterprises,⁹ the code of conduct movement in China was initiated by transnational capital and works against our understanding of the logic of capital in expropriating Chinese labour. Why? Why have these transnational corporations gradually developed a moral face in China? The logic of the moral economy has to go beyond the internal capital-labour relation. Global consumer movements and public awareness of business

⁸ See Doug Guthrie, *Dragon in a Three-Piece Suit* (Princeton, New Jersey: Princeton University Press, 1999).

⁹ See the works of Anita Chan and in particular *China’s Workers under Assault: The Exploitation of Labor in a Globalizing Economy* (Armonk: M. E. Sharpe, 2001); Lee Ching Kwan, *Gender and the South China Miracle: Two Worlds of Factory Women* (Berkeley: University of California Press, 1998); and Hsing You-tien, *Making Capitalism in China: The Taiwan Connection* (Oxford: Oxford University Press, 1998).

social responsibility in North America and Europe have led to the rise of anti-sweatshop campaigns in developing countries. Under pressure, transnational corporations, especially in the textiles, clothing and footwear industries, started to launch company codes of conduct regarding labour standards in China and other developing countries in Asia in the early 1990s.¹⁰ The adoption of corporate codes became a trend for TNCs such as Levi Strauss, Nike, Reebok, The Gap and other companies which produce famous brand-name products for global consumers. The introduction of codes became part of these companies' strategic policies in their production chain and in securing the sale of their goods and services on the global market. Aggressively introducing a series of company codes into China, these TNCs set up their human rights departments or sub-divisions responsible for carrying out codes of conduct for their production suppliers or trade partners in China.

A code of conduct is a formal statement defining the ethical standards that a transnational company pledges to implement and apply to its production suppliers and trade partners.¹¹ The adoption of codes covering an individual company's activities is voluntary and often contains clauses measured against ILO Conventions, in particular those concerned with respect for human rights at work. Key clauses in the company codes typically address seven major areas: no forced or bonded labour; no child labour; no discrimination in employment; living wages and benefits; normal working hours; no hazards to safety and health; and decent working environment. Only a few company codes cover the ILO clauses on freedom of association and the right to collective bargaining.¹² The five companies we studied in the Pearl River Delta provided no such clauses, and variations in applying corporate codes and policies were noticed.¹³ Some TNCs like Levi Strauss, Reebok, and Sears Roebuck created specific codes concerning forced labour and human rights for their suppliers and subcontractors in China. Internal monitoring of subcontractors or suppliers by the companies' representatives on a regular basis is the usual case, while sometimes independent monitoring involving invited academics, auditors and/or NGOs will be used to enhance credibility.

The ethical trade movement in China is a product of accelerating global

¹⁰ See Jean-Paul Sajhau, 'Business ethics in the textile, clothing and footwear (TCF) industries: Codes of Conduct', *ILO Bulletin*, no. II-9, (June, 1997), at <http://www.ilo.org/public/english/dialogue/sector/papers/bzethics>; Nina Ascoly, 'About the Clean Clothes Campaign: A brief overview of the CCC's Development and Areas of Activity', paper presented at Forum on Industrial Relations and Labour Policies in a Globalizing World', Beijing, 9-11 January 2000.

¹¹ R. Jenkins et al. (eds) *Corporate Responsibility and Labour Rights: Codes of Conduct in the Global Economy* (London: Earthscan, 2002).

¹² Reebok, The Gap and Switcher are amongst the few companies to have included freedom of association in their company codes.

¹³ Some codes consist of general principles applicable to all actors within a company's business activities including material providers, manufacturers and retailers. Some are much more detailed and contain variations between the internal practices of the companies and the external policies of production suppliers or trade partners. Various details of codes are adopted in local labour laws and working conditions.

incorporation of the economy and the increasing deregulation of labour relations worldwide. Labour regulation is conventionally confined within a national context in which the nation-state can still assume the major role of regulating labour relations and local labour associations or trade unions responsible for labour rights protection. However, global production chains and the new international division of labour within TNCs that generates flexible production regimes results in the further deterioration of working conditions and labour organization in manufacturing-based countries.¹⁴ The emergence of “sweatshop” production in China is central to this globalization process. Conspicuous labour issues such as forced labour, long working hours, low wages, and lack of a safe and hygienic working environment have become widespread concerns, not only in NGO circles, but also in the mass media and affluent consumer communities.

The trigger for this ethical codes movement was a striking piece of news released in 1992 by the Washington Post about the production of Levi jeans using Chinese prison labour.¹⁵ Concerned about its corporate image worldwide, Levi Strauss immediately reacted to public concern by drawing up a code on labour standards entitled “Business partner terms of engagement and guidelines for country selections”, and commanded their suppliers and subcontractors in China and elsewhere to adopt and implement the company codes in order to strengthen labour rights in a global economy.¹⁶ Other major TNCs especially in retail industries followed suit, competing to set up their own company codes of conduct as part of global production strategies.¹⁷ The race to apply ethical codes in China reached its climax when in 1999 the CEOs of Phillips-van Heusen, Reebok and Levi Strauss wrote a joint open letter to President Jiang Zemin requesting an urgent meeting to explore the possibility of “working together” to improve labour rights in China.¹⁸ This attempt failed when the Chinese government showed no interest in talking to the CEOs of the three companies and continued to consider labour rights protection to be an internal affair.

¹⁴ See Jeremy Waddington, (ed), *Globalization and Patterns of Labour Resistance* (London and New York, Mansell, 1999); Ian M. Taplin and Jonathan Winterton, (eds), *Rethinking Global Production* (Aldershot: Ashgate, 1997).

¹⁵ See Jean-Paul Sajhau, ‘Business ethics in the textile, clothing and footwear (TCF) industries: Codes of Conduct’, *ILO Bulletin*, no. II-9, (June, 1997).

¹⁶ Women Working Worldwide, ‘Company Codes of Conduct’, (2000) at http://www.poptel.org.uk/women-ww/company_coc.htm.

¹⁷ Wal-Mart, a major US retailer, establish a set of comprehensive company codes of conduct in 1993, which soon became the example for many US clothing and footwear companies such as Sears, Sara Lee, Nike, Reebok, J.C. Penny, Woolworth, Liz Claiborne, The Gap and Phillips-van Heusen. European companies took much slower action in responding to demand for ethical trade. However, a number of retailers such as C&A, Littlewoods and the Otto mail order group have developed their company codes in the early 2000s, especially after pressure from the Clean Clothes Campaign and other campaigns like Labour behind the Label.

¹⁸ See Tony Emerson, “A Letter to Jiang Zemin: The quixotic tale of three American CEOs and their ill-fated mission to change China from inside”, *Newsweek International*, 29 May 2000.

The companies' concern is of course for their public image, which is a decisive factor in determining whether members of the public buy their products and hence in determining their survival in conditions of severe global competition. Critics have rightly observed that these company codes and associated acts are public relations ploys, especially as the TNCs are the judge and jury of their own codes¹⁹ and the relationship between the TNCs and their suppliers in applying company codes is never equal.²⁰ The five companies studied in the Pearl River Delta, all of them suppliers to TNCs, were not serious about code implementation. To them, the adoption of corporate codes was an additional burden accompanying just-in-time production requirements. One line leader in the company in Zhongshan said, "Who cares about labour rights? Do they [transnational corporations] really care about our working conditions? When rushing to meet production outputs, we still have to work overnight."²¹ Most of the workers were either ignorant or suspicious of corporate codes in their workplace. Some of them even mistook the codes as another set of their company's own regulations. A company manager in Dongguan openly explained to us: "We are forced to apply the labour codes from Disney, but we can judge from our intuition that when production and codes clash, which side we can cling to. Once I phoned their production department and asked: 'Do you still want your products in time?' The monitor left our company in silence."²²

It is apparent that the parties involved in codes of conduct practices in China include not only global consumers, TNCs, suppliers, and companies shareholders, but also the Chinese state and workers. Regarding code of conduct adoption in China, the Chinese central state is reluctant to seriously face labour standards issues and readily resorts to references to "external intervention in Chinese affairs". The local provincial or municipal states may hold various attitudes. However, as they lack the information and incentives to participate in this process, as evidenced by our studies in Pearl River Delta and the Yangtze River region, they may take the ethical codes to be simply a matter of individual business behavior. In contrast to some Chinese academics, agents of high-level trade unions, and local institutions, who are involved in monitoring, no official government departments such as the Labour Bureau have seriously considered the company codes of conduct, assessed their influence on labour rights protection, or monitored or enforced this process. This missing link of a state role, as pointed out by Anita Chan and Wang Hong-zen (2003),²³ has seriously weakened capacity to enforce labour standards in China. Above all, Chinese workers are conspicuously absent in the

¹⁹ See CIC, Feb 2000; LARIC, July-August 2000; Global Exchange, 'Executive Summary of Report on Nike and Reebok in China', (Sept 1997), at <http://www.globalexchange.org/economy/corporations/nike/NikeReebokChinaSummary.html>.

²⁰ See Stephen Frenkel, 'Globalization, athletic footwear commodity chains and employment relations in China', *Organization Studies*, issue 4 (2001).

²¹ Interview, 10 August 2002.

²² Interview, 29 July 2001.

whole process of drawing up, implementing, monitoring and enforcing the company codes of which they are the purported beneficiaries. Indeed, most are unaware of the codes, and of the rationale for applying them to themselves.

The continuing pressure for an ethical codes movement in China comes also from the international anti-sweatshop campaigns, notably the “No Sweat” Campaign in the United States, Labour Behind the Label in the UK and the Clean Clothes Campaign (CCC) in Europe. Many ethnic trade organizations working on a worldwide scale such as SA8000, Fair Labour Association, Worker Rights Consortium and Ethical Trading Initiative have also been set up. These international campaigns, labour organizations, and ethnical trade companies and associations have launched campaigns for decades calling for the establishment of an agreed international code for transnational companies regarding their offshore production and widespread use of flexible and cheap labour.²⁴ For instance, CCC succeeded in forging a unified international code for all its affiliate companies and interested parties.²⁵ It developed a model code, called the “Code of Labour Practices for the Apparel Industry Including Sportswear” in 1998 for the garments and sportswear industry (including sport shoes). This model code was also signed by CCC partners, international trade union organizations, several Asian organizations and networks in Indonesia, Sri Lanka, Bangladesh and Hong Kong, and almost all the 250 NGOs and trade unions in the European CCC coalitions. However, despite the existence of model codes set up by CCC or other international campaigns, the proliferation of codes from each industry and company continues, and companies show no genuine interest in adopting a single standard. As a result many international campaigns are hoping for the development of feasible measures to combat the difficulty of applying an agreed standard code.

Field Study of the Code of Conduct

It is in this context that international campaigns launched their pilot projects in China. Apart from five code-implemented companies in the Pearl River Delta, we systematically studied one joint-ventured company, named China Miracle Garments

²³ Anita Chan and Hong-zen Wang, 2003.

²⁴ The UN proposed an international code in 1980 but it never reached consensus and finally failed after a decade of unsuccessful negotiations. The ILO has had a Declaration of Principle on Multinational Enterprise and Social Policy since 1977 but it also failed to endorse an agreed international code of conduct for all industries and companies.

²⁵ The Clean Clothes Campaign (CCC) is a network of organizations in different countries working to improve working conditions in the textile, clothing and footwear industries. Its aim is to raise consumer awareness about how clothes are made and to put pressure on retailers to take responsibility for labour conditions throughout subcontracting chains. More information is available at the CCC website <http://www.cleanclothes.org/codes>

(China Miracle) in the Yangtze River Region.²⁶ Besides frequent exchanges with the company director, the production manager, personnel secretary, social compliance officer and trade union chair, the two field studies focused mainly on the production workers of China Miracle. These workers were selected on the shop floor by our research team according to each work unit taking into consideration factors of gender, age, marital status, work position and work department. Without any intervention from management, we chose a total of fifty workers for in-depth interviews covering every work unit of all departments including the design, cutting, production, quality control, and packaging departments.²⁷ One third of the chosen workers were interviewed again in our second field study. Night visits to the factory dormitories were also undertaken to crosscheck the information provided in the daytime by the workers in the company.²⁸

Established in 1995, China Miracle was mainly owned by Taiwanese and Mainland capital, with the latter greatly increasing its ownership share in 2000 because of its huge investment in building a new 40 acre company compound. The new investment of 20 million *yuan* was said not only to enhance the size and facilities of the company, but also working conditions in order to meet the high criteria of company codes set up by the international buyers. The company strategy was to build a model enterprise in the Shanghai region as a means to attract and secure more production orders. The new compound went into operation in March 2001 and consists of a three-storey production building with an attached administrative block, a separate one-storey canteen and a detached utility room.²⁹ Surrounded by a rectangular wall with big gates policed by security guards, China Miracle is one of the most impressive-looking enterprises in the high-tech development zone. In addition to producing sportswear for European corporation which accounted for 30% of the total company production, China Miracle made products for Japan and other European countries, and also serviced the domestic market in China. Notwithstanding the great emphasis on their product quality and just-in-time production capability, meeting company codes and international standards such as ISO 9000, ISO 14000 and SA8000 were also goals set by the management team.³⁰

In a company of about 1200 employees, around 1100 were production workers and 100 were managers, supervisors and office staff. Among the production workers, 90%

²⁶ The name of the company and all the workers' names hereafter are anonymous.

²⁷ We interviewed these workers one by one in meeting rooms provided by the company without the presence of management.

²⁸ More than four hundred workers stayed in a rented dormitory building in which six to eight workers shared one standard room.

²⁹ A worker's dormitory building was planned but construction is not yet started. The company rented dormitory rooms outside for their workers, which required a fifteen- minute walk to the company premises.

³⁰ China Miracle had been certified ISO9000 in 2000, ISO 14000 in 2002 and aimed at certifying SA 8000 in the mid of 2003. Few companies in China really paid attention to achieving certification of SA

were rural migrant workers, mainly from Jiangsu and Anhui provinces. Nearly 85% were women, most of whom were single,³¹ with an average age range of 16-24 typical of garment factories in China. The average number of years the workers spent in the factory was two years, with a great proportion of production workers newly recruited at the time when the company moved to the new compound. About 80% of them had junior secondary schooling, 10% primary schooling, and a few had received senior secondary schooling and technical tertiary education. As a result, nearly all workers were literate, and had no problem reading or understanding the provisions of the code.

Knowing the Code: The Tale of Truth-Telling

The field trip, made by a research team of four, was unannounced, and occurred on a Sunday afternoon in early April 2002. A small section of the work unit in the production department was spotted working on Sunday, which obviously violated the European corporation code which stated that all workers should have at least one day off in seven.³² Management insisted that every worker had been provided with a written copy (in Chinese) of the code when they signed or renewed their contract. It was also mentioned that two months prior to the field study, they had started to introduce the code to the workers during morning pre-start meetings. In contrast to management's assertion, all workers interviewed except two informed us that they had not received a written copy of the code, nor were they orally informed of it. When we asked whether the code was introduced in their morning meetings or other settings most of them responded with hesitation. Respecting their understanding of the code's provisions, none of the workers had any knowledge or understanding of their meaning. A few workers mistook the code as China Miracle's own regulations.

One worker asked me: "What is a code of conduct? Do you mean company regulations? Yes, we have very strict regulations, and if we make mistake, we will be fined. Quality control is very high in this company."

Another worker said, "No, I haven't heard of anything called corporate code. When I signed the contract, they didn't give me any document. I also didn't get a copy of my contract." This echoed almost all the workers we interviewed.

During our period of stay, management did introduce the code during morning pre-work meetings. They also repetitively "trained" the workers in how to answer us, especially in terms of working hours, rest days and wages. However, a uniform answer with exact wordings, as if recited, raised doubts about these standard answers:

8000.

³¹ About 10% of the women workers were married and a few returned to the company after getting married in their hometowns.

³² According to the China Labour Law, workers should have two days off in seven.

We work eight hours each day. No compulsory overtime work. We have Sunday off. We get 1.5 times the pay for evening work, double for weekends and triple for public holidays.³³

The same wording pushed us to raise more testing questions:

Is your pay based on piece rate? Do you know the piece rate as you start working? Does the piece rate really differ from the evening overtime work or holidays overtime work?

Most of the workers replied, “No,” or “I don’t know”. With repeated crosschecking, one worker said, “We should have an overtime bonus for evening work, but probably not for Saturday.”

Except for working hours and salary issues, the workers varied in their responses to complicated questions on issues such as payments on National Day or Spring Festival. The puzzle of the workers’ compliance in giving standard answers on certain issues was solved when we visited the workers’ dorms where the workers were freer to express themselves:

Have we answered you properly? You know we are afraid of losing production orders. Our company is still good. We don’t want to give wrong answers and get in trouble.

In this regard, the workers were indoctrinated with the view that if they gave wrong answers, they would damage the profitability of the company, and thus the workers’ profits in the long run.³⁴ The workers’ consent to management hegemony was traded for a tale of profit. The production manager even openly told us:

The foreigners (*laowai*) do not understand the situation of China. We are an overpopulated country and we need development, you know. If they want good and cheap products, they have to trade off human rights. It’s quite obvious.

The production manager saw the code of conduct as a hypocritical act by the TNCs to assuage the “inner sins” of rich western countries. She stressed the point that when production orders were under time pressure, she had no choice but to give up “labour rights”, resulting in excessive overtime work in violation of the code. Severe global

³³ These are the provisions stated in the Chinese Labour Law.

³⁴ International NGOs such as Oxfam International, Clean Clothes Campaign and the Maquila Solidarity Network are well aware of the workers’ situation in telling “correct answers” to the monitors and attempt to make recommendations regarding monitoring practices.

competition for low-cost products and just-in-time production structurally constrained code implementation and resulted in a “paradoxical” if not “hypocritical” role for company code practices in particular, and the moral economy of capital in general.³⁵

The Anatomy of the Code Practice: Working Conditions in the Workplace

Comparatively, the working conditions of China Miracle were better than those of many other garment companies in the same region. No cases of forced or bonded labour were found at the workplace. All workers were provided with a contract to sign at the end of the probation period which, nevertheless, was not a standard labour contract drafted by the local Labour Bureau, and the contract was much simpler and listed fewer clauses than the code required.³⁶ The company did not keep the identity cards of workers as other enterprises in China often did. But the workers were required to pay a total deposit of 120 RMB which included production tools (30 RMB), locker key (20RMB), employee identity electronic card (20 RMB), and dormitory cot where applicable (50RMB). Standard working hours were ten each day from 8:00 am to 8:00 pm with a two hour break for meals. Workers often had a rest day on Sunday unless pressing production orders required overtime work.

One of the most important provisions of corporate codes, and often the most contested terrain, concerns working hours. The European corporation code states that “The factory does not require, on a regularly scheduled basis, a work week in excess of 48 hours without overtime and 60 hours with overtime.” This provision is not compatible with the Chinese Labour Law which stipulates that the normal working hours are 40 hours a week and 36 hours overtime a month. Most of the TNCs noticed that their corporate code provisions on working hours were more lenient than the Chinese Labour Law, and thus incompatible with it. Few of them revised their codes, or stated clearly that the national standard would apply. The five companies we studied in the Pearl River Delta also obviously violated the Chinese Labour Law in regard to working hours. The two of them in Dongguan worked as long as twelve each day. Even if Reebok or Disney corporate codes were adopted (and these codes claimed to uphold

³⁵ The two terms “paradoxical” and “hypocritical” were often used not only by the production manager to comment on the corporation code in China Miracle, but also senior staff in the five companies in the Pearl River Delta.

³⁶ The code stated that “A contract based on local legislation has to be established between employee and employer.” The code also required the contract to contain the following points: workers are paid at least the minimum legal wage; overtime pay meeting the legal requirements; pay annual leave and holidays as required by law; and an understandable wage statement which includes number of days worked, wage or piece rate earned per day, hours of overtime at each specified rate, bonuses, allowances and contractual deductions. However, the contract provided by China Miracle only contains: date of start; name of the work unit; need for the worker to abide by the factory regulations; need for the worker to follow the work arrangements concerning a change of position without arguing against it; ensure and respect safe company environment; dismissal of a worker in case he or she does not follow the company regulations and causes loss of production; and company pays wages, insurance, overtime in accordance with the Labour Law (but no details provided).

the standard of local laws) we did not observe genuine differences with regard to working hours.

The controversy over working hours often provided justification for the TNCs and their representatives to argue that the Chinese workers opted for overtime work and pay. We paid particular attention to this issue and repeatedly asked the workers to express their views. Most of them mentioned that if they did not work overtime, the basic salary would be too low to support their daily living. A woman worker of age 19 said:

With overtime work in the evenings and weekends, then we could earn about six to seven hundred *yuan* each month. Without overtime work, we could only earn three to four hundred *yuan*. What's the use of that amount? It is not enough for my expenses in the city.

Another said, "Yes, you may say we prefer long working hours. What's wrong with that? We sell our own labour to earn money. We travel a long distance to *dagong* (work), if we can't feed ourselves, what's the use of having a holiday on Sunday?"

The production workers could earn about RMB 600-700 each month in low season, and RMB 700-900 in high season, a bit higher than other companies in the same region.³⁷ Inability to meet the legal minimum wage, however, was noticeable when overtime hours were deducted and the wage was calculated on the basis of working an eight-hour day.³⁸ Overtime work on weekdays including Saturday was counted at normal piece rate, but Sunday and public holidays were paid double which was still not a common practice in the region. However, no pay would be given for annual leave or statutory holidays. The workers left for ten days during Chinese New Year of 2002 and were without any pay. When we questioned this practice, the personnel secretary openly criticized the code saying that it was not realistic for it to ask them to comply with the Chinese Labour Law:

If working on Sundays and holidays would get triple pay, each worker could have salaries higher than me.

China Miracle was proud of its management knowledge and in catching up with international standards, and consequently its ability to provide better working conditions for the workers in the region. This seems to shed light on the rationalization discourse

³⁷ Supervisors, technical, managerial and office staff were paid on monthly rates, ranged from RMB 1000 to 2000.

³⁸ The legal minimum wage in the region was RMB 430 in April 2002 which was raised to RMB 460 in December 2002. Management insisted that meeting the legal requirement was not their problem because most of the workers would receive above the amount. However, the workers could not tell the amount of the minimum wage and most of them did not know the provision.

that holds that China has undergone rapid improvement in management-labour relations in the late 90s. The code of conduct as a sort of “rationalizing practice”, however, exposes many discrepancies and structural deficiencies that have no solution. In China Miracle, management attitudes were sufficiently open to talk about the contradictions between the code practices and just-in-time production for the world market. The company director further complained that the production order prices continuously dropped but the requirement for labour codes had been stringent in the previous few years. The company director remarked: The code practice required by the European corporation was a “market behavior”. The company made huge investments in order to meet the code requirement as the only way to secure more production orders from European retailers and also fuel hopes of expanding into the American market. “We are lost at the moment, but we hope to get a return in the long run. It’s the way to survive in the world market”, said the director. In this regard, the code of conduct was not about labour rights protection but a business behaviour from the perspective of the company. The code practices did seriously affect the company restructuring and resulted in certain “labour rights” provided from the above. It was the first step of capital’s incorporation of the labour rights sphere in a Chinese workplace, dictated by the logic of the moral economy of global capital and working through a joint-ventured supplier.

The Process of Institutionalization: All about Recording and filing

The moral economy of the code was substantiated via a process of insitutionalization and formalization of labour standards and regulations in the workplace. Indeed many changes in the company were observed after several months when the follow-up field study was arranged in December 2002. A social compliance officer (SCO) was employed in May 2002 and made responsible for the implementation of the code in the workplace.³⁹ The SCO was part of a 5-member task force including the company director, the personnel secretary, the union chair and one representative from the Taiwan counterpart. The task force, newly set up in June 2002, was led by the Taiwanese representative whose mission was to enhance the labour standards as internationally required so as to meet the code. The Taiwanese representative, proud of his experience in dealing with company codes in his mother company, nevertheless understood SA 8000 and the code implementation as systems of documentation and filing. He was keen to show us their newly constructed files and records demonstrating the institutionalization of advanced management and labour standards as claimed. Thus there were files on SA 8000 Implementation Scheme, Code of Conduct Training

³⁹ This officer was employed by China Miracle locally but paid by the European Corporation in order to develop an effective policy to inform the workers of the provisions of the Code and to ensure their understanding of their rights.

Procedures, Code of Conduct Test Records, New Workers' Assessment Form, Workers' Complaint and Handling Records, Guidelines on Admission and Dismissal, The Management of Dormitory Guidelines, and the like. The Taiwanese representative told us:

The most important thing about code implementation is documentation and filing. How can you prove to your buyers and their monitors, you have to show figures and data. The more detail in your file, the better it will be.

The necessity of building up official documentation systems was applauded by the auditors who played an indispensable part in advising on the code's implementation in China Miracle.⁴⁰ The role of the auditors was also particularly important in the process of institutionalization in the way that almost all recommendations they made centred on the setting-up of registers and filing systems. For instance, on the issue of child and juvenile workers in compliance with the code⁴¹, the auditors meticulously suggested the company build up three registers: the first one for recording the ID copies of juvenile workers (16-18); the second for establishing a register of physical examination provided to workers of age 16-18; the third for recording the training program of juvenile workers as required by the code, and a register of evaluation for the program.

The example provided was only the tip of the iceberg of the long process of documentation set up at China Miracle. Child and juvenile workers, paradoxically, were minor issues in the eyes of the task force, which devoted great energy to revising the code provisions, and to designing recording systems on code training, wages, working hours, contracts, and non-discrimination employment policies. A two-page summary of the code in Chinese (covering information on age, non-discrimination policies, working hours, wage, occupational health and safety, and rights for freedom of associations) was then distributed to all workers who were asked to sign their new contract and the copies of their signature were properly filed. Training sessions on the code provisions were organized for new workers who had to pass a test covering basic information on the company, their contract provisions and mainly the code provisions. Sample test papers were shown to us and all had a full mark. However, interviews with workers continued to indicate that the workers did not actually understand the reasons for having such a Code and the benefits they could get from it, although some of them mentioned "human

⁴⁰ Two Hong Kong auditors were invited to monitor the implementation of the Code by the director of the pilot project, who paid visits to China Miracle every time immediately after our field studies. Our research team was required to provide the auditors a preliminary report one week after our field study. Basically the roles of researchers and auditors were different in the way that the auditors were responsible for making recommendations to the company, while the researchers only had to find out the "facts".

⁴¹ The company did not seriously take the issue of child and juvenile workers as a problem of their employment system since less than 10 workers were under age 18, but all of them had reached 16.

rights” and “labour rights” such as non-discrimination and no compulsory work. In fact, except for the new workers, training sessions were only provided to the upper and middle managerial staff such as supervisors and line leaders who in turn disseminated information on the Code to their work units or production lines.⁴²

The process of institutionalization was further crystallized in the redrafting of a new contract and a new wage register by the task force. In late November, the whole workforce was provided with a new contract which was re-written according to the China Labour Law, and the workers again had to sign to confirm receipt of their copy of the contract. A new system of wage register had also been set up prior to our second field study. The wage calculation sheets broke down normal workdays, rest days and holidays. The register now could show that the net monthly wages of the workers for a 40-hour week corresponding to the legal monthly minimum wages. The workers could also receive a wage slip each month. The slip, however, did not explicitly list the number of normal working hours and overtime hours worked in a month. It also failed to include detailed information on the piece-rates and the payment of statutory holidays. The workers thus were still unable to work out by themselves whether or not they had received the correct wages. When asked to compare their wages in April and December 2002, the workers said their wage had only slightly increased; yet the items recorded in their wage slip were definitely changed.

Looking carefully at the two-page summary of the code discrepancies were found everywhere. The text still violated the basic principles of the original code, notably regarding the working hours. The summary referred explicitly to a 48-hour week which was not in agreement with the Chinese law. At the time of the follow-up visit, however, China Miracle was covered by a one-year exemption permit issued by the local Labour Bureau in April 2002. The official document indicated a comprehensive overtime permit that allowed the company for a specified period of the year to work more overtime than permitted monthly (i.e. 36 hours monthly). This permit allowed the company to work a total of 264 hours monthly including overtime instead of the 196 hours monthly stipulated by the Chinese Labour law. In this case, it meant that China Miracle was granted an exemption to exceed the Chinese law threshold of working hours by 34%. Worse still, most workers reported that they had to work six days a week, with two hours overtime daily, from Monday to Saturday. The workers confirmed that they could hardly refuse overtime work, especially during the high season.

In contrast to these obvious non-conformities, the company director was, however, particularly satisfied with their improvements in institutionalizing the code practice, especially with suggestions given by the task force. He remarked:

⁴² Since July 2002, four information sessions on the Code had been organized, of which a record of attendance and their assessment was available.

We now have a clear direction of what to do. Paperwork is time consuming, but it's a must to show our commitment. Good that we now have a lot of records for your inspection. It solves many problems.

Thus, the contradictory practices between the code practices and production seemed to be resolved in this rapid process of “soft” institutionalization. Documentation, registers and filing were seen as a must in order to implement the code, and at least having records to demonstrate their compliance with it and the Chinese Labour Law. The trouble of unannounced inspections could be easily dealt with if piles of files were shown. In this regard, the rationalization of Chinese workplace management, if it really happened, was actually a process of institutionalization of paperwork with little improvement in working conditions as shown by China Miracle and the five companies we studied.

Setting up “Hard” Institutions: Labour Complaint Mechanism and Trade Union

Moving beyond the process of “soft” institutionalization, capital’s incorporation of labour rights relied on building up “hard” institutions too. These “hard” institutions included labour complaint mechanisms and a trade union established in the workplace. We still have to ask whether these hardware mechanisms were setting up for achieving the normalization of labour rights, or further working to contain them under the watchful eye of management, especially in terms of collective bargaining power and freedom of association. Management never seriously considered collective bargaining power and freedom of association as compulsory labour rights given by the code as these rights were not in correspondence with the China Law which precluded the setting up of an independent labour union or labour organization. Building up a model factory nevertheless required a good governance of “solid” measures and systems to implement as understood by the task force for which all considerations were developed out of regard for economic or market forces, either internally or externally. To them, a labour dispute mechanism and trade union could be created to enhance the reputation of the company and management-labour relations in terms of “more supervision, communications and guidance”, and hence more control.

Three mechanisms were thus devised by the task force: a labour dispute committee, a complaints hotline hosted by grievance handling managers, and face-to-face meetings with the social compliance officer. A very detailed three- page- long Complaint Handling Procedure states that its mission is to “guarantee unimpeded internal company information flows, figure out problems, solve them and effectively contain potential

troubles in time”. Covering all employees in the company, the Procedure stipulated three ways of making complaints: a written report, oral form, and face-to-face complaints on spot. Written reports could be sent to suggestion boxes which were placed on each floor. Choices for oral forms were numerous: either through hotlines (managed by five grievance handling managers appointed from all production departments), or the social compliance officer, or to the labour dispute committee (formed by the trade union, the social compliance officer, the personnel secretary and the production manager). Face-to-face complaints on the spot were provided every Friday afternoon in the conference room of the general office. This would be held either by the personnel secretary or the social compliance officer.

Notwithstanding that these complaint mechanisms had been established for only three months in the workplace, few of the workers really paid attention to the changes or thought of making complaints through these mechanisms. Only one of the workers interviewed claimed that she had used the suggestion box to suggest improvement of the food in the canteen. Workers were clear that no matter how transparent and effective they were, these were labour mechanisms without labour representation, used by the management for the management. One worker interestingly pointed out, “There are a number of names posted on the wall for hotline complaints. You can see, but we never use them.” “Why not?” “We see these so-called grievance handling managers everyday on the shop floor. They are our uppers. What’s the point of going out of the company and phoning in if we have grievances?” Look at those phone numbers painted on the wall; they were simply for decoration purposes, perhaps for outsider like us. While none of the workers interviewed reported that they had ever made complaints, records for complaints and grievances were shown to us by the social compliance officer who failed to speak clearly about the events relating to complaints but explained the timeframe and the procedures for handling these complaints in great detail according to the Complaint Handling Procedure.

All the records of complaint shown to us were from November 2002: two cases were made to a Friday on the spot face-to-face meeting, one was about a defective light bulb in the washroom, and the other was about the installation of a central air-conditioner in the workplace; another two cases made to the hotlines from the production department were about hygiene issues in the washroom; another five cases made to the labour dispute committee, however, were all about the food and meals provided by the canteen, either too little oil, or not enough variety of vegetables and meats, or one comment that canteen food should be kept fresh daily. During our period of study, despite numerous requests, we were not able to find out the identity of those making complaints, though for each case, the reference number, the date, the name of complainer, the work unit, the work position, the nature of the complaint, the reason of

complain, the result of investigation and handling result, the receiver of the complaint, and the date of finishing handling the case were meticulously recorded. The trustworthiness of these records was thus seriously undermined, and hence the whole enterprise looked like “formalized practices” for this moralized functioning of the code economy.

The pivot of the code economy practices in the workplace was the setting up of a trade union. The trade union, newly established in June 2002, was further evidence of capital’s incorporation of labour rights by setting up a formal institution under management control. Instead of the requirement by the corporation’s code which only states that “Workers are free to join associations of their own choosing”⁴³, management from above helped workers to make their “own choosing” by setting up a trade union according to the China Trade Union Law. Without initiation and participation of workers, the trade union was formed under the guidance of the city-level Garment Industry Federation Trade Union which sent a representative to be the union chair at China Miracle. The union committee consisted of five representatives from the management including the social compliance officer, and two of them described as “worker representatives” but who were actually shop floor supervisor and line leader.

There were mainly three reasons to set up the trade union at China Miracle: showing extra commitment in meeting the code; meeting the requirement of SA 8000 which was believed to be important to gain production orders from big American retailers; and enabling the company to sign a collective contract for all workers through the union which was granted the right by the China Labour Law. Manipulating collective contract was particularly important in that once the pro-management trade union took over the right, the company did not have to offer individual contracts to workers. This allowed greater room for the management to maneuver within the employment system in redrafting a collective contract for all employees. In addition, the company could further contain collective bargaining power through a trade union under its control. The union chair, who was aged in his mid-forties a party member and paradoxically very “non-political” said,

Why do we need to set up a trade union? It’s not because of state request or regulation. Ours is a joint-venture company, and we still have the option to do or not to do it. It’s solely a market consideration. Nowadays we believe in market forces and only market forces can effectively ask the company to set up trade union. ... A trade union can help communication between the company and workers, and it’s good for the company’s development.

⁴³ The Code further states that “Factories may not interfere with workers who wish to lawfully and peacefully associate, organize or bargain collectively.”

The benefits of having a trade union in the workplace were not only highlighted by the union chair but also the company director who said that the trade union was established not out of political concern but for purely economic and business considerations. He said,

We see many good sides to having a trade union. We won't worry about letting workers be organized. If the workers have their own organization, they could organize leisure and welfare activities according to their liking. It's good for boosting productivity if the workers are happy working in my company. They can work faster, you know.

The trade union was thus considered an *economic institution* working to meet international code requirements, facilitating management control over the workforce and enhancing company productivity because of workers' consent to the production regime. In spite of management hopes, the workers were markedly lukewarm toward the trade union and it had difficulty recruiting members on the shop floor. The union began with sixty-seven members in June 2002 and had increased to ninety-five members at the time of our second field study. Most of the union members were managerial, technical and supervisory staff, and less than ten were production workers who were strongly persuaded to join the trade union. For these ten, most of them were local citizens of the region and had been working more than two to three years here and were often considered as "old workers", *lao yuan gong*, of the company. This meant these workers had a deeper sense of loyalty to the company than ordinary workers who were typically migrant, transient and hence stayed for a shorter time in the factory. One member who was a production worker explained to us why she joined the union:

Oh, yes, I know a lot of *yuan gong* (workers) did not join the trade union. Why did I join the union? I didn't think that much, and there is no particular reason. Our supervisor mobilized me to join and said it's good for organizing activities for the workers. She said I was a *lao yuan gong*, so could be supportive for the trade union.

For the ordinary production workers, this union was mobilized and established in a top-down way, and most of them obviously lacked enthusiasm for it. The union chair and committee members were elected by the sixty-seven members before it expanded to the production workers, and the election was only a formality without any real sense of workers' democracy. The genuineness of building up a workers' representative body was thus unconvincing and hence no workers showed interest in joining the union. Most of the workers interviewed could not name the union chair, who he was, or why he was elected as the chair. Few would say if they had problems or grievances against

management or that they would put them to the trade union for help. Too much formality for the workers contributed to the difficulty of expanding the union base in terms of membership, despite the fact that the trade union committee attempted to mobilize members a number of times. The membership fee was RMB 40 each year⁴⁴ and for many workers the fee was too expensive or not worthwhile. In the previous six months, the activities organised by the trade union were the Moon Festival, for both members and non-members, a cinema show, and a Christmas party on Christmas Eve 2002.

Conclusion

This study strives to unravel the logic and anatomy of a moral economy of transnational capital - the codes of conduct practices in Chinese workplaces, through a critical review of the codes of conduct movement emerging in the post-socialist period at a time when China has turned rapidly into a “world sweatshop”. This article began with the debate on whether business ethics and rationalized practices implemented through corporate codes could improve labour rights in China or not. It ended by arguing that the moral economy of codes could result in capital’s incorporation of the sphere of labour rights in China. We provided a good case study for challenging the increasingly popular belief about the “rationalization” of workplace management practices in China. It was true that many “rational practices” were put into action in workplace such as expanded investment to upgrade company facilities and normalizing employment relations by providing labour contracts, one day off in seven, and cancelling the deposit system, disciplinary fines and the like. However, excepting these improvements of limited scope, the whole idea of a code of conduct was to demonstrate the company’s commitment to complying with internationally required labour standards, and thus for the company to secure a firmer place in the global production chain in terms of holding more production orders and expanding into new markets. This resulted in a rapid process of “soft” institutionalization in the workplace in terms of procedures and systems built up for governing codes of conduct training, use of juvenile labour, non-discriminatory policies, contractual labour, wage calculations, and the like. All these practices were merely concerned with documentation, recording and filing.

As a model factory in the Yangtze River Delta, these “soft” institutions spoke as facts supporting the rational discourse which, however, remained blind to the actual process of implementation. It was true to say that the company had devoted huge resources to setting up these systems and procedures, but it showed no genuine concern

⁴⁴ The company said it would contribute to 2% of total employee’ wages to the union, but it was not proved.

for labour rights, not to mention workers' representation or participation. In particular, the numerous labour complaint mechanisms looked like business gloss and the trade union was a formality lacking workers' support. Considering the labour complaint mechanisms and trade union as *economic governance* further demonstrated that the business "embeddedness" of social responsibility could mean business "co-opting" human and labour rights which are a sphere supposedly belonging to civil society, if not the state in the Chinese context.

The pressure for the companies to meeting the international code of conduct was clearly from outside, directly from its global buyers who were also kept in check by the international anti-sweatshop campaign. The rationale behind the code practice thus was a *business consideration* leading to a quasi-obligational effect of capital incorporation of labour rights issues in the workplace. This top-down process of granting labour rights could result in furthering the typical authoritarian factory regimes in which management play a paternalistic role in "protecting" their workers from labour exploitation. The codes of conduct practices in the workplaces looked "rational" but "paternalistic and benevolent" too, condensing the two dichotomized processes - one rational and the other despotic- as two sides of one coin. The goal of launching "rational practices" in the workplace did not result in a change in the authoritarian factory regime in China. The implication for code of conduct practices in China is not that they are about the rationalization of workplace management, nor about the potential dilution of a despotic or paternalistic factory regime in China. Rather, it is about the hybridization of these two oppositional forces by capital's rapid incorporation of labour rights in China working through a moral economy of corporate codes of conduct.