

LABOR RELATIONS IN NON-PUBLIC ECONOMIC SECTOR OF CHINA

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Co-existence and competition between public (state-owned) and non-public economy during the reform of marketization are a prominent feature in China's economic development. As the main bodies in China's non-public economy, foreign-owned enterprises and private enterprises have surpassed state-owned enterprises, the main body in China's public economy in the total amount and in the number of employees. Moreover, they are making a growing contribution to the increase of Chinese economy.

With China's economic and social development, labor relations in non-public economic sectors are attracting more and more attention and developing to be an important social and economic relation in China's economic transformation. They call for urgent regulation and adjustment, which is tremendously significant for protecting laborers' legal rights, establishing the new type of labor relation "win-win cooperation" and promoting harmonious economic and social development of China.

1. Characteristics of Labor Relations in Non-Public Economic Sectors of China

1 Marketization of Labor Relations

Marketization of labor relations means formation of contract relations between laborers and enterprises, which is based on free employment of laborers and two-way choice between employees and employers in the labor market. In this case, employees and employers, the two parts in labor relations are relatively independent interest entities and have their own definite interest needs.

2 Internationalization Trend of Labor Relations

Internationalization of labor relations means internationalization of applicable rules for labor relations. Since China's joining WTO in 2001, foreign investment in China has been increasing, leading to development of foreign labor relations. Under the circumstance of economic globalization, this calls for orientation of labor relations in enterprises, especially in private enterprises in China to international "game rules" and globally recognized labor standards, e.g. as the market price of laborers, salary should be negotiated and determined by employees and employers, the two parts in labor relations.

3 Hierarchization of Labor Relations

Hierarchization of labor relations means there are three hierarchies in the labor market of non-public economic sectors, which are: the high-level labor market of high-tech talents, the medium-level labor market of middle-level manages, scientific and

technical staff and skilled operators, the low-level labor market of low-skilled laborers. In the three-hierarchy labor market, different laborers play different roles: in short supply, laborers in the high-level labor market dare negotiate with the employers and thus labor relations here are pretty standard; the middle-level labor market reaches a balance between supply and demand, laborers here have a strong sense of protecting their legal rights and thus labor relations are quite stable; laborers in the low-level labor market are in the imbalanced state of supply over demand and thus in disadvantaged status (especially for peasant workers), with their legal rights often violated.

4 Short-term labor relations

Short-term labor relations mean variation and flexibility of employment, featuring in instability and short-term of employment. It leads to extensive increase of part-time employees and hourly workers and increasing flow of laborers among different industries and areas. In reality, highly-qualified laborers would rather sign short-term employment contracts in order to change their work more frequently and employers would rather sign short-term employment contracts (even not sign employment contracts) with low-skilled laborers in order to cut down their labor cost.

II Current Status of Labor Relations in Non-public Economic Sectors of China

1 Non-public Enterprises Have Become the Main Employment Channel

Currently, the population of labor force in China is 760 million, including 400 million employed in towns and two thirds of them related to labor relations. On one aspect, in terms of employment in enterprises, non-public enterprises of various types have become the main employment channel, with a total number of employees amounting to 70% employers in towns, far more than that of employees in state-owned enterprises and public social sectors. On the other, as for employment of labor force, laborers are mainly employed by various non-public enterprises including low-end industries, labor-intensive enterprises and informal employment sectors. For this reason, labor relations are rather complicated.

2 Imbalanced Interests between Employees and Employers in Labor Relations

Firstly, there is a large gap between capital income and labor income in China. For example, in 2002, in the 1000 billion Yuan (RMB) GDP of China, the earnings of urban and rural residents were 560 billion, with their salary amounting to 120 billion and other earnings from informal distribution channels amounting to 440 billion. So earnings from salary just accounted for 22% of national income distribution. Including peasants' income between 50 and 60 billion, the gross national labor income of China accounted for 30% of the national income distribution. This figure was much lower than that of Britain and America. As for America, the proportion of labor income in national income distribution was 50% in the late 1800s and 74% in the late 1900s while the proportion of capital income in national income distribution was 25% in the late 1800s and 17% in the late 1900s. As for Britain, the proportion of

labor income was 45% in the late 1800s and 69% in the late 1900s while that of capital income was 37% in the early 1900s and 22% in the late 1900s. From these figures, it can be concluded that the proportion of labor income in China is too low. This justifies the popular saying on belonging of social wealth, life status of the working class and differentiation of wealth in different social classes, that is, 20% of Chinese possess 80% of social wealth in China.

Secondly, the gap between the income of enterprise owners and that of their employees is increasingly becoming larger. To be specific, owners of private enterprise earn 25 times more than their employees. The gap between the earning of owners of foreign-invested enterprises and enterprises funded by overseas Chinese from HongKong, Macao & Taiwan and the earning of their employees is the largest, being from 25 to 30 times.

Thirdly, the laborers' income has not increased with economic development and capital accumulation accordingly. In some areas where private enterprises are quite developed, the laborers' income has even decreased. For example, in Shenzhen, the average monthly salary of peasant workers was between 200 and 300 Yuan (RMB) in the 1980s and was between 800 and 1000 Yuan (RMB) in the early 1990s while was only 600 Yuan (RMB) in recent years. In contrast, numerous non-public enterprises have been developing and accumulating capital at an alarming rate during this period.

3 Enterprises Seriously Violating Laborers' Legal Rights

In some non-public enterprises, laborers' legal rights are frequently violated, e.g. their wages are embezzled, their payment is delayed, they work in harsh environment, they often get injured at work etc. In addition, some non-public enterprises refuse to pay social insurance for employees, or do not pay or pay less treatment fee for employees' employment injury, or do not compensate for work injury in accordance with relevant rules and regulations, or refuse to implement regulations on labor protection of female employees, or even seriously violate employees' personal rights. For this reason, labor disputes have always been arising in non-public enterprises. According to the statistics from Ministry of Human Resources and Social Security of the People Republic of China, labor dispute cases across China has maintained an annual growth rate of 30% in recent ten years.

III Regulation and Adjustment of Labor Relations in Non-public Economic Sectors

1. Organizing and Defending of Rights

“Organizing and defending of rights” was the work guideline of All China Federation of Trade Unions in 2003. With the help of trade unions in all levels, non-public enterprises have made remarkable progress in establishing trade unions, which have admitted a large number of laborers including peasant workers. Currently union members in China amount to 200 million, yet many employees in many foreign-owned enterprises and private enterprises are still to be admitted by trade unions. Thus more trade unions should be established in non-public enterprises. Besides, defending employees' legal rights, one of trade unions' responsibilities, shall be reinforced. It is the first and foremost important task for trade unions in non-public enterprises. In china, the Chinese-style responsibilities of trade unions also include:

employees-oriented, defending employees' legal rights lawfully, actively and scientifically; integrating interests of the enterprise and employees; seeking for harmonious development of labor relations by win-win strategies.

2. Promoting Equal Consultation and Collective Contract System

Collective negotiation is the basic way for market economy countries to regulate labor relations and the basic means for trade unions to make use of collective strength and to defend employees' legal interests. In China, since the issuing of "Labor Law" in 1994, equal consultation and collective contract system have been promoted on the basis of learning from beneficial foreign experience and taking national reality into account. At present, over 80,000 enterprises have signed collective contracts with 100 million employees. Recently, collective salary contracts have become the first and foremost important task of trade unions. By the end of 2007, 62,000 enterprises (including many foreign-owned enterprises such as Wal-Mart) have signed collective salary contracts with 39.68 million employees. Undoubtedly, equal consultation and collective contract system have become an important mechanism for non-public enterprises in China to regulate their labor relations.

3. Activating the Tripartite Consultation Mechanism

As discussed above, labor relations in non-public enterprises in China are rather complicated and involve many overall problems, which need to be solved by means of the tripartite consultation mechanism across the society. In 2001, the tripartite consultation mechanism was established on the national level. Later, the local tripartite consultation mechanism in provinces and cities were established. This mechanism has played its active role; yet there is still large room for it to be strengthened and improved, such as: its reaction to important problems is slow, frequent consultation and regulation mechanism for important events in labor relations is to be established, its professionalism, information exchange and effect on social and economic policies cannot fit the complex and variable labor relations.

4. Improving Legal System and Strengthening Law Enforcement in Labor Relations

As the basic principle for regulating labor relations, the legal labor system has been established on the basis of fundamental laws in China including Labor Law. However it is to be improved in many aspects, e.g. rules and regulation in some areas are not enough and their enforcement is not profound enough; legal labor system need to be established and deepened in some areas. Especially, labor legislation for protecting employees' legal rights should be pushed forward, e.g. issuing "Collective Contract Law", "Social Insurance Law" etc. As well, employees and employers should abide by rules and regulations in Labor Law; administrative departments in labor relations should strengthen their supervision on enforcement of Labor Law; justice departments should mediate disputes effectively in labor relations. At present, it is particularly important and urgent to strengthen the supervision and enforcement of laws by state administrative departments in labor relations. These departments can not only prevent employers' violating of employees' legal rights in a timely manner but also defend employees' legal rights effectively.