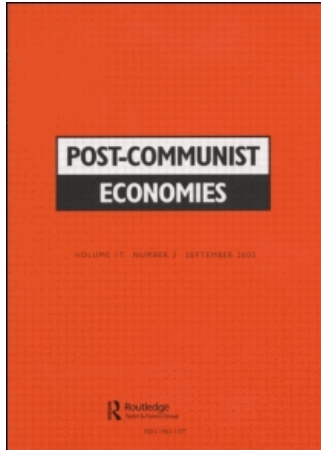


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## The Impact of Economic Reform on Industrial Labour Relations in China and Vietnam

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YING ZHU & STEPHANIE FAHEY

### Abstract

*Both China and Vietnam are undergoing a social experiment as they diverge from the path of their Soviet compatriots and attempt transition to a 'socialist market mechanism'. The economic reform in both countries aims towards the so-called 'third way' between the failed command economies and the capitalist alternative. However, after over a decade of reform, it is necessary to investigate whether China and Vietnam are locked into the cycle of reform and retreat which was characteristic of East European societies before 1989 or whether indeed the two countries are developing a stable system consonant with the notion of a 'socialist market economy'. This article tackles these issues by examining and comparing the changing labour relations systems in China and Vietnam in the wake of the changes in economic policies and enterprise regulation towards new forms of labour contracts, wages and welfare systems, worker representation and trade unionism, and legal frameworks. So far there have been significant changes in society and the two countries are still experimenting to find their way towards the 'socialist market economy' by following the philosophy of 'crossing the river by feeling the stones'. The new industrial relations lie at the heart of the reform and their successful management is the key factor determining the outcome of the further transition.*

**Keywords:** economic reform; labour relations; economic policy; employment contract; wages and welfare; trade union; labour law; socialist market economy; the third way.

Economic reform in China and *doi moi* (economic renovation) in Vietnam aim to replace direct government administration at the enterprise level with government management of the economy and enterprise autonomy oriented to a market economy. Major tasks of reform have been the rationalisation of state-owned enterprises (SOEs) and the introduction and expansion of private enterprises, which include domestic private enterprises (DPEs) and foreign-invested enterprises (FIEs). Economic reform has led to very high rates of economic growth in both countries but it has also produced problems and tensions, sometimes in different forms. The system

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**Table 1.** GDP growth in China since 1978

Year	Nominal GDP (000 million yuan)	Real GDP growth (%)
1978	3 624.1	11.7
1980	4 517.8	7.8
1985	8 964.4	13.5
1987	11 962.5	11.6
1988	14 928.3	11.3
1989	16 909.2	4.1
1990	18 547.9	3.8
1991	21 617.8	9.2
1992	26 638.1	14.2
1993	34 634.4	13.5
1994	46 759.4	12.6
1995	58 478.1	10.5
1996	68 593.8	9.6
1997	74 772.0	8.8

Sources: *China Statistical Yearbook*, 1997 and *China Yearbook (Zhongguo Nianjian)*, 1998.

of labour regulation is the critical point at which economic imperatives spill over into social and political considerations.

Government withdrawal from direct administration at the enterprise level implies a transformation of the pre-reform system of centralised labour regulation and industrial relations. The pre-reform system (e.g. labour assignment and standardised wages and welfare) is at odds with the demands for enhanced market autonomy, and in the course of economic reform the pre-reform system has been tentatively dismantled. Yet a simple withdrawal of these forms of regulation is inadequate as it defies the continuing need for some form of legal and institutional regulation. Perhaps most importantly, it threatens to sacrifice major mechanisms of social support and control and to replace them with the caprice of enterprise management on the one hand and the perils of unemployment and urban poverty on the other. In the socialist economy, the enterprise not only provided a job and a wage but also housing, medical services, holidays and a range of other cultural and social services. If the industrial sector is to be stable, in both an economic and a social sense, the former systems of labour regulation must be replaced by alternatives which tackle the difficult issues of rising unemployment, minimum standards in wages, health and safety standards, protection of vulnerable groups, social protection and authentic avenues of worker representation.

A huge social experiment is going on in both China and Vietnam as they attempt transition to a 'socialist market mechanism', so far with apparent success. Although China followed a cyclical trend of reform in the early stages, substantial economic reforms toward a socialist market mechanism have been maintained in a general context of political stability. Cyclical patterns of reform are reflected in the cyclical trends in real GDP growth rates which peaked in 1985 and again in 1992 (Table 1). Similarly, Vietnam has experimented with economic reforms and incrementally adopted them as policy. Real GDP growth rates also peaked in 1984 and 1992 and again in 1997 according to official statistics (Table 2); however, some commentators question the reliability of these figures (ADUKI, 1997, p. 1).

One explanation for the survival of the communist regimes could be that while *economic* reform has been instigated since the mid-1980s, *political* reform has been

**Table 2.** GDP growth in Vietnam since 1986

Year	GDP (billion dong)	Real GDP growth (%)
1986	510	–
1987	2 470	–
1988	13 270	–
1989	24 310	–
1990	41 955	5.0
1991	76 707	6.0
1992	110 535	8.6
1993	136 571	1.3
1994	170 258	8.8
1995	222 840	9.5
1996	226 094	9.3

Source: ADUKI, 1994–1997.

left far behind in an attempt to maintain political stability. The explanation for the success of gradual economic reforms in Asia's socialist countries, as opposed to those of Europe, is related in part to differences in the levels of economic and industrial development. The argument is often made that industrial reform in the Soviet Union (now the Russian Federation) had a more profound social impact because in 1980 industry contributed 54% of GDP and employed 44% of the labour force (*World Bank Report*, 1996), whereas in 1995 in China industry contributed 47% of GDP and employed only 17% of the labour force (*Asia 1996 Yearbook* and *China Labour Statistics Yearbook*, 1996) and in Vietnam industry contributed 23% of the GDP and employed only 11% of the labour force (ADB, 1996). Nevertheless, it is argued in this article that the comparisons are more complex and must include differences in histories and cultures and the role of the state.

Although China and Vietnam are among the last socialist states, their governments insist that they will resist capitalism and successfully transform themselves into 'socialist market economies'. In an interview with a group of journalists from Japan's leading newspaper *Asahi Shimbun*, Chinese President Jiang Zemin remarked: 'What China refers to as a socialist market economy is a comprehensive concept, which seeks to combine the superiority of public ownership with a rational disposal of resources ensured by a market economy. Common prosperity remains our goal, but the realisation of such a goal requires a process where some might get rich ahead of others' (*Beijing Review*, 23–29 August 1993, p. 10). In another speech, made on 25 June 1993 to mark the 72nd anniversary of the founding of Chinese Communist Party (CCP), Jiang claimed that 'Without the strong leadership of the CCP, the Chinese economy would not have surged ahead. To develop the economy and realise socialist modernisation in China, it is necessary to strengthen the CCP leadership' (*Beijing Review*, 12–18 July 1993, p. 4). From these remarks we can see that three main points are used for explaining the so-called 'socialist market economy' by the party leader: first is the combination of the domination of public ownership and market mechanism; second is allowing some people to become rich first in order to reach the goal of common prosperity later; and third is political legitimacy of the leadership of the communist party. We will see how these remarks fit in with the reality of these two countries in the following sections.

There are very few studies of comparative labour relations in the transitional economies. The most comprehensive comparative studies of the labour process in Eastern Europe and China, by Thompson, Smith and others (Thompson & Smith,

1992), question the viability of the so-called 'third way' between the failed command economies and the capitalist alternative for transitional economies.

The question which requires investigation is whether China and Vietnam are locked into the cycle of reform and retreat which was characteristic of East European societies before 1989 or whether the two countries are indeed developing a stable system consonant with the notion of a 'socialist market economy', that is the 'third way'. This article will tackle these issues by examining and comparing the changing labour relations systems in China and Vietnam in the wake of the changes in enterprise regulation towards new forms of labour contracts, wages and welfare systems, worker representation and trade unionism, and legal frameworks. The broader socio-economic impact of these changes varies between China and Vietnam not only because of China's more advanced stage of economic development, reflected in the greater importance of the industrial sector (even though it is now declining at the expense of the services sector), but also because of differences in the depth of reform and the socio-cultural context. Needless to say, the impact of reforms is continuing and is marked by uncertainty which precludes definitive conclusions.

### **Economic Reform and Changes in the Labour System**

Under the pre-reform system, the command economy in China and Vietnam had similar (and familiar) characteristics: enterprises were integrated into a system of mandatory state planning, oriented to the idea of running the entire economy as if it were one large economic unit. Enterprise inputs, including labour, were assigned by government plan. Enterprises did not necessarily acquire labour with the right set of skills, however, and were invariably overstaffed because the labour administration arranged employees for individual firms and operated on the principle of full employment (the so-called 'constitutional guarantee of employment'). Enterprises had few ways to motivate or discipline employees. The reward system had only an indirect relation to enterprise efficiency and individual labour effort. It was based on a narrowly defined egalitarianism as well as the tendency to reward labour on the grounds of seniority and contribution to the party as well as, in Vietnam's case, to the war effort. Labour was not conceived of as a commodity to be bought and sold at the value of the work done. Therefore, labour relations were not those between employer and employee. Rather the director of the enterprise was considered to be a manager of state assets on behalf of the workers.

#### *Economic Policy*

Economic reform, as well as changes to the system of labour regulation, has been pursued in earnest since the end of the 1970s in China and the late-1980s in Vietnam. A central aim of economic reform is to curtail centralised economic decision making. Administrative and economic decentralisation sometimes merely involves a transfer of functions to provincial and local authorities. However, the more radical ambition is a liberalisation of market relations and decentralisation of economic decision-making powers to the enterprise level, replacing government direction with enterprise autonomy based on market adjustment. Government would then be left to focus on macroeconomic adjustment, the development planning and infrastructural requirements which the market is unable to manage. The mechanism for economic management would change from an emphasis on the administrative decree to adopting indirect means such as the manipulation of interest rates, taxation, exchange rates and legislation.

It is the state sector that constitutes the main field for testing decentralisation. The operating principles of SOEs have been transformed in the direction of enhanced autonomy. According to the new tax system, industrial enterprises remit taxes and retain after-tax profits. In principle, a portion of the latter is used for bonus payments and welfare benefits as well as investment, thereby allowing more latitude for alterations in the reward system. The formal responsibilities of SOEs to the state have tended to shrink to the payment of a set level of tax remittances while the scope for enterprise-based decision making has expanded to take in many areas previously within the purview of direct state control. SOEs also gained the power over hiring and firing employees and the contract employment system has been implemented gradually to replace the old life-long employment system.

The significance of the economic role of SOEs is a point of contrast between China and Vietnam. In China, SOEs have played a more significant role in terms of employment and contribution to GDP than in Vietnam. Table 3 compares employment levels of industrial labour in state and non-state firms in China and Vietnam. In the mid-1990s SOEs employed 74% of total industrial labour in China compared with only about 20% in Vietnam. The comparatively smaller size of the industry sector in general and the SOEs sector in particular in the Vietnamese economy is due to Vietnam's shorter history of communism, in which industry and SOEs were fostered: in the south since 1975 and in the north since the mid-1950s, compared with China from 1949. Furthermore, the establishment of an effective state-run industrial sector was severely hampered by the Vietnam War (mid 1960 to 1975) and the restrictions of the US trade embargo (1979–94). As a consequence, small-scale industrial production in the co-operative sector in both rural and urban areas predominated until reform of co-operatives gave rise to a predominance of household production, nevertheless stifled by poor infrastructure.

In China, regional differences in industrial employment are quite marked. In the eastern coastal regions the private sector accounts for a relatively higher proportion of total industrial employment. For instance, in the coastal provinces such as Guangdong, Fujian and Zhejiang, the 'other ownership units' (mainly FIEs and DPEs) provide 33.6%, 34.1% and 25% of total industrial employment respectively. In contrast, in the inner regional provinces such as Shanxi, Inner Mongolia and Qinghai, the 'other ownership units' account for only 9.7%, 14.2% and 9.8% of total industrial employment respectively (*China Labour Statistical Yearbook*, 1997).

In Vietnam, in the early stages of *doi moi* (1988–91), reform of the SOEs was intensified owing to the loss of financial assistance from the former Soviet Union and trade concessions from the CMEA countries. This resulted in the retrenchment of 820 000 SOE workers—especially women and war-invalids—from the state sector, which was compounded by the decline in real wages by over 60% between 1985 and 1991 (ILO, 1994, p. 10). This had a regional dimension as the north had a greater concentration of state-run activities, including heavy industry, whereas the south had operated more on the basis of an open market economy. Therefore, the imposition of reforms created greater dislocation in the north than the south.

As for other ownership sectors, a dramatic change in both China and Vietnam has been the opening up of the economy to foreign investment and the encouragement of foreign-invested enterprises (FIEs). In China, FIEs come in three main types: the equity joint venture, contractual joint venture and the wholly owned foreign enterprise. By the end of 1997 China had absorbed total foreign direct investment of US\$234 billion in 302 326 projects (*China Yearbook*, 1998). The contribution of FIEs to the national economy is significant. For instance, foreign investment

**Table 3.** Industrial labour in state and non-state firms in China and Vietnam (millions and %)

	1985		1990		1991		1992		1993		1994		1995	
	m.	%	m.	%	m.	%	m.	%	m.	%	m.	%	m.	%
China														
SOEs	89.9	72.7	103.5	73.6	106.6	73.5	108.9	73.6	109.2	67.9	108.9	73.3	112.6	68.5
Others	33.7	27.3	37.1	26.4	38.4	26.5	39.0	26.4	51.7	32.1	39.6	26.7	51.7	31.5
Vietnam														
SOEs	0.9	31	0.8	23.8	0.7	32	0.7	20	0.7	20	0.7	20	0.8	n/a
Others	1.9	68.9	2.59	76.2	2.7	68	2.8	80	2.8	80	2.9	80	n/a	n/a

Sources: *China Labour Statistical Yearbook*, 1995 and 1997; *Vietnam Statistical Yearbook*, 1994 and 1995.

contributed an average 2.5% of total national investment in the 1980s, but this increased to 15% in recent years (*People's Daily*, Overseas Edition, 25 January 1997). FIEs' share of national industrial output increased from 7.5% in 1992 to 20% in 1996, and they were responsible for an even larger percentage of total national trade value, 47% in 1996 (*People's Daily*, 19 December 1996). Their contribution to taxes also doubled between 1992 and 1993 from 10.7 million renminbi to 20.6 million renminbi (Zhu, 1995). In 1996 FIEs contributed 10% of total national tax revenue (*People's Daily*, Overseas Edition, 25 January 1997). The urban foreign industrial sector employed about 9.6 million workers in 1996 (CSPH, 1997).

In Vietnam too foreign investment has increased exponentially since the introduction of the Foreign Investment Law promulgated in January 1988 but has shown real signs of decline since 1996. FDI in Vietnam has been of vital importance to the economy especially because it was denied significant aid flows and multilateral lending until 1993 owing to the US trade embargo. Although statistics on total commitment of FDI vary, according to the Ministry of Planning and Investment, by March 1998 the accumulated total committed investment was US\$32 billion (equal to 14% of China's total FDI up to 1998) (*Vietnam Investment Review*, 16–22 March 1998, p. 20 and *China Yearbook*, 1998), with actual disbursement at about 30–36% (Economist Intelligence Unit (EIU), 1996a, 1996b). The yearly registered FDI grew from US\$366 million in 1988 to peak at almost US\$8500 million in 1996, with 45% in industry and 27% in hotels and tourism (ADUKI, 1997, p. 67). In the first half of 1996 FDI had slowed considerably, only to be bolstered by two large projects granted licences in December 1996, one of which was withdrawn in 1997. The 1997 level fell to that of 1993–94 at a little over US\$3000 million and it is expected that the 1998 level will be even less owing to the Asian financial crisis. The total number of projects in March 1998 was 1794 (0.6% of the number in China). The number of new permits issued for investment projects increased from 37 in 1988 to peak at 404 in 1995 and declined to 326 in 1996 with only an increase of 158 projects to March 1998. The average size of projects in Vietnam in 1996 was US\$17.7 million compared with US\$0.61 million for China, which indicates that FDI in Vietnam is more concentrated on large projects. The contribution to the GDP of FDI is not published but FDI as a percentage of GDP increased from 1.8% in 1988 to 3.7% in 1995 (ADUKI, 1993, p. 58; 1997, p. 65) (in China FDI as a percentage of GDP increased from 6% in 1988 to 7% in 1997) (*China Yearbook*, 1998). The foreign industrial sector employs about 130 000 workers (i.e. 1.4% of the number in China) (EIU, 1996b, p. 21).

In Vietnam joint ventures with SOEs and business co-operation contracts (a contractual agreement where no new enterprise is established) were the dominant investment forms during the early years, but significant changes in the relative importance of these different investment types have occurred with successive amendments to the Foreign Investment Law. For example, in 1990 it was revised to allow private local companies to enter joint ventures and in 1992 a further amendment provided for build-operate-transfer (BOT) projects in which the investor can build and operate infrastructure (such as roads or bridges) for a number of years before transferring the development to the government. By 1996 the relative importance of business contracts had fallen while joint ventures retained their dominant position (68%) and wholly owned foreign firms (24%) had become more common after a further amendment of the Foreign Investment Law in April 1993 (Tan *et al.*, 1997, p. 10).



The governments in both countries have acted to encourage the development of DPEs and as a consequence the proportion of total industrial employment in DPEs and the proportion of total investment which is domestic has increased in both China and Vietnam, although it is not clear what proportion of those employed by DPEs are also employed by the state.

DPEs appear more successful in China than in Vietnam, especially in the rural areas, something which is due not only to the differences in the level of infrastructure but also to the differences in assets inherited from the co-operatives. DPEs have increased dramatically in terms of number and size in China. The expansion of DPEs started with the development of rural township enterprises in the wake of agricultural decollectivisation and the reallocation of state or public sector assets and resources to DPEs. Individuals were allowed to take a second job or leave their work units to operate their own business (known as *xia hai*—taking the plunge into private business). This new type of private business, primarily in the service sector, also increased in urban areas. By mid-1996, according to official estimates, this type of employment reached 45.44 million in the household sector and 10.14 million in DPEs (authors' interview with Labour Ministry, 10–12 February 1997).

In Vietnam legalisation of the private sector was intended to encourage the absorption of redundant labour from the state sector. Moreover, government redundancy schemes encouraged workers to leave SOEs and run their own businesses. As a consequence, the private sector has experienced substantial growth of employment numbers. The proportion of the total industrial labour force in household industries increased from 24.9% in 1985 to 55% in 1992 (ADUKI, 1994).

However, as the private sector develops in size and complexity in both countries, the informality surrounding private enterprise is becoming a barrier to its further development with large-scale, long-term investment (Findlay *et al.*, 1994, p. 31). Business basically relies on personal contacts and informal agreements in an unpredictable environment, and it is expensive and inefficient in both countries. In addition, DPEs in Vietnam are disadvantaged by lack of access to credit and high interest rates, lack of access to export markets and government agencies' control of imports, as well as by tax advantages granted to FDI businesses, often in joint ventures with SOEs, by predatory practices of FDI businesses, which may sell below cost to gain market share, and by complex administrative procedures (ADUKI, 1996, pp. 46–50). There is also a fear of government intervention, especially in relation to tax collection, if the business becomes clearly successful.

Decentralisation and diversification of the ownership structure have created a more complicated situation for labour regulation and industrial relations. On the one hand, the dramatic shift in industrial employment from SOEs to FIEs but more significantly to DPEs and household production has resulted in deregulation of wages and dismantling of established practices for worker representation. On the other hand, private sector enterprises (mainly FIEs and DPEs) have contributed more than 50% of total GDP in China since 1992 (*China Yearbook* since 1993) and a similar situation also occurred in Vietnam where a large proportion of GDP came from the household and private sector. The reality in both countries contradicts the official definition of 'socialist market economy' in which public ownership has superiority and dominates the economy. In fact, we have observed the increasing importance of the private sector in national economic development in recent years, especially in the areas of creating new jobs, promoting exports and engaging new technology and production systems.

*Employment Status and Labour Allocation*

Since the government relinquished its control over the recruitment and employment of workers, individual firms gained the autonomy to decide on the number of workers hired, the terms of employment and the discharge of employees. In China a contract system replaced the traditional life-long employment in the state sector. From 1986, when a regulation on the employment of staff and workers was implemented, all new employees in SOEs were employed as 'contract system workers'. This reform was accelerated after 1992 when a new regulation on All Employees Contract System (AECS) was introduced. Under this new regulation, which covered both office staff and workers in all enterprises, former permanent workers were put on contracts with a minimum of 15 years duration. New employees were contracted for a shorter period of between one and five years. In FIEs and DPEs mainly contract and temporary workers dominate.

In Vietnam the situation is similar in that the life-time employment system has been amended. However, the transition to a contract system is relatively slow. Even by mid-1990 2.7 million workers were still working under the old system and resisted the introduction of contracts (Norlund, 1993). At this stage only new employees are on the contract system; in most cases these are young employees. Workers in DPEs rarely have contracts of any sort and work on a casual basis.

Increasing liberalisation also applies to the controls on migration and residence. In both countries there are two types of rural-urban migration: one is officially approved migration in which the peasant has a work permit (or certificate) issued by the provincial government to work in the cities (in Vietnam some provincial governments impose a 'fee' for the document which allows peasants to leave the countryside and work in the towns and cities); another is self-arranged migration in which individual peasants move to urban centres independently to look for employment or through introductions by relatives and friends who are working or have contacts in the cities. This situation has not only added to the population pressure and the difficulties of living space and material supplies in the cities but has also generated large labour surpluses for private employers.

In China the relaxing of constraints on rural-urban migration has generated a large 'floating population' in the cities and coastal areas. Statistics on this movement are notoriously variable (Wu, 1994; Chan, 1994), but it is estimated that each year as many as 100 million people move from the countryside to cities, mainly as part of a temporary circular migratory pattern but with some making a permanent move (Zhu, 1995).

In Vietnam, since *doi moi*, the movement of labour to major urban centres has escalated although the full impact of rural-urban migration has not been felt. During the war people were highly mobile (it is estimated that 20 million people in the south were regularly on the move). Since the war enforced migration through relocation to New Economic Zones has been intermittent. It was only in the early 1990s that labourers began to migrate to *cho nguoi* (casual labour markets) on a short-term basis, especially after the seasonal harvests, and on a longer-term basis in search of employment. The slower pace of migration in Vietnam is partly due to a land tenure system based primarily on occupancy, as well as to the existence of fewer employment opportunities.

With the reform of the employment system, individual firms have gained the power to recruit their employees. Hence, a more independent and flexible labour market is emerging to replace government assignment. In China the new system started with

the reform of all administrative levels of the government Labour Bureau. The bureau's function has changed from assigning employees to enterprises to introducing (or recommending) workers to enterprises. The Labour Bureau has also established new organisations such as the Employment Service Agency (ESA) and Labour Service Company (LSC) (Sziraczki & Twigger, 1995). The ESA is in charge of employment information and labour exchange, labour market training, administration of the unemployment fund and benefits, and job creation. The function of the LSC is to provide training for unemployed or redundant workers in order to assist them in gaining re-employment. Following changes in the Labour Bureau, different kinds of labour service agencies have also appeared, first in the urban areas, then in rural areas. People looking for work or wanting to change jobs can register with these agencies. A new network to facilitate the functioning of a labour market has thus begun to emerge.

In Vietnam the formal organisation of the labour market has not proceeded far. For example, day labourers from the countryside gather with their tools, mounted on their bicycles, at informally designated streets and await casual work as porters, waiters, construction assistants and house cleaners. Nevertheless, these labour markets, which spontaneously emerged about 4 to 5 years ago, are becoming increasingly organised by agents. In general, new workers are encouraged to use their own initiative to look for employment, to use the private and state employment agencies as well as the labour bureau, and to consider options such as employment in the private sector and self-employment, particularly in the service sector. In the early 1990s about 130 Centres for Employment Promotion (CEP) were created in order to gather labour market information, provide job placement services and conduct vocational training. These services, however, are fragmented and limited by insufficient funds and staff capacity.

### *Wages and Welfare*

In both China and Vietnam the old wage system has been reformed. The new system aims to end the old egalitarian system in which levels of wage were based on length of service, and to link wages with employees' skills, responsibility and productivity. In China the new wage system—the 'structural wage system'—has been applied since 1985. It incorporates a distinct mix of the basic wage (traditional standard wages), the functional wage (by status or seniority), and the floating wage (such as bonuses which link enterprise and individual performance). In fact, real wages in China doubled in SOEs and rose by 75% in COEs between 1978 and 1994, and the increase in FIEs (96% between 1984 and 1994) was even more dramatic (Zhu & Campbell, 1996).

In Vietnam, especially during the early stages of reform, low wages and high inflation rates gave rise to petty corruption and absenteeism as state employees looked for additional sources of income to feed their families. It was not unusual for a state worker to hold more than two positions simultaneously within the same enterprise. Today, to a large extent, wage levels depend on the enterprise's ability to pay. The worker receives a basic wage and additional benefits accrue from several forms of bonuses. Some firms can afford to pay cash bonuses from profit sharing whereas non-profitable enterprises may pay wages in kind that is part of production, such as clothes unable to be sold. The gap between the highest wage and the lowest wage has widened from 3.5 times in the early 1980s to 13 times in recent years but varies in different industries (Hiebert, 1993). In addition, real wages have declined.

By 1991 the real wage of both civil servants and state enterprise employees had declined by over 60% compared with 1985 (ILO, 1994, p. 10).

As for the welfare system, it is considered a financial burden for enterprises, thus leading them to seek ways to minimise welfare costs. In both countries a social insurance system has been introduced to cover payment of retirement pensions, unemployment benefits and medical costs. In China a social insurance system was first implemented among the FIEs, with a contribution equal to 25% of wages covering all kinds of insurance costs (Zhu & Campbell, 1996). In SOEs and COEs the introduction of the contract system has entailed some alterations to the welfare system. The provisional regulations of 1986 stipulated that a separate labour insurance scheme be set up for contract workers in the state sector (Dong, 1996). Since then, the policy on social insurance has been revised several times and under the new scheme it is proposed that institutional and industrial workers pay 1% of their monthly salary for medical insurance and 3% for unemployment insurance, with work-units adding another 20% for retirement provision and 10% for medical care (Goodall & Warner, 1997). Although these policies have been implemented, the system has not been fully established around the whole country.

In Vietnam employees and employers contribute 10% of total wages as the social insurance costs (Norlund, 1993). Of this, 2% goes to the local labour office as a contribution to a fund for unemployment benefits. The other 8% is contributed to a social fund within the workplace to cover sickness, labour accidents, pregnancy, maternity and child-care, and burial and funeral expenses. In addition, the employee contributes 10% of wages to a local insurance fund for the same purpose.

China has a relatively higher percentage of total wages as social insurance costs (a total of 33%) compared with Vietnam (only 20%). The reason could be that China has more aged workers and retired people than Vietnam owing to its relatively longer history of industrial production and larger numbers in industrial employment. In order to provide sufficient benefits and pensions for these people requires a much larger insurance fund.

### *Worker Representation*

In both countries the trade union movement is now facing new challenges to restructure its organisation and activities in order to perform the function of workers' representation in protecting their rights and interests. According to the All-China Federation of Trade Unions (ACFTU) and Vietnamese General Confederation of Labour (VGCL), the role of trade unions is to motivate workers and provide for their welfare (ACFTU, 1994; Nguyen Thuyet, 1988, p. 19). Moreover, in 1988 in Vietnam the name was changed from the Vietnam Federation of Trade Unions to the VGCL in order to have more general representation within the multi-component economy and to increase the separation between the party and the trade union movement.

In China a major initiative for worker representation has been the revival of workers' congresses (see Zhu, 1995) for the purpose of workers' participation in decision making at the plant level, which supplements the formal representative function of the unions. It is a part of a government campaign to push for 'democratic management' at the enterprise level. There are eight to 10 representatives per hundred employees; half of the representatives come from the shop floor. The workers' congress organises a general meeting twice a year, and assumes responsibility for several tasks: examination and discussion of the enterprise's production decisions, regulations, wages and welfare; evaluating management and managerial

staff and making suggestions for improvement; and electing managers (with the approval of higher authorities). Through its full-time staff the trade union committee at enterprise level (now a standing committee of the workers' congress but maintaining its hierarchical link to the ACFTU) deals with routine duties such as the supervision of occupational health and safety in enterprises, the training of workers, and mediation in disputes between workers and enterprises. In recent years another important development for unions' participation is the campaign of 'collective negotiation and collective agreement' (CNCA). It allows the union representatives to negotiate and sign a collective agreement which covers issues of concern to parties.<sup>1</sup> Yet the lack of experience and power of trade unions leads to a symbolic arrangement rather than an effective mechanism. Problems include lack of training of union representatives, ineffectual agreements in enterprises because they merely copy the sample agreement provided by the local labour bureau, and the low rate of union establishment among FIEs and DPEs.

In Vietnam in the past the role of union leaders was to assist management to meet enterprise production targets and ensure the enforcement of government labour laws and policies. Now the VGCL is attempting to change its role to become more independent and self-reliant. For instance, it has started to move from locality-based unions to occupation-based unions.

The number of trade union branches in China has increased from 100 000 in 1951–52 (Warner, 1993) to 585 937 in 1996 (CSPH, 1997). ACFTU membership grew from only 2.4 million in 1949 to 102 million in 1996 (CSPH, 1997) and it is distributed among 16 national industrial unions (ACFTU, 1994). Union density in this sphere is likely to be around 90%. Although unionism remains lower in FIEs, 10 536 primary unions were established in FIEs in 1996 (CSPH, 1997). Recent government policy aims at unionising all FIEs.

In Vietnam under the command economy all state workers belonged to trade unions but with the implementation of *doi moi* the private sector (both domestic and foreign firms) has increased substantially and the unionised labour force is in the minority. The number of industrial unions increased from 17 in 1988 to 26 at its peak but in 1997 there were only 18 unions as some had merged to reflect the merger of ministries, since each union is responsible to a particular ministry. New unions have emerged in the private sector, called professional and trade or occupational unions. By the end of 1995 three million people were organised as trade union members. Of this number 15% were in the professional and industrial unions. The remainder belonged to the hierarchical system organised by geographical area. Unionism within the non-state sector increased from 4.4% of workers in 1993 to 14% of labour organised in associations or work site-based unions by 1995. Only 20% of foreign enterprises had organised trade unions (*Vietnam Investment Review*, 22–28 November 1993).

The major challenge which faces the trade union movement in both countries is one of credibility in its representation of labour, especially if the union is to depend on the voluntary contributions of workers for financial support. In China the trade unions were allocated 2% of union member's salaries as the major financial source for their activity (China Trade Union Law, Article 36). In Vietnam up until 1995 the VGCL was allocated 5% of state workers' salaries to provide training activities and to pay sickness and maternity leave, which is now channelled to labour insurance schemes—which severely curtails the worker representation activities of the union. But coverage is limited to state sector employees, who represent only 10% of the labour force. Even though MOLISA has increased its activities in occupational health and safety, working conditions are still poor, as reflected in the high level of industrial

accidents at 200 000 per year with 200–300 fatalities (ILO, 1994, p. 28). The official unions are under pressure to change.

### *The New Legal Framework*

The legal and regulatory framework is one of the weakest areas of reform in China and Vietnam. This is particularly true in the sphere of labour regulation in China, where regulatory regimes have failed to catch up with the proliferation of new conditions. The process of establishment of a legal framework so far has gone through three stages: lack of legislation in the early stage, some temporary regulations later, and finally union and labour legislation (e.g. Trade Union Law and Labour Law or Code).

In the early stages of reform in both China and Vietnam there was limited legislation on labour issues. Since the late 1980s some temporary regulations have been implemented, reflecting the intention of the state to reform the labour system. In China some of the so-called labour regulations issued by provincial authorities or ministries have been implemented as 'internal regulations', 'minimal law' or 'semi-law'. For instance, the temporary regulations on labour contracts, discharging employees and social insurance played an important role in the 1980s and early 1990s (Zhu, 1995). In Vietnam a number of minor ordinances have been issued on labour regulations since 1990, with the most important being a temporary ordinance on labour contracts issued on 10 September 1990 (Norlund, 1993).

The principal pieces of recent legislation refer to labour and trade unions. In China, the new Trade Union Law was adopted at the 5th Session of the 7th National People's Congress (NPC) on 3 April 1992 (Biddulph & Cooney, 1993). The new law represents a substantial revision of the law of 1950. Although it covers formal powers, structure, rights and duties of trade unions, its objective is not the reform of existing practice but ensuring the application of principles governing trade union activities and regulating labour so as to advance economic development and maintain social stability in the long term. A contradiction emerges in the tasks of trade unions: on the one hand, they are expected to represent the workers' interests in the enterprise; on the other hand, they have to work for the collective welfare of the enterprise, as well as for the general interests of workers and the state. In Vietnam the Law on Trade Unions was passed by the National Assembly on 7 July 1990. The law contains chapters on rights and obligations of trade unions and guarantees concerning trade union activities. Although the law is an initial step in the direction of establishing independent unions which can defend the interests of workers vis-a-vis employers and the state, their level of independence is still questionable.

The recently promulgated Labour Law in China and Labour Code in Vietnam reflect the fact that both countries' governments are seeking to establish more relevant and universal labour legislation (which covers every part of the nation, including Special Economic Zones) in order to cope with the changes in the industrial relations system. Curiously, the labour reform legislation was promulgated on the same day, 7 July 1994, in both countries even though China formally embarked on the reform process 10 years prior to Vietnam. In China the law was adopted by the Standing Committee of the National People's Congress whereas the Code in Vietnam went before the National Assembly, which indicates a greater depth of consultation and debate in Vietnam. The new Labour Law in China ascribes rights and responsibilities to enterprises, employees, trade unions and the state throughout the country. As such, it points towards a universal framework for labour regulation

in place of the previous system of *ad hoc* and regionally specific regulations. In particular, it demonstrates a number of significant initiatives. Thus it codifies and extends the recent initiatives to move all employees on to a version of the contract system. Labour contracts are prescribed for all employment relations. They are divided into fixed terms, open terms and terms to expire upon completion of certain work, and also include a probation period up to six months in length. All contracts must be in writing and must contain clauses which specify the term of the labour contract, job description, labour protection and labour conditions, labour remuneration, labour discipline, conditions for termination, and liability for breach of the labour contract.

In China, the most encouraging aspect of the new law is that it moves to establish a floor underneath these individual contracts. First, it specifies minimum wages and conditions. It sets maximum daily working hours at eight and maximum average weekly working hours at 44, with at least one day of rest per week. However, scope is left for exemptions approved by the state or variation by agreement with the labour union and the workers. It prescribes public holidays and penalty rates (at least 150% for overtime on normal days, at least 200% for work on the weekly rest day and at least 300% for work on statutory holidays). The law proscribes employment of children under 16 and introduces some special protective regulations for female employees and employees aged 16 to 18. Other regulations vaguely allude to responsibilities in the areas of health, safety and training. It is left to the state to implement a system of paid annual leave for workers who have worked consecutively for one year or more and a system of guaranteed minimum wages. The state is similarly assigned the task of developing a social insurance system 'in order that workers may receive assistance and compensation in circumstances such as old age, illness, industrial injury, job loss, maternity, etc.' The Labour Law provides for supervision and inspection of enterprises by the labour administration departments as well as sanctions and orders for rectification that can be applied by the same departments.

In addition, the new Labour Law opens the way for an element of collective bargaining. Article 7 decrees that workers 'shall have the right to join and organise labour unions according to law' and that 'labour unions shall represent and protect the lawful rights and interests of the workers, and shall develop their activities autonomously and independently according to law'. Most importantly, subsequent articles allow for collective contracts between employees and the enterprise (on matters such as labour remuneration, working hours, rest, holidays, labour safety and hygiene, insurance, welfare, etc.), negotiated either by the labour union or—in enterprises without a union—representatives elected by the employees. Collective contracts are binding and standards in individual contracts may not be lower than those provided for in the collective contract. Later articles in turn stipulate conditions for resolution of labour disputes, predominantly through mediation commissions and arbitration commissions. Though many of these provisions are vague, they do seem to point the way for assumption by trade unions of responsibilities for collective bargaining.

The creation of a new national Labour Code in Vietnam is also an attempt by the state to provide a cohesive and comprehensive view of labour relations for the future. The code covers four major areas: generalisations about the scope of application and principles, labour conditions, labour relations and labour administration. The most substantive changes occurred with respect to labour relations, which covered the new employment contract, the collective agreement, a new role for the trade union and dispute settlement procedures. The two pronouncements which received most public attention in the discussions which preceded the National Assembly debate were the

strengthening of the worker representation role of trade unions and the extension of their presence to joint ventures and foreign owned companies, and the legislation on the right to strike. The code requires all companies, including joint ventures and wholly foreign owned companies, to have a trade union if their workers number in excess of 10, or worker representatives for those with fewer employees. But the Labour Code in general does not apply to enterprises with less than 10 employees, which include most DPEs. Furthermore, the capacity of the state to inspect and supervise the Labour Code is declining owing to its austerity measures.

Under the new Labour Code Vietnamese workers were given the right to strike for the first time since the formation of the Socialist Republic of Vietnam. The legislated right to strike conforms to the International Convention of Labour. However, there are conditions for the right to strike: workers must give two weeks notice of any industrial action to allow time for mediation; the right to strike will be rescinded in situations where a strike may hinder essential businesses and badly affect public life, national security and defence, which include the areas of health care, public transport and water and power supply; public servants, the military and the police are not permitted to take strike action.

Other issues formalised by the code included an expanded social insurance system, legislated collective bargaining in the workplace, introduction of an autonomous legal arbitration system which will operate outside the main judicial system, introduction of minimum health and safety conditions, introduction of a minimum wage and overtime payments (overtime payments to be at 150%, Sunday and holidays at 200% and night shift 30%), a minimum working age and special provisions for women and juvenile labourers (flexible working hours, maternity packages and part-time work). The Labour Code provides for the progressive extension of compulsory insurance in enterprises with 10 or more workers to cater for sickness, occupational injury, maternity, old age and death. It is financed by a 15% contribution by employers and 5% by workers, with an additional contribution from the government. The intention is to extend this arrangement to private enterprises and joint ventures.

There are many common issues between the Chinese Labour Law and the Vietnamese Labour Code, such as the employment contract, the relations between enterprise, union and the state, minimum wages and conditions, health, safety and training, minimum working age and the conditions for women, social insurance system, and the opportunity for collective bargaining. Although both sets of legislation address the issues of mediation and arbitration, the mediation and arbitration system in China is within the Labour Bureau administrative system. In contrast, the Code in Vietnam sets up an independent legal arbitration system. However, in reality, the function of the mediation and arbitration system is more effective in China than in Vietnam, especially in Special Economic Zones (SEZs) and other open cities. For instance, there were about 2000 cases being considered through the mediation and arbitration system in Shenzhen SEZ in 1995 (authors' survey). In contrast, although the legislation has been established in Vietnam, it is still in the early stage of implementation and the mediation and arbitration system has not been used effectively. Another difference between the Chinese Labour Law and the Vietnamese Labour Code refers to the right to strike. The right to strike has not been raised in the Chinese Labour Law (since the last revision of the constitution in 1982, in which the right to strike was dropped from the constitution). It has been introduced in Vietnam, despite many restrictive conditions. These differences suggest that the Chinese Labour Law is relatively conservative and it does not conform to the International Convention of Labour.



### Continuing Problems

Both China and Vietnam appear to have managed the transition away from a command economy more successfully than Eastern Europe, where economic change coincided with a collapse in political structures and was more dramatic and sudden. Both countries have maintained impressive rates of economic growth, in contrast to the experience of Eastern Europe after 1989, although they started from a higher base. At the same time it is clear that the transition in China and Vietnam is not yet complete and that policy makers continue to be confronted by difficult problems and dilemmas with respect to labour regulation which can be traced back to the political sphere. The dismantling of the political legitimacy of the communist party in both countries in many economic spheres may turn out to be a decisive factor in determining the outcome of the current changes.

The problems in the FIEs in the industrial sector—although not unique to these enterprises—reflect the lack of fulfilment of basic requirements for workers' benefits and working conditions provided by the foreign investors. Problems include a lack of basic hygiene facilities, frequent industrial accidents, an overcrowded working environment and exposure to pollution, high temperatures and noise without protection, physical abuse, long working hours and low wages. The general situation of labour relations in FIEs is that large enterprises perform better than small and medium-size enterprises (Zhang, 1994). Among the large enterprises, most investors are multi-nationals (MNEs) from North America, Europe, Australia and Japan. They are more involved in capital-intensive and high-tech industries (some are in the tertiary sector) which do not require the exploitation of cheap labour to make a profit, but where control over the technology and the market is more important. In addition, a large number of MNEs have experienced a variety of labour relations systems in different countries. For their own benefit in the long term, they adopt a more co-operative strategy to cope with the requirement of the host country. Because of their long-term strategy, they pay more attention to providing appropriate working conditions and training, and encouraging workers' participation in the decision-making process. By co-operating with host governments and trade unions the companies can achieve their long-term goals.

Among the small and medium-size enterprises, most investors come from South Korea, Taiwan and Hong Kong and some from Japan. These firms concentrate on labour-intensive, simple, processing industries which depend on minimising the cost of labour and other welfare in order to gain higher profits. Another factor is that these enterprises often lack a long-term plan. Their short-term approach means that they would not be interested in spending more capital on welfare facilities and training. Furthermore, a large number of small and medium-size enterprises relocated from East Asian newly industrial economies (NIEs) to China and Vietnam in the 1980s and early 1990s. Many are family-based businesses and the business culture of these enterprises emphasises the traditional Confucian values with an obvious hierarchical management system. In most cases, management requires absolute obedience and loyalty from workers.

Certainly lack of institutional protection for labour is an important fact. One reason for the development of such a situation in both China and Vietnam could be that in their enthusiasm for seeking foreign investment, some government officials may have been less than energetic in the supervision and regulation of FIEs. Second, a high level of corruption among the officials and public servants in both countries creates an environment in which foreign investors can avoid punishment under these

officials' protection even though they are involved in abusing labour's rights. Third, the means open to workers' organisations to protect workers may well be inadequate. At present, the rate of organised union membership in FIEs is still very low. Finally, rapid changes have occurred over a short time, leaving legislation far behind reality.

However, in recent years labour conflicts in the FIEs have escalated, especially in Vietnam, and more and more strikes have occurred in both countries. Their governments are aware that such tensions could lead to social instability and block further economic reform. These concerns have led to a reorientation in favour of regulation through encouragement of trade unionism and more intensified inspection. The problems in the FIEs are relatively manageable. The more intractable problems and dilemmas concern the SOEs and DPEs.

The pressures SOEs are facing arise from excessive employment and accumulated debts that make them vulnerable in competition with recently established private sector (both domestic and foreign) firms. In China the SOEs have started to lay off superfluous employees, and female workers are most affected. However, since in most parts of the country there is no effective social security system, SOEs cannot easily lay off workers because of concerns about social instability, so many workers are still employed but have no work to do. These people receive only 70% of their basic wages. Payment in kind is common because SOEs often experience cash shortages. The government has been seeking to ease the situation by providing bank loans to these SOEs to help them pay basic wages to their employees and unemployment benefits to workers who have been laid off. In addition, the government provides special funding every year to certain industries to help superfluous employees transfer to other sectors.

After the recent 15th CCP Congress, the central government is pushing for further reform in SOEs and COEs. One important step is speeding up the process of bankruptcy and reorganisation of inefficient enterprises. The numbers unemployed are likely to increase dramatically in the near future. Official statistics show that unemployment already reached 9 million and 30 million workers were superfluous employees in SOEs and COEs in 1997 (*The Australian Chinese Age*, 17 October 1997). Further redundancy will occur and the rate of unemployment could rise as high as 10% of the total urban labour force in the next two to three years.

In Vietnam, since there is a different economic structure, with a shorter history of economic development and less industrialisation (lack of heavy industry with large-scale production capacity and employment) compared with China, redundancy in the SOEs has proceeded to a more substantial scale. Over 25% of those employed in the SOEs have been made redundant. Between 1989 and 1993 1.5 million SOE employees became unemployed, retired or reduced to part-time work as a result of the dissolution or restructuring of 2000 SOEs to form half that number (*Vietnam Investment Review*, 22–28 November 1993). Although the government has introduced different schemes (e.g. Work Creation Schemes and Resettlement Schemes) to assist redundant workers to transfer to other sectors by providing 'Start-up Loans' for new small business and training programmes for re-employment, so far they have met with little success—mainly owing to shortage of finance and lack of training, know-how and materials.

The worst situation in terms of working conditions and respect of labour's rights is in DPEs, and many of them are not even registered. Most employees are peasants from rural areas and the rest are superfluous labourers retrenched from the state sector. DPEs are often the only employment alternative. Therefore the employers of DPEs take advantage of these workers: low wages, long working hours, terrible

working environment (exposure to noise and pollution, and unsafe working practices), lack of health and safety insurance, and sometimes even physical abuse. In addition, the rate of unionisation is very low in DPEs. People employed by DPEs are more concerned about maintaining their jobs and they do not dare 'make trouble' such as organising unions and challenging the employers. Under these circumstances government enforcement of labour regulation is necessary to protect this group of workers.

It is a complex task to implement and enforce labour regulation in both countries. Under the current conditions, we believe that appropriate government leadership is vital in such areas as development of social infrastructure, implementation and enforcement of legislation and assistance in the establishment of institutional frameworks. We also argue that the choices to be made in order to establish a stable system of labour regulation consonant with the notion of a 'socialist market economy' (or the third way) are difficult but that the most appropriate direction of change is towards a general, transparent and effective regime of labour regulation oriented to protection of vulnerable workers and collective interests.

### **Concluding Remarks**

The 'third way' of 'gradualism' has often been used as a 'code-word' for explaining contemporary Chinese and Vietnamese practice and differentiating it from, on the one hand, the Stalinist central planning system but, on the other hand, not conceding its ultimate convergence with Western/Asian capitalism and globalisation. Hence the description of the reforms in general as 'market socialism' and the frequent use of the phrase 'with Chinese/Vietnamese characteristics'. However, neither country has the experience or a blueprint for a so-called 'socialist market economy'. The philosophy of 'crossing the river by feeling the stones' reflects a pragmatism which is different from the approach of counterparts in the former Soviet Union and Eastern Europe.

However, the reality in both countries does not always reflect the official definition of 'socialist market economy', in which public ownership is no longer the dominant sector and the private and household sectors are becoming increasingly important in the areas of contribution to the growth of GDP and national revenue, creation of new jobs and expansion of exports and new overseas markets. In addition, in China a revival of Confucian paternalism as a legitimating ideology in both political and management systems helps to create an even more obvious hierarchy within the enterprise and society, which leads not only to a wider income gap between high and low income groups but also to less egalitarian social relations. By contrast, in Vietnam differentiation between management and workers is more muted. Control exists but through cajoling rather than demanding. Herein lies a socio-cultural difference between China and Vietnam, reflected in the acting out of labour relations. Therefore, the term 'socialist market economy with Chinese characteristics', as a mixed slogan which provides the legitimacy for the Communist Party's political control (maintaining the 'socialist' identity), creates an opportunity to introduce the market mechanism for economic development while at the same time allowing the traditional values such as Confucianism to fill the ideological vacuum and rejecting 'westernisation'. In Vietnam, by contrast, although 'the third way' also protects the role of the party, movement toward the hierarchical values of Confucianism in business is constrained by Vietnamese values of harmony and homogeneity.

Certainly there have been significant changes in society and new interest groups have appeared in both China and Vietnam, which have accentuated conflicts of interest. Labour-management contradictions may come to dominate labour conflict, and unemployment is the major concern for social instability. The new industrial relations lie at the heart of the socialist market economy and their successful management is one of the greatest challenges for both countries' governments.

## Note

1. The agreement includes wages, working hours, break and holiday arrangements, insurance and welfare, safety and health, job description, discipline, terms of contracts, the condition and procedure for changing, dismissing or ending contracts, handling contract disputes, the responsibility for violating contracts and other issues.

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