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OHS in China - Work in Progress[i]

Abstract

This paper explores the barriers and challenges to effective implementation of occupational health and safety regulation (OHS), and occupational exposure limits (OELs) in China in order to identify the lessons for social science scholars and activists. It finds that formal labour legislation, including occupational health and safety legislation is relatively extensive, but rarely effectively realised. This has partly been because of the pace of political and economic transformation in China. As a result, the soft infrastructure of skills and knowledge necessary for an active, effective and genuinely protective OHS system are inchoate, and often, as OHS awareness has grown, firms' owners have shifted production to rural or distant sites. Nevertheless there is evidence of growing awareness of the importance of OHS and occupational exposure limits in China, and the means by which working people can assist in its implementation, and resist dangerous safety practices, environments or working conditions.

In recent years China's productive capacity has burgeoned. So too has employment in the factories and worksites across the country. At the same time, however, so too have workplace accidents and work-related diseases. The estimated number of fatal workplace accidents in China rose from 73,500 in 1998 to 90,500 in 2001, while accidents resulting in three or more days off work rose from 56 million to 69 million (ILO: 2005; Hamalainen et. al. 2006: 143-147). In 2001 the workplace fatality rate in China was 11.1 fatalities per 100,000 workers, compared with 4.4 fatalities per 100,000 workers in the US (Brown and O'Rourke, 2033: 300). China's Ministry of Health reported 13,218 cases of occupational diseases, a 13 per cent increase in occupational diseases, during the period 2000-2001, a figure which is recognised as 'only the tip of a huge iceberg of health hazards in the workplaces of China' (Su, 2003: 302). These statistics exist despite credible and extensive policies relating to occupational health and safety (OHS), and occupational exposure limits (OELs). This paper seeks to investigate and analyse the barriers and challenges to OHS /OELs in China in order to identify the lessons for social science scholars and activists. The paper will first briefly explore protective labour legislation, including occupational health and safety regulation in China, and then, through closer study of workplace outcomes, seek to understand the effectiveness of implementation of OHS regulations. This will lead to closer consideration and analysis of factors which might constrain or enhance effectiveness of occupational health and safety regulation (OHS), and occupational exposure limits (OELs) in China, and identify future directions for research and action.

China: OHS and OELs

Since the late 1970s China has embarked on a dramatic process of economic and social transformation, moving from primarily being an agricultural country to becoming a global industrial/manufacturing powerhouse, a contemporary 'workshop of the world' (Lee, 2007a, p.1). By 2009 China had overtaken Germany to become the world's third-largest economy behind the US and Japan. China is the world's most populous country with a population of some 1.3 billion people. It has an active workforce of approximately 700 million people, a majority of whom are engaged in manufacturing work. Over 200 million of these workers are 'potentially exposed to industrial hazards' (Liang et al 2006:107). At the same time the role

of the state has shifted from one of micro political control of citizens and workers, to a much more differentiated and uneven oversight and protective activity. (Lee, 2007b)

For example, part of the transformation process has involved the formulation, promulgation, and implementation of Occupational Health Standards (OHS) and occupational exposure limits (OELs). While this process commenced during the 1950s, it advanced significantly from the 1990s. The promulgation of the Safe Production Law of the People's Republic of China (2002) covered work safety measures, the work safety rights and interests of workers, the supervision and management of safety, rescue work in times of accident, accident investigation, legal liabilities (Su, 2003: 303). The nation's 'first comprehensive national law on occupational health', the Occupational Diseases Prevention and Control Act of the People's Republic of China (2001/2002), provided muscle for the development and enforcement of OELs with a range of warnings, mandatory remedial requirements, fines, revocation of business licences, operations shutdowns, criminal prosecutions, for OEL infraction and non-compliance (Liang et. al., 2006:108; Wong, 2003b: 109-110; Ye and Wong, 2006: 161). By 2006, some 400 OELs had either been updated or formulated in accordance with World Health Organisation guidelines. Liang et al. (2006:110) claim 'the majority of OELs set in China is on a par with those in developed countries'. As well as these laws there is a complex array of other laws, regulations, decrees aimed at codifying and protecting workers rights and health, and regulating workplace management and handling of dangerous chemicals, toxic substances, radioisotopes, and radiation-emitting apparatuses.(Gao and Sun, 2004:119; Su, 2006).

An argument about the Chinese approach to law should be noted here because, as will be seen later, the existence of a law in China does not mean it is uniformly or consistently acted upon. Hawthorne (2007) argues that China operates within 'a weak concept of law'; laws are seen as a mechanism of carrying out state policy, as a collection of ideas, and not as 'a rubric for governing behaviour'. There is the sense that the existence of the law is the achievement goal, not its rigorous application and enforcement. (Hawthorne, 2007:160-163, 172-173).

The reality of these OHS/OEL laws and standards in practice is glimpsed in a study by Gao and Sun (2004) of the situation in Beijing, an Occupational Health (OH) jurisdiction with more than 660,000 'workers exposed daily to hazardous agents in workplaces' in more than 10,000 enterprises 'quietly distributing harmful or toxic substances'. There have been between sixty and seventy Occupational Diseases (OD) 'identification events' each year since 2000. During the period 1998-2003, a total of 16,315 individuals were identified as suffering from an occupation related disease. Since 1994 a network of OH organisations has operated in Beijing. These have comprised five branches involving 1,100 personnel (eight categories of physicians, nurses, hygienists, engineers, and other specialists). As well, there are approximately a hundred Occupational Health inspectors, a ratio of 1 government inspector per every 6,600 'at risk' workers.(Gao and Sun, 2004:117-121).

These authors have also noted the extent to which developed countries were taking advantage of the size of the Beijing jurisdiction. Their investigation found that western countries exploited Beijing's administrative diversity, a lack of effective OHS enforcement at local and municipal governments levels, and varying degrees of OHS awareness/understanding as a means to introduce 'many hazardous agents'. Moreover, they also found that within China, manufacturers were moving the use of hazardous materials out of Beijing and into the countryside, and, generally, from 'the coastal cities of the (sic) eastern China' to the western regions of the country' (Gao and Sun, 2004: 117).

Such processes of shifting production from larger or more dense manufacturing regions to rural or distant regions highlights, inter alia the significance of workforce awareness in

ensuring or enabling compliance with regulations and good OHS practice. A relevant concern here, noted by Wong (2003), is the challenge to employers, employees and regulators of communicating and educating the owners of, and workers about current OHS regulations and standards regarding the handling of, and exposure to, hazardous materials, and about basic workplace safety (Wong, 2003: 111). This has proven particularly difficult in private enterprises in rural small towns and villages, often in "small makeshift or crudely converted workshops". Su (2006:303) argued that China's occupational health and safety structure generally, is challenged by the lack of work safety awareness, backward infrastructure, loopholes in the management and supervision of OHS/OELs, inconsistent enforcement of relevant laws and regulations, shortages of health professionals and relevant technological resources.

In discussing the problem of 'exporting and relocating' health risks, Wong (2006:105) has argued that some incidents of 'industrial poisoning' in China, and Asia generally, were not isolated, but reflected 'a new twist in the management of workers' health risk. In this new situation occupational exposures to industrial hazards' have been taken by companies from developed countries exporting workers' health risks to areas of less effective, and cheaper, occupational health and safety regimes. In these kinds of ways such organisations take advantage not only of cheap labour but 'less stringent regulations.

A feature of the changing economic environment in contemporary China is the 'overwhelming increase' of enterprises funded by foreign investment and the increase of enterprises owned by towns and villages, and of privately owned enterprises, with the related 'dramatic decrease of employment in state enterprises' (Lang et. al., 2006:107). State-owned enterprises fell producing from 75% of production output in 1981 to 28% by 1999. (Lee, 2007a) Concomitantly, private enterprises increased from 440,000 in 1996 to 1.32 million by 2001 following the sell-off of Chinese state assets (China Labour Bulletin: 2005). Overall this constitutes a problem for governance given the sheer size of China, the enormous number of workers involved, and the diversity of enterprises they are employed in. It is a situation conducive to the ineffective enforcement of OHS/OELs laws and regulations, facilitating the existence of greed, corruption, the continued (illegal) use of toxic materials, and the thwarting of good OHS intent by the pressures of competition, all assisted by 'China's lack of transparency' (Hawthorne, 2006: 153).

Toxic Toys

At the same time, such issues should not be overstated. For example, the 2007 recalls from Western retail outlets, of lead-contaminated toys made in China for big brand-name American companies, generated a media frenzy. This reaction is instructive for what it shows about how China is imagined as a work environment, and not as it exists with regard to trends in working conditions and OHS/OELs. A Google search (12 November 2009) using the terms 'lead', 'toys', and 'China' brought up between 9-11 million references. In populist thinking and in cyberspace, the three are linked. In 2007 the Western media tended to report what it dubbed the 'toxic-toys' scandal in with an anti-Chinese slant. China was depicted as the 'negative or exotic' other, as a belligerent aggressor targeting the health of 'our children', variously through negligence or aggression (Li and Tang, 2009: 220, 223-224; Chan and Unger, 2007:1).

As Chan and Unger point out (2007:1) little or no mention was made of the many hundreds of thousands of Chinese workers involved, or of the horrific conditions under which they work, particularly those using toxic materials. The plight of these workers has been documented, for example by the 'Toys of Misery' report (2001), and by Chan (2002). For the most part these

workers are aged between 18 and 30, female, migrants from poor rural areas, working an average of 11 hours per day for six or seven days a week, all for a monthly take-home pay of $100 or less. Often trapped in their work situations by social and economic circumstances, they adopt a survival mentality. Consistently they report illnesses and other negative health effects stemming from their work regimes, and from the materials they work with- but cannot identify.

Little media discussion either of the ownership of the factories in China, often Hong Kong based, employing cheap foreign labour, working on products designed by American corporations (Chan and Unger, 2007:1). For example. an examination by Bapuji and Beamish (2007) of the 550 recalls in the US of China-manufactured toys from 1988 to 2007 found that 76.4 per cent were attributable to design related problems sourced to the companies ordering the toys, and not to manufacturing defects originating in China.

Flying under the radar also was recognition that in the case of lead, China does have credible OHS/OELs requirements/laws that attempt to control and regulate its use and human exposure to it. Similarly rarely recognised is that China does have relevantly concerned and critical lead- expert medical/public health personnel (Ye and Wong, 2006: 158). Nor does it lack public officials and political leaders concerned generally about occupational safety (Clissold et.al., 2006: 9). However, for reasons similar to those discussed above , accounting for the thwarting of China's OHS/OELs, lead exposure in China continues to be a problem. While there has undoubtedly been progress in awareness and regulations of OHS, much work in enforcing existing laws and OHS provisions is yet to be done (Ye and Wong, 2006: 161-162).

OHS in China – work in progress?

China does not have a work environment devoid of OHS/OELs laws; but existing and credible laws relating to safe/healthy working conditions are not consistently applied or enforced. It is also a law environment where, perversely, activists who seek to have existing laws applied/implemented, can face political/police/ employer victimisation, harassment, and penal consequences; these are variously documented, for example, by the 'China Labour Bulletin' Reports (2005, 2007, 2009). Overall this is a matter that is not only a Chinese responsibility, but is also one morally 'owned' by those who do business with China, and all of us who purchase goods made in China.

This, however, is not to suggest that the Chinese people generally, or the Chinese workforce specifically, are compliant, docile masses, incapable of seeking and achieving change. Changes to Chinese labour law in 2007 specifying employer and employee rights and obligations has seen significant rises in the numbers of labour disputes occurring, and of labour-dispute cases accepted by the arbitration system (Wang et. al., 2009: 492; see also Ching 2007b). The single legal trade union, the All-China Federation of Trade Unions, often derided internationally as useless, has become revitalised and successfully established branches in the China operation of the anti-union US Wal-Mart empire, notably using grassroots/'from below' trade union organising tactics long absent from Chinese unionism (Chan, 2007:89-90). Nang and Ngai (2009) have discussed the radicalising impact in Southern China of the long and successful struggle by migrant workers during the early 2000s, usually depicted as docile, to address OHS issues in the gemstone industry. These workers drew on combinations of legal tactics with non-legal collective actions.

Moreover, the annual number of 'mass incidents' (riots, demonstrations, protests) in China has risen. Between 1993 and 2005, so-called 'mass incidents' increased from about 10,000 to 87,000 incidents; close to a 20 per cent annual increase (Nang and Ngai, 209:553). Most recently (August 2009) villagers in Hunan province rioted following the diagnosis of lead poisoning amongst thousands of their children living near lead smelting plants (Watts, 2009). Indeed, 'mass incidents' constitute a growing unrest that is both challenging and confusing Chinese authorities who have been unsure how to react to, and manage it, and what path to take to respond and reform or to resort to the violence of 1989 (Tanner, 2004: 137-138).

Certainly, protest actions by Chinese working people have increased since 2000. As well as strike actions, tactics used have variously involved petitioning; blockades of roads, bridges, railway lines; workplace sit-ins; sit-downs at factory gates; protest marches; damage to factory or office premises/property. The 'China Labour Bulletin' Report (2009: 49-56) details 100 collective labour protests during 2007-2008 variously involving 'dozens' of workers, to 'over 10,000' workers. Many of these protests were met with police warnings/dispersal actions, resulting in the arrests of some labour activists and their sentencing to periods of 're-education' through labour or imprisonment. However authorities also undertook conciliatory interventions, resulting in workers securing promises of reviews of their demands, or the eventual meeting of their demands.

A notable feature of this developing worker action is the use of the internet as a means of communication, ending the isolation of worker protests characteristic of the period 2000-2004. There is also evidence of pre-planning and organisation taking place, and the emergence of people willing and able to lead actions, factors previously missing from Chinese labour relations. Thus Chan (2007: 92) has shown the presence of labour activists who understand grassroots organisation and who are willing to 'push the limits' within the Chinese trade union movement. There is also greater interest in, and support of, collective worker actions by Chinese academics and lawyers, and a growing public preparedness to see industrial protests 'in a more positive light and not simply as events disrupting social order and stability' (China Labour Bulletin, 2007: 28).

Conclusion

This paper sought to understand the barriers and challenges to OHS /OELs in China in order to identify the lessons for social science scholars and activists. Having briefly explored the formal protective labour legislation, including occupational health and safety regulation in China, it was found that while governments have passed well-developed legislation this appeared only rarely effective at the level of the workplace and community. On the other hand it is important not to simplify understanding of the reasons for the mainly ineffective implementation of OHS / OELs in China. As was shown the workforce is rather more complex than is sometime portrayed in the popular press. Thus the factors which constrain or enhance effectiveness of occupational health and safety regulation (OHS), and occupational exposure limits (OELs) in China relate to the need for broader education in OHS, stronger support for legislation and enforcement, and recognition that collective responses are available and useful. Within the Chinese workforce, at the point of production, there are people struggling to maintain/improve their working conditions and quality of life. It is the Chinese people themselves who initiate struggles, and who sustain them. Strategically, the challenge for concerned outside interests is to find and develop ways to nourish and support these struggles and their mobilisation (Wells 2009: 577).

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[i] *This paper has been peer reviewed by two anonymous referees*.