

# Corporate Governance and Trade Unions in Foreign Companies in China

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**Abstract** This article explores effectiveness of the unionisation campaign of the Chinese union over improvement of labour rights. Through analysis on two case studies, the article challenges traditional wisdom on communist union behaviours, and argues that power interaction with companies need to be considered, since unionisation is an important approach for the Chinese union to increase its power leverage by achieving economic accumulation through more membership dues paid by the firms, along with political strength accumulation through expanding the membership base to traditionally non-unionised TNCs. During this power interaction of industrial relations actors, the union has become an interest group, whose interests are not necessarily the same as those of Chinese workers. As a result, the union undertakes flexible unionisation strategy to maximise its own interests and minimise unionisation spends, while workers are just one factor of this expense-and-return calculation of the union. Unionisation of TNCs does not translate into the rise of collective labour rights, as well as improvement of labour standards.

**Key words** ACFTU; TNC; Trade union; Union establishment; Wal-Mart

## 1 Introduction

Trade unions in communist countries have long been criticised as a political tool of the ruling party to control the workers, as the unions endeavour to compromise labour interests into state agenda to avoid labour militancy. Under this institutional arrangement, unions in communist countries play the role as a transmission belt, which has two functions: (1) representing the top-down state interests and mobilising workers to produce for the realisation of the state interests; (2) passing the bottom-up workers demands to the state for improvements of labour policies in maintaining stability among the labour force (Pravda & Ruble, 1986). Self-organisation and independent representation of workers are not permitted.

However, the current strategy of Chinese trade unions seems to illustrate a different tendency, compared to other communist unions. Wal-Mart, which had refused unionisation for decades, bowed to All China Federation of Trade Unions, or ACFTU, the official trade union umbrella, and permitted union operation in all Wal-Mart stores in China. Unionisation of Wal-Mart is a result of a broad campaign of ACFTU to unionise transnational corporations (TNCs) in China. During this campaign, grassroots mobilisation, democratic voting and popular election are witnessed. These tactics challenge the tradition wisdom on communist trade union behaviours, since they show the union willingness of mobilising bottom-up interests of workers.

## 2 Literature Review

Nowadays, one popular perspective on Chinese trade union is that the union functions like other communist state unions to undertake a dual role of connecting state interests with those of workers. In this context, the union carries a dual identity as both a state agency and a labour organisation (Li, 2003; Clarke, 2005; Xu & Ren, 2008). Under this institutional arrangement, ACFTU and its low hierarchies put more efforts in convincing workers of compromising their own interests for those of the state than in raising labour requests about change of the current industrial relations system (Taylor et al, 2003; Chang, 2004; Wang, 2008). Thus, in many unionised companies, unions merely act as rubber-stamp offices that follow government or management decisions, while seldom conducting labour mobilisation or election.

As a challenge on the above viewpoint, (Unger and Chan, 1995) use state corporatism to study Chinese trade union. According to the studies (Unger & Chan, 1995; Chan, 2001), the interests of the union and state are not always the same. The party-state represents a coordinated authoritarian that combines and compromises different interests of social actors to maintain the political control of the Chinese Communist Party, or CCP. After the founding of communist China, there have been several interest conflicts between the state and union, whose relationship is far from determined yet. Once the

state eases its social control, the union becomes active in pursuing its power among the working class and even tries to challenge the political authority of CCP. As a result, the nature of Chinese trade union is still an organisation of the working class and is merely obliged to take the dual identity role under state corporatism as a practical strategic choice. The researchers (Unger & Chan, 1995; Chan, 2001) conclude that in the long run, the union will evolve towards a more representative organisation for labour rights.

Contrarily, (Chen 2006) studies how ACFTU balances its two identities to make the strategic choice. He analyses the choice of unions towards handling labour-capital disputes, and concludes three different arenas: (1) no interest conflict between the workers and state, which gives the union larger institutional space to represent workers' interests; (2) interests conflict between labour and the state, which controversies the dual nature of ACFTU between the workers and state. In this case, the trade union always allies itself under the state to constrain labour action; (3) self-organising and self-representation of workers, which is regarded by the union as independent trade unionism, so ACFTU undoubtedly acts as a state tool to suppress these activities.

Despite of some differences, existing studies base their arguments and conclusions on two common grounds below:

They treat the union as an integrant interest group. According to the studies, the interests of national, regional, industrial and company trade unions are the same, so researchers can easily adopt the state-union analysis framework in explaining all grassroots unionisation processes;

The dual identity nature of the union means the union acting as both a state agency and a social organisation. However, these studies neglect another key actor of industrial relations, i.e., the companies, whose interests are sometimes central to the power struggle among the state, workers and their organisations. Failure to take serious consideration of the capability of the capital handicaps the state-union analysis framework in explaining union behaviours in China.

Current ACFTU campaign in unionising TNCs offers an opportunity to overcome this research gap of current union studies, as it involves a dynamic power interaction among the state, different levels of trade unions, as well as the firms. A general perspective is unionisation increases labour standards (Freeman, 1985) but high labour standards discourage foreign investment (Dicken, 2004), so there can be a tradeoff between labour rights and capital accumulation. Unionisation in China, contrarily, does not support this standpoint, when foreign investment maintains the high level. Therefore, it deserves a careful study about the effectiveness of trade unions in representing workers through unionisation of TNCs in China.

The Chinese market reform has created a new industrial relations environment, which transforms from administrative labour relations under the command economy to employment relations under the market economy, while the interest conflict between labour and the capital also jumps dramatically. ACFTU has realised that the labour issue is vital to the regime, on which the current union hierarchy is affiliated. The top leader of ACFTU proposes a steady change of the union agenda and puts "rights protection" as the key task for the union (Wang, 2006), in order to retain regime stability and union stability. However, this transformation did not affect unions at the enterprise level, when the Chinese state regarded investment attraction as a top priority for development and did not want to discourage investment by raising union capacity (Xu, 2006; Wu, 2008).

Following the escalation of labour unrest, the state begins to worry the potential power of labour on social restructure. The government demands the union hierarchy to adapt workers into the state interest, and to avoid any active labour actions that may challenge the interest arrangement of the state (Wang, 2008). Union organised labour actions like strikes are out of the question, even when the company violates basic rights and interests of workers (Shi, 1999; Chang, 2005). Without effective leverage of industrial action, the Chinese union faces to a mission impossible to convince the companies to accept enterprise unions (Howell, 1998).

ACFTU is clear that its survival relies on continuous expression of membership, since sustainable growth of the membership base means an increasing influence at the political arena. Speeches delivered by top union officials have repeatedly put unionisation as the key to expand the membership base (Wang, 2006; Sun, 2009). Meanwhile, these official documents have acknowledged the current legal constraints on union actions, so that ACFTU endeavours to persuade the state of the potential benefits of unionisation for regime stability by promising to use the enlarged membership base to maintain industrial peace (*ibid*).

Another reason to get the state on board is that Chinese laws offer no clarification about organic of enterprise union establishment, so it is important to push the state to come up with favourable law

explanations towards unionisation practices. Current laws fail to give clear definition on who is responsible to organise trade unions. Labour Law rules that workers are the organisers, as “labourers have the right to join or organise trade unions” (1995: Article 7). But, (Trade Union Law 2001) gives a confusing concept, by saying unions are voluntary organisations of labourers (Article 2) on the one hand and determining the “voluntary” workers organisation at workplace can only work under the guidance and supervision of ACFTU on the other (Article 9, 10 & 11). Furthermore, union legislations make it the duty of companies to initiate unionisation, since firms hiring more than twenty-five employees “should” establish grassroots union committees (Trade Union Law, 2001: Article 10; Constitution of the Chinese Trade Union, 2008: Article 25). The confusion puts ACFTU in severe difficulties in penetrating TNCs that always require the union to prove its legitimacy of establishing union branches at the company level.

Meantime, all the laws and relevant regulations fail to give clear description about procedures of enterprise union establishment, such as mobilising and voting practices. In reality, enterprise union establishment procedure becomes a case-by-case arrangement, which depends on the power interaction between the company and local trade union to decide, so that it is important that the state acts as a coordinator to legitimise union arguments.

Confusion on Chinese laws gives an opportunity for union to draw its arguments of labour stability, and convince the state of recognising unionisation as:

a voluntary activity of the upper-level union to decide whether to approach a company for establishing enterprise union;

a compulsory activity for the company to permit union establishment and bear the relevant costs, once proposed by the local union.

In this case, provided the state supports the arrangement, ACFTU is able to choose which company should set up a company union and afford all the costs of unionisation. Then, ACFTU can enjoy an expanding membership base and increase of aggregate membership dues without spending more.

To evaluate the effectiveness of expanding unionisation, it deserves to measure the relationship between union existence and achievement of labour rights and interests. As (Kelly 1998) points out, trade union may simply fall into the hands of the capital and become a tool of the employers if the union fails to represent labour interests or safeguard workers rights. Whether current unionisation in China brings material benefits for Chinese workers has not been answered by most of the union studies (Unger & Chan, 1995; Howell, 1998; Chan, 2001; Li, 2003; Taylor et al, 2003; Chang, 2004; Clarke, 2005; Chen, 2006; Xu, 2006; Wang, 2008; Wu, 2008; Xu & Ren, 2008), which also fail to assess unionisation by analysing the voluntary-compulsory unionisation position of ACFTU. This article then evaluates the effectiveness of the current ACFTU campaign of unionising TNCs in China through two case studies, and sees whether Chinese unionisation brings any structural change of the union and increases labour rights and interests.

### **3 Research Method**

This article uses a case study approach. It does in-depth interview to the stakeholders of unionisation in two TNCs in China from October 2007 to October 2008.

Sixteen interviewees are reached:

- Four central union officials from ACFTU headquarter, including the Organising Department of ACFTU, ACFTU Law Department and ACFTU think-tank;
- Four regional union officials from the local trade union headquarters, which are responsible for unionising the workers in the two sample firms;
- Two enterprise union chairpersons from the two sample companies;
- Six management staffs from the two sample companies, including company managers, human resource managers and line managers.

### **4 An Overview of the Two Sample Firms**

This article chooses Wal-Mart China (hereafter, Wal-Mart) and Star Light Resin Production Company Limited (hereafter, Star Light) as the two samples. Both of the firms are foreign entities and experience different paths of unionisation, so as to provide evidence for comparative studies to assess the effectiveness of Chinese unionisation for labour rights.

Wal-Mart entered China in 1996 and hires about 70,000 employees within 146 supermarkets. Meanwhile, it does mass outsourcing and works with several-hundred supplier factories. Before 2004,

ACFTU did its best to persuade Wal-Mart of establishing trade union and affording unionisation expenses, but all those efforts fell into deaf ears because Wal-Mart insisted that union establishment was against its global norm.

Then, ACFTU changed its strategy and lobbied the state for support. In October 2004, a positive response was made, when the Law Enforcement Inspection Taskforce of the National People's Congress (NPC) publicly criticising Wal-Mart for refusal unionisation. Important members of NPC even expressed the possibility of suing Wal-Mart for disobeying laws by rejecting workers' free will of unionisation.

Fearing to confront with the Chinese state, Wal-Mart had to revise its position and announced that it respected the choice of employees if employees wanted union. In this case, Wal-Mart offered an interpretation of the laws by saying the union was a voluntary organisation of workers that should be established by employees only, not upper-level unions.

As put by Tian from Wal-Mart management:

“(At that time) We believed that unionisation should only be conducted on the absolute voluntary basis. Unions were the choice of workers. Not the company's. If workers decided to establish unions, they should clear the procedures and take care of the costs themselves. The company did not need arrange anything for them”

Unlike Wal-Mart, Star Light holds a different attitude towards unionisation. Star Light is a Japanese company and built its manufacturing facility in City K in 1993. Currently, Star Light has 1050 employees in City K.

When the local trade union of City K approached Star Light and proposed unionisation, Star Light agreed. The management expressed respect of Chinese unionisation practice and agreed the law interpretation given by the local trade union that unionisation was compulsory for companies to arrange and afford all the relevant costs. In 1996, the enterprise union was established.

As Yo, management representative, said:

‘The company fully understands the laws and practices of China. Once the municipal general trade union inquired us about setting up an enterprise union, the company expressed our full cooperation and started unionisation for our employees. .... We certainly paid all the costs wherever necessary.’

## **5 Following the “Law” Voluntarily, or Being Forced to Respect the “Law”**

In practice, although different Chinese laws give different interpretations on the duty and responsibility of organising enterprise trade union, it is always the upper-level regional trade union at the locality that approaches a company and proposes unionisation. Workers are seldom consulted.

When inquired by local unions for establishing enterprise trade unions, Star Light and Wal-Mart held two different attitudes. Star Light respected the law interpretation given by the local union, while Wal-Mart insisted that the laws put unionisation as a voluntary workers activity. But, the proposals of unionisation to neither Wal-Mart nor Star Light were made by the employees.

In the Star Light case, the management voluntarily followed the suggestion of City K General Trade Union. The General Affairs Department of Star Light, the human resource unit, was appointed for preparing the unionisation. It arranged the first union election with the appearance of the municipal trade union leaders. After that, all the employees automatically became union members. The company then nominated eleven part-time enterprise trade union officers, who were all approved on the election day. The enterprise union chairperson is Ms Xu, Manager of Production Division. She used to serve as Manager of General Affairs for eleven years, with the duty of supervising human resource management. Ms Xu is a CCP member and the highest ranked Chinese administrative staff.

As Xu describes, unionisation went smoothly:

“The company was registered in December 1993 and fully operated in 1994 with around 500 employees. But, trade union was established in 1996. Between 1994 and 1996, the government visited the company and asked for establishing an enterprise union.

“At the beginning, the Japanese boss felt there was no need to establish a trade union because production ran smoothly. Although deep in his heart, the boss did not want union, he knew Chinese firms usually had company unions. Unions build a bridge of communication between company management and the local government.

“During the two-year time, Director Pan (of City K General Trade Union) visited the company several times, and talked in-depth with our president of the board of directors (the Japanese boss) about the purposes and roles of Chinese trade union. The president felt there was no possibility to escape the

duty to establish enterprise trade union, and he found it difficult to delay the process either.

“Then, the Japanese management approved unionisation on 14 July 1996. On that date, we chose the best hotel in our City K and used company buses to transport all employees to the hotel. We invited all the leaders (of the government) and drove all the workers there. Our company leaders were there, along with the city union leaders, to show that everybody praised and supported union. The announcement of enterprise union establishment was followed by a fancy buffet for everybody.”

Wal-Mart did not behave as cooperatively as Star Light to follow the practice of Chinese unionisation. The concerns of Wal-Mart stemmed from not only union interference over company management, but also the high union membership dues paid by the company, which accounts for 2% of the total wage sum of the company (Trade Union Law, 2001: Article 42 (2)). To overcome the tough position of Wal-Mart, ACFTU had to seek for unconventional ways. ACFTU feared failure of unionising Wal-Mart would make other TNCs disgrace union power and undermine the political influence of the union on the state.

As put by Guo, head of organisers of ACFTU:

“Foreign companies always regard themselves as privileged entities in China, so they can ignore the social norms or avoid law requirements to unionise. ....Wal-Mart is a typical case and a hard liner. We started from Wal-Mart, the most difficult one, in order to show other foreign companies our decisiveness and capabilities. ....The Chinese government supported us because it realised the strong connection between unionisation and labour stability.”

The unconventional way undertaken by ACFTU was to require all local unions to prioritise Wal-Mart unionisation. To achieve what the central union could not, the local trade unions had to mobilise bottom-up labour supports. A breakthrough was made in Jinjiang County of Quanzhou Municipality, Zhejiang Province, where local Wal-Mart employees successfully called enough signatures and held the union establishment voting.

Wal-Mart Jinjiang Union Branch, the first Wal-Mart union, was established on 29 July 2006. Twenty-five employees of the Wal-Mart Jinjiang supermarket elected a seven-member enterprise union committee under the Constitution of the Chinese Trade Union (2008, Article 25 & 26). Mr Ke, a frontline staff of the Meat Affairs Team, was elected as chairperson of the committee. In August, Quanzhou Municipal General Trade Union, the local trade union, issued an eight-step work agenda to enhance unionisation in Wal-Mart and organised a Guidance Team for Wal-Mart Jinjiang Union Branch with vice chairman of the municipal union as the head. In October 2006, Home For Unionised Employees of Wal-Mart Jinjiang Branch was built and became the first union activity centre of Wal-Mart China.

Ke, chairperson of the Wal-Mart union branch, says:

“Quanzhou Municipal General Trade Union came to the Street Office of the community, where Wal-Mart is in, and found the (Communist) Party Secretary. The Party Secretary and I are neighbours and both live near Wal-Mart. The Secretary then came to me and told me the plan to set up a grassroots trade union in Wal-Mart. He asked if I was interested.

“In early July 2006, he met with me and did not say much. He just told me to find several colleagues I trust to build a union preparation team, which only needed to have five people. I got four staffs and we met with the leaders of the city trade union. ....

“All the establishment works were confidential and we five started to recruit potential members among the colleagues. At that time, management started to suspect our behaviours but did not know we were secretly organising a union. Neither did they know who supported unionisation.

“When we were secretly recruiting members, Quanzhou city trade union also knocked the door of Wal-Mart and demanded the company to fulfil its duty to establish the enterprise union. Of course, they refused. Then, the city union built a dissemination desk in front of the gate of our supermarket. All the cadres of the city union came to publicise unionisation. Later, the company management interfered and prohibited employees from accepting gifts and booklets from the (city) union.

“You know, they did not explicitly say you should not accept anything. They arranged several managers watching at the dissemination desk from the staff exit. Employees getting close to the union desk all fled away. The employees feared that talking with the union could affect their careers.”

From Ke, all the members of the first enterprise trade union in Wal-Mart came from the front-line employees, instead of management personnel, who filled in the Star Light union. Meanwhile, the costs of unionisation were contributed from ACFTU, the local trade union and local government, rather than the company administration.

Also, the local union and local government, rather than the management, chose the potential

candidate of the union chairperson. However, Ke, the candidate, got the position mainly from the supports of the authority, not workers. The profile of Ke made him an ideal candidate, as he was a neighbouring friend of the local government leader and a long-time CCP member, who joined CCP when working in a state-owned enterprise. Similarly, Xu, the chairperson of Star Light, is also a CCP member, so that CCP membership is an important criterion of holding key positions in enterprise unions as a result of union affiliation to the state. However, Ke and Xu held very different positions about company management, with the latter appointed by the firm and the former by the local government. In this case, although political profile can be essential for nomination, the loyalty of nominees usually goes to the actor that makes the appointment. Therefore, appointment of enterprise union chairperson is central for the bargaining between the union and management.

Labour involvement is missing during the process, with the two-unionisation cases showing no initiative from workers. Instead, it is always other parties of industrial relations that propose enterprise union establishments. In Star Light, the local trade union proposed unionisation and the management followed. Wal-Mart trade union was established by both the local trade union and the local government. Unionisation is always a bargaining of power and interests between the trade union and company, while workers only play a passive role in the process.

Two models of enterprise unionisation can be seen from the two cases:

- Initiation and resource dependency on company management;
- Initiation and resource dependency on upper-level trade union at the locality.

Under the two models, workers are told to unionise themselves. Only the companies can choose their responses to unionisation proposals. If the company voluntarily chooses to accept the law interpretation given by the local union to organise enterprise union and afford the costs, unionisation goes smooth and every actor respects the interests of each other. Otherwise, trade union will criticise the firm for ignoring labour rights and mobilise its own resources to sponsor bottom-up unionisation. Under both models, workers are one factor of interest bargaining between the union and company.

## 6 “Nominal” or “Active” Enterprise Union Activities for Labour Rights

After union establishment at the enterprise level, the effectiveness of the company union depends on its capability of labour rights protection. According to Regulation of Enterprise Trade Union Works (2006: Article 51, 52 & 57), enterprise trade union follows the lead and guidance of the upper-level regional union, and the enterprise union has equal legal status with company administration. In practice, the relationship between the enterprise union and company administration are far from equality because most enterprise unions rely on company resources to establish and function.

Under the company-management dependency model of enterprise unionisation, the enterprise union usually acts as a supplementary office of human resource management and functions under the guidance of company administration, not the upper-level local trade union. In the Star Light case, all the union officers are management personnel from either administrative offices or workshops.

As put by Xu, union chairperson of Star Light:

“Our union office has eleven people in total. Not many, because our division of labour is relatively clear. Below me, there is a vice chairperson and a chairperson assistant, because my other management duties are quite busy. Vice chairperson takes care of main daily works and I am responsible for decision-making. For other issues like the routine daily works, our union assistant can take care of them.

“Our union officers are all part-time, all of us. The union officers were elected democratically. .... (The election process is) we first select candidates for the workers, because it is not practical to stop production and do a popular election in this over-1000-worker plant. According to our regulation, the workshops select and come up with around 100 representatives. This is absolutely democratic. After the representatives are in place, we select union officers from them. Every year, there is an election.”

As described by the chairwoman, election of union officer is strongly controlled by the management and shows no real choice of employees. The current enterprise union committee of Star Light is full of managers, who are hardly willing to stand out for labour interests.

Ironically, the local trade union in City K recognises the union branch in Star Light, despite this arrangement violates union laws and regulations. According to Method of Enterprise Trade Union Chairperson Election (2008, Article 6), the company owner, partners, close relatives or human resource manager cannot be the chairperson of an enterprise trade union. During election, upper-level local trade union should monitor the election process and guarantee labour democracy (ibid: Article 4 & 13). City K trade union turns a blind eye towards Star Light practice.

However, this is not the case for the Wal-Mart cases. When Jinjiang Union Branch, was established, the election accommodated well with the law. All the thirty-three members of the union branch were ordinary employees and all the seven union committee members were frontline workers. After one-year operation, the membership size grew to over 300<sup>2</sup> in August 2007, and management personnel still could not enter the union committee.

This structure fundamentally differs from the Star Light union, and illustrates that the upper-level union dependency model of unionisation has the ability to avoid management interference.

According to Ke:

“There are more than 370 staffs in Wal-Mart. Our members have reached over 300. In some units, the membership density is 100%. The turnover is relatively high so we cannot come up with an exact statistics. Some of the people who do not join the union are from the management, but others are ordinary employees. Some old employees do not want to join the union. They do not believe the union can benefit their interests, so they don't care about the union.”

Wal-Mart enterprise union structure is independent from company administration. This creates opportunities for the union to launch independent activities for labour rights. Moreover, the union committee is composed of ordinary employees, who can get in touch with labour concerns on a daily basis and represent employees' interests more effectively.

However, lack of management involvement in Wal-Mart Jinjiang Union Branch makes union works difficult. Communication with the company administration is extremely inefficient. The management objects or delays every union proposal. Because Wal-Mart does not permit to establish full-time union officer positions, all the union officers are part-time and cannot fully concentrate to union works. (Trade Union Law 2001, Article 13) rules that a company hiring over two hundred employees 'may' set up one full-time union chairperson position. As this regulation is not compulsory, Wal-Mart management argues that the high staff turnover makes it uneconomic to have such position.

In spite of the supports from Quanzhou Municipal General Trade Union, Wal-Mart Jinjiang Union Branch makes little progress to represent complaints about labour rights and negotiate collective labour contract.

According to Yang, Special Commissioner on Wal-Mart Unionisation of Quanzhou Municipal General Trade Union:

“Now, our most important task is to build the collective contract system. We gave them (management) a collective contract offer in this April, and they replied that they were a branch company and did not have the authority to decide. They needed their headquarter (in US) to decide.

“To our disappointment, Labour Law and Trade Union Law have no specific reference on this issue. They do not have any specific regulation about what the union should do next, if the company refuses to respond collective contract offer. (The laws) only say that you can apply for the government to interfere, but it is not clear how and in practice it is impossible to follow up. We have very few contacts with the labour bureau and they (Wal-Mart) have many friends there, so it is not practical to rely on the government to push Wal-Mart.”

Ke, Wal-Mart union chairperson, has similar impression:

“A union is established. If the union doesn't protect the rights and interests of workers and only organises activities to improve management image, then Wal-Mart bosses will not harass union works. Now, (because the enterprise union refuses to follow management wills) there is little room for us to efficiently represent the rights and interests of our workers. It is not difficult (for us) to organise workers, but the main difficulty is the union doesn't do enough to protect the rights of workers. I think our credibility depends entirely on whether we can effectively represent labour rights. Now, this can hardly be done. We now only do some dissemination works to enlighten workers. We put the news on McDonald's wage increase on the union bulletin and the employees had a strong impression.

“Our union wants to do collective bargaining. (Because) union does not have strike rights, we should have other mechanisms to balance company power for fair negotiation. I just hope the union can do something. About the wage increase, the company has not allowed the union to participate in the talk. Now, when the company wants to fire or punish staffs, they do not inform the union. If there is no collective bargaining, we basically can do nothing. The company doesn't take union seriously. We cannot say that the company hates union, but at least, they are not happy. They feel that they lost a battle with the union before.”

In contrast, the enterprise union of Star Light has no problem in working with the company administration. From 1997, one year of its establishment, the enterprise union has been signing annual collective contracts with company management. From 1999, collective wage consultation has been

conducted. The company and union sign a collective wage consultation agreement and a bonus agreement every year. Following the proposal of the enterprise union, the company also established a staff and employees representative committee, democratic personnel assessment system and plant affairs transparent system, which aim at increasing labour participation in company operation. Besides, proposed by the union and General Affairs Department, Star Light has set up a mutual help fund for employees, along with an employee greeting/condolence fund for newly married or widowed staffs. It seems that the management and union enjoy a harmonious labour relationship there.

However, collective contract of Star Light is a standard contract. Before the signing of the contract, workers are not informed about the content, and neither can they raise any concerns. Every year, management offers a certain percentage of wage increase to the enterprise union, which then writes it on the collective contract paper. During the process, the union chairperson acts as a follower of management proposals. The only task of the union is to develop relevant paper works to fit for the legal procedure. Later, the enterprise union submits the collective contract to the management and asks the company president to sign. The collective contract usually repeats the minimum wage and other terms on the laws. No negotiation or bargaining is experienced.

From the two cases, effectiveness of Chinese unionisation at the enterprise level over increasing labour rights and interests is seriously doubtful. On the one hand, some enterprise unions depend on company resource to set up. Although it is easier for these unions to build a nice labour representation system on paper, there is no incentive of the union officers to make the system work for workers. On the other hand, other enterprise unions are established depending on the resources and supports from the upper-level regional union. Those enterprise unions may have good wills to represent labour rights, but without productive communication with company administration and without the rights of strike, it is quite difficult to practice the ambitions, since management always tries to find loopholes on the laws to undermine union efforts. Under the two models of Chinese unionisation, collective strength of workers through unionisation is not effective in improving workplace conditions.

The turning point of Wal-Mart attitude towards its enterprise union happened in 2008. On 15 July 2008, with the support and sponsoring from ACFTU and the local union, Wal-Mart Shenyang Union Branch signed the first collective contract. After nine days, Wal-Mart Jinjiang Union Branch, which had been fighting for collective bargaining since its establishment, reached the collective contract with the management. Until 25 July 2008, there were sixteen Wal-Mart branches having collective contracts that covered over 8500 employees. Moreover, a consensus was made between Wal-Mart China and ACFTU, with the latter giving a format of annual collective contracts for all Wal-Mart branches. Wal-Mart shall respond or take collective contract offer within two months.

A big breakthrough seems to be achieved. But, an incremental change of Wal-Mart union structure has taken place. In the beginning of 2008, Quanzhou municipal trade union, the local union for the first Wal-Mart union branch, and Wal-Mart management arranged an enterprise-union election. All the previous union officers of Wal-Mart Jinjiang Union Branch, the first popular elected union, were replaced. Ke, founder and the first democratically elected chairperson, did not run for the election. Actually, he took the advice from the upper-level trade union to “give room for the fresh blood of the union”. Unlike the previous elections, the 2008 election was arranged and sponsored by Wal-Mart management, and the newly elected union chairperson is manager of an administrative department of the company.

As put by a senior union official:

“The goal of Wal-Mart unionisation has been transformed from establishing a union-styled union to building an acceptable union.”

To make this “acceptable” union happen, Wal-Mart agrees to pay full membership dues to ACFTU, even before some stores are unionised. Moreover, this transformation from a “union-styled” union to an “acceptable” union has already been prepared during mobilisation of the first union establishment in Wal-Mart, when the local trade union and government officials identified a person with good political credibility, i.e., CCP membership, which makes it easier to forward any advice or order through the CCP system.

Therefore, protection of labour rights through unionisation is a strategy of the union to redefine the balance of power with the capital. When the company does not respect the union, the upper-level union becomes active in mobilising workers to protect labour rights. If the company shows a cooperative attitude, voluntarily establishes enterprise union and pays membership dues, the upper-level union then draws a nominal position on safeguarding labour rights and interests. In this sense, the union does not endeavour for the material increase of labour benefits. Rather, it takes the company offer and makes the

whole consensus procedure legal on paper. The union uses workers organising to find economic ways to expand its own interests, which are not necessarily the same as labour interests.

## 7 Conclusions

In 2008, 73.4% of foreign firms in China had union branches, and ACFTU aims to increase the percentage to 90% in 2009<sup>3</sup>. However, as is shown on the two cases of Star Light and Wal-Mart unionisation, effectiveness of expansion of the union membership base over labour rights improvement should be applauded with a pinch of salt.

During unionisation, companies are more important for the union than workers, on account of the potentiality of both the financial accumulation through membership dues paid by the firms and political strength accumulation towards the state through increasing number of members. Unlike the worries put by (Kelly 1998), the union is more likely to manoeuvre industrial relations system to get maximum benefits, instead of simply decaying to a tool of employers. (Kochan et al 1994) have noticed unions can make the strategic choice, which best fits for their benefits as one interest group.

For the Chinese trade union, its interest definition is not always the same as those of workers, but it has learned to mobilise workers and use labour organising for achieving its interests. Unionisation in TNCs provides the union with leverage towards the state and companies, so that the economic and political power of the union organisation can be secured. However, workers become the passive factor of the power relation restructure and are not the organiser or owner of unionisation.

Although existing studies on Chinese trade union are correct in discussing the relationship among the union, state and workers, they fail to identify the framework of the changing power relationship of the Chinese industrial relations by neglecting the dynamic interaction among the state, company, union and labour. The popular state-union framework (Pravda & Ruble, 1986; Li, 2003; Clarke, 2005; Chen, 2006; Wang, 2008; Wu, 2008; Xu & Ren, 2008) is too general to explain the union behaviour, since it does not interpret the company counteraction towards the union and ignores the changing union strategies. Meanwhile, corporatism (Unger & Chan, 1995; Chan, 2001) provides brilliant aspect in seeing the different interests between the state and Chinese union, but is also flawed because it only looks at the changing relations between the state and union, while the two cases on this article have shown the union's capability of penetrating the companies for increasing its influence over the state.

As the two cases illustrate, ACFTU adopts flexible strategy to maximise its interests through TNC unionisation and minimise the costs of expanding the membership base. In 2008, ACFTU labelled Wal-Mart unionisation as a 'model unionisation' case of TNCs, based on the argument that Wal-Mart has union branches and has collective agreements in all its stores. The unionisation strategy discussed by the two cases on this article is likely to become the theme of TNC unionisation in China. In this context, unionisation and expanding membership do not necessarily translate into the improvement of collective labour rights.

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