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Modern China published online 29 April 2013

DOI: 10.1177/0097700413484556

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Modern China
XX(X) 1–33
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DOI: 10.1177/0097700413484556
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Abstract

The mixing of socialist and capitalist discourses in Reform China has engendered some complex and misleading usages of key legal and statistical categories. This article considers three in particular: “labor,” “individual entities,” and “private enterprises.” The meaning of the word “labor” has changed from its early days’ meaning of the “working class” in a Marxist revolutionary perspective into a relatively privileged group classified along with government officials as “employees-workers” who are under the protection of formal labor laws and regulations. The category in fact excludes the great majority of China’s laboring people today, who work mainly in the informal economy, considered to belong outside the official legal-statistical category of “employees-workers” and formal “labor relations,” and to belong rather under casual or “task-based labor relations,” not covered by the state’s labor laws. “Individual entities,” on the other hand, includes mainly self-employed artisans, peddlers, and service workers closely tied to peasants, even as it includes also a minority of new-style shops and eateries, higher-paying service entities, and other individual businesses. As for “private enterprises,” it includes mainly small-scale businesses that currently employ an average of just 13–15 people and does not include the larger private and part-private firms. They are also as a rule not formally incorporated as limited liability companies with separate

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“legal person” status and are therefore not considered legal “employing units” that are involved in “labor relations.” As will be seen, literal usage of these terms according to their surface meanings in English without consideration of the complex historical backgrounds and changes in the categories can lead to some serious misunderstandings of Chinese realities, as has occurred in even some of the best scholarly studies of China—by Ching Kwan Lee, Kellee Tsai, and Yasheng Huang.

Keywords

informal economy, labor law, labor relations, formal economy, employees-workers, party-state officials

The mixing of socialist and capitalist discourses in Reform China has engendered some complex and misleading usages of key legal and statistical categories. This article considers three in particular: “labor” 劳动, “individual entities” 个体户, and “private enterprises” 私营企业. The meaning of the word “labor” has changed from its early days’ meaning of the “working class” in a Marxist revolutionary perspective into a relatively privileged group classified along with government officials as “employees-workers” 职工 who are under the protection of formal labor laws and regulations. The category in fact excludes the great majority of China’s laboring people today, who work mainly in the informal economy, considered to belong outside the official legal-statistical category of “employees-workers” and formal “labor relations” 劳动关系, and to belong rather under casual or “task-based labor relations” 劳务关系, not covered by the state’s labor laws. “Individual entities,” on the other hand, includes mainly self-employed artisans, peddlers, and service workers closely tied to peasants, even as it includes also a minority of new-style shops and eateries, higher paying service entities, and other individual businesses. As for “private enterprises,” it includes mainly small-scale businesses (by definition, those employing more than eight people) that currently employ an average of just 13–15 people and does not include the larger private and part-private firms. They are also as a rule not formally incorporated as a limited liability entity with separate “legal person” 法人 status and are therefore not considered legal “employing units” 用人单位 that are involved in “labor relations.”

As will be seen, literal usage of these terms according to their surface meanings in English without consideration of the complex historical backgrounds and changes in the categories can lead to some serious

misunderstandings of Chinese realities, as has occurred in even some of the best scholarly studies of China.

Labor

There has been a mixing of three traditions in usages of the term “labor” 劳动 and its closely associated word “workers” 工人: the revolutionary tradition in which labor was used in a meaning closely approximating the Marxist category of “the proletariat”; then the early period of Communist rule in which “workers” became a relatively privileged group by official ideology as well as in terms of actual wages and benefits; and finally, the marketist Reform period, which has seen the rise of a vast informal economy outside the protection of the state’s labor laws, leaving in fact just a small minority of blue-collar “workers” to be classified with state officials and other white-collar employees into a high-status category of regular “employees-workers” that excludes the great majority of the laboring people of present-day China. The result is an extraordinarily complex and confusing usage of the legal-statistical categories of “labor” and “workers” that requires close analysis.

The Pre-1949 Usage in the Revolutionary Tradition

In the pre-1949 revolutionary period, the word “labor” was used mainly from the perspective of a working-class movement in the Marxist tradition. Emphasis was on wresting from capitalists decent treatment for workers: job safety, decent pay, reasonable work hours, protections for women and children laborers, workers’ benefits, and the like. Such usage dated back to the founding years of the party. On May 1, 1922, International Labor day, the party adopted the first of its resolutions on labor, principally about an 8-hour workday. By August, the party’s secretariat for labor issues 劳动组合书记部 had drafted the texts of “Principles of Labor Legislation” and an “Outline Labor Law” (Gao Xueqiang, 2010). In the subsequent annual national labor conferences 全国劳动大会 from 1925 to 1929 (five in all, excepting 1928), a host of concrete and specific resolutions were adopted. In addition to the 8-hour work day (6 hours in mines), one hour of rest during the workday, special protections for pregnant women and children (no night work, no heavy work, 3-hour intervals for breast-feeding), a minimum of 42 consecutive hours of rest per week with pay, and holidays with pay were adopted as resolutions (Guojia laodong zongju, 1980: 11–15). All were made from the standpoint of a progressive-revolutionary labor movement under conditions of a capitalist economy.

Alongside that tradition came the rise of another—of revolutionary governance in the liberated areas in which the Chinese Communist Party (CCP) held political power and ruled. That tradition built on the revolutionary movement but added to it the concerns of a ruling party. The result was the promulgation of the 1933 Labor Law of the Chinese Soviet Republic, the first formally adopted labor law of the party.

To the resolutions adopted earlier were now added further requirements: for a formal contract, overtime pay; additional protections for women and underage workers; “social insurance” 社会保险 for all workers—including health insurance, accident insurance, unemployment insurance, retirement insurance; and death benefits (Article 68) (Zhonghua Suweiai gongheguo laodongfa, 1933).

In addition, the Jiangxi Soviet labor law included officials of state organs among the category “employees-workers” 职工, which would come to be used as a broader, alternate term for labor and for workers (Article 1). The inclusion of party officials, of course, made perfectly good sense in the revolutionary perspective of things, since the party was theoretically the “vanguard of the proletariat,” and the state the governing arm of the party.

One implication of such a perspective is that labor unions are to be entities controlled by the party-state, unlike under capitalism where they would at least theoretically be in opposition to the powers that be (Article 117). Thus, in the Yan’an period to follow, labor unions were placed under the leadership of the national labor union, a party-state organ. In actual practice, factory unions in the liberated areas under Communist rule often simply came under the authority of the factory leadership appointed by the party-state. As Ni Haomei 倪豪梅, former deputy chair of the National Labor Union 中华总工会, reminisced in a revealing article in 2012, the central problem of the union then and now is how to gain and maintain independence from factory management so as to actually represent the interests of the workers (Ni Haomei, 2012).

Another striking feature of the 1933 Labor Law is that it explicitly included under the category “labor” also part-time and temporary workers, and labor engaged for particular designated tasks 完成某项工程 (Article 91 under Chapter 12 on “Labor Contracts”), as well as agricultural workers, seasonal workers, coolies, artisans, and domestic servants (Article 3). This inclusive aspect of the 1933 law would in time stand out in sharp contrast to later, much more exclusive Reform-period labor legislation.

After the CCP Took Power Nationwide

After the CCP took power nationwide in 1949, it largely continued the Jiangxi Soviet tradition of including government officials among the

“employees-workers” protected under the labor law. Employees-workers of the official “state organs” 国家机关 and of “public institutions” 事业单位 were categorized together with the workers 工人. This would turn out to be no minor matter involving just a small number. In 2010, “employees-workers” of state and party organs, “public institutions,” and state-owned enterprises would together account for more than half of all employees-workers that would be formally protected by the 1995 Labor Law and the 2008 Labor and Contract Law (more below).

There was no formal labor legislation in the Mao Zedong period of the People’s Republic, but there were plenty of state directives concerning specific problems, before and during the period of socialist transformation of former capitalist enterprises into state enterprises. Those were aimed mainly at establishing standardized wages and the assignment of employees-workers by the government and by plan (Guojia laodong zongju, 1980: 15ff).

A special issue that emerged during the period had to do with “temporary workers” 临时工 (also termed “contract workers” 合同工 at the time), anticipating the changes to come in the Reform period. There was a tendency on the part of many units to use cheaper temporary labor from the countryside, known at the time variously as peasant-workers 民工 or both-worker-and-peasant 亦工亦农 (轮换工),¹ and under various arrangements like temporary work 临时工, contract work 合同工, “work by agreement” 协议工, “seasonal work” 季节工, and so on, all distinguished from regular workers. The practice of employing temporary workers for designated labor tasks—like construction and transport, and seasonal work like cotton ginning, salt drying 晒盐, tea making, and such—established a distinction between two classes of workers, the temporary or “casual” and the regular, “formal workers” 正式工人 (Guojia laodong zongju, 1980: 40–43). Since official state policy strictly limited the number of allowable conversions from temporary workers to permanent formal workers, a de facto two-class system of labor came to be established, albeit on a limited scale—also anticipating things to come on a larger scale in the Reform period.

The state’s main posture with respect to temporary workers in the planned-economy period was to control and limit their use, by requiring that units obtain upper-level permission and ordering them to minimize reliance on such labor. At several points the government ordered variously that temporary workers be included as part of the formal plan for labor use (1972), that they be authorized by the Labor Bureau (1977) and, in 1979, even that they be cleared out and sent back to the countryside (Guojia laodong zongju, 1980: 70–73). Those attempts to limit the full entrenchment of a two-class labor system would form a sharp contrast with what was to come.

Overall, we can see that formal regular workers, along with party cadres and officials, had already begun even in the pre-Reform period to change from a revolutionary to a governing and relatively privileged class to which admission was strictly limited, when compared to lower-status groups such as the employees-workers of collective entities, or the irregular, temporary or contract workers and worker-peasants, not to speak of mere peasants 农民.

The peasants occupied of course the bottom of that status order, and lower-status temporary workers came mainly from their ranks. The reality even then was a significant gap between city and countryside. It became formalized by state regulation through the establishment of the rigid household registration 户籍 system in January 1958, under which a person could only follow the status of the mother, regardless of the registration status of the father, thereby tightly limiting access to urban registration. The gap, however, was not nearly the gulf it was to become in the Reform period.

Reform Period Usage

In the Reform period came the massive and rapid expansion of the informal economy lying outside the protection of labor laws and regulations. First was the rural industrialization of the 1980s, spearheaded by rural collectivities that in the beginning paid their (“leave the land but not the village” 离土不离乡) workers in workpoints; hence there was simply no question of legal protections and benefits accorded urban industrial workers. The workforce of the rural enterprises, moreover, conceptually fit readily under the older categories of peasant-workers 民工 or temporary workers 临时工, and even seasonal workers 季节工, who combined off-farm employment with farming. Then came the massive migration of “leave the land and the village” 离土又离乡 peasant-workers into the cities for work, along with the disemployment of large numbers of employees-workers of state enterprises, either because of the bankruptcy of the enterprises or to “lighten the load” 减负 of the enterprises. At the same time, there was the rapid rise of small-scale “private enterprises” which, in the beginning, were seen as only semi-legitimate—owned by “natural persons” and not formal enterprises with “legal person” 法人 status. Soon informal workers came to outnumber formal workers.

It was against that background that the Labor Law of 1995 was promulgated. On the one hand, that law continued with the formal tradition that had come down from the 1933 Labor Law of the Chinese Soviet Republic. It continued with the provisions about protection for labor, spelling them out now in even greater detail. The work week must not exceed 44 hours and the workday 8 hours. Overtime must be remunerated at a rate of 150 percent of regular pay, and may not exceed 3 hours a day or 36 hours a month. Work on

holidays must be paid at 200 percent of regular pay, and on national holidays, at 300 percent. Workers are to receive, in addition to wages, social security benefits for retirement, health, injury, unemployment, and childbirth (the so-called five protections 五保) (Zhonghua renmin gongheguo laodongfa, 1995: Articles 36, 38, 41, 44, 70, 73; see also Zhonghua renmin gongheguo laodong hetong fa, 2008).

While the law neither spells out what kinds of labor it excludes nor gives formal definition to the category of “task-based labor relations” that was widely used in practice, it does spell out quite clearly what it includes. Formal “labor relations” are defined as occurring between employees-workers and their “employing units” that have “legal person status,” including those of “state organs 国家机关, public institutions 事业单位, and societal organizations 社会团体.” It is, by implication, only to such entities that the labor law applies. In practice, though not explicitly spelled out by the letter of the law, the labor law does not apply to the relations between employees and units without formal legal person and “employing unit” status, or temporary workers, uncontracted workers, or workers hired for particular labor tasks (Zhonghua renmin gongheguo laodongfa, 1995: Article 2; Zhonghua renmin gongheguo laodong hetong fa, 2008: Article 2).

Thus did a vast informal economy lying outside the scope of labor laws and regulations emerge alongside what was retained of the older, formal economy protected by the state’s labor laws. We turn next to the precise dimensions of the formal and informal economies.

The Urban Employed

Table 1 shows the changing proportions of urban formal and informal workers from 1978 to 2010. As can be seen, the numbers and proportions of informal workers in the total urban workforce have risen dramatically, from 0.2 percent in 1978 to 63.2 percent of the total urban workforce by 2010.

“Private Enterprises”

The first major category of informal workers who are shown in Table 1 are those employed in the so-called “private enterprises.” By definition, private enterprises do not have official “legal person” 法人 status and therefore, in the hierarchical scheme of things inherited from the planned economy, were in the beginning really only half legitimate and not officially recognized “employing units” (Zhongguo tongji nianjian, 2007: 138; 2011: 4).

In the present-day Chinese scheme of things, the difference between the unincorporated entity owned by “natural persons” 自然人 and the incorporated

Table 1. Numbers of Employees of the Informal and Formal Urban Economy, 1978–2010 (in 10,000s of Persons).

Year	Private enterprises	Individual entities	Unregistered	Informal economy total	Informal economy as % of total urban	Formal economy total	Formal economy as % of total urban
1978	—	15	0	15	0.2	9,514	99.8
1985	—	450	0	450	3.5	12,358	96.5
1990	57	614	2,313	2,984	17.5	14,057	82.5
1995	485	1,560	1,704	3,749	19.7	15,291	80.3
2000	1,268	2,136	8,163	11,567	50.0	11,584	50.0
2005 ^a	3,458	2,778	10,928	17,164	60.5	11,225	39.5
2010 ^a	6,071	4,467	11,384	21,922	63.2	12,765	36.8

Source. Zhongguo tongji nianjian, 2011: table 4-2.

a. These data were updated on the basis of the sixth decennial population census in 2010. A comparison of the data for the last year when the old projected data coexisted with the new adjusted data (2009) shows that for that year the number of urban employees was adjusted upward by 22 million, while the number of employed was adjusted downward by 44 million, resulting in a net downward adjustment of the total urban and rural employed by 22 million. Those adjustments tell about a higher rate of urbanization than had been projected on the basis of the 2000 census, and about substantial numbers of the rural employed who in the process of urbanization either came to be employed outside agriculture or ceased to be employed.

entity with a legal person status, of course, is that the former does not qualify for “limited liability” 有限责任 by law (in which liability from the business is limited to what one actually puts up / invests for one’s share of a business), a status which owners of larger businesses would naturally wish to obtain (lest their business risks and losses extend to their personal property—their homes and cars and other properties). These small businesses rely mainly on the cheapest labor available, the majority of them on disemployed workers and peasant-workers, who are considered to be only in a casual work relationship with them and for whom they need provide no benefits.

To give a concrete illustration of the difference between such informal workers and the formal ones, in a legal case in April 2012, two elderly peasants had worked for a fertilizer factory “private enterprise” for 50 yuan a day. Six months later, the factory was formally incorporated and obtained official “legal person” 法人 status as a limited liability company, becoming a legal “employing unit” 用人单位. The two peasants wished to stay on but were dismissed. They brought a complaint to the local labor arbitration committee 劳动仲裁委员会 on the basis of the 1995 Labor Law and the 2008 Labor Contract Law. But their petition was denied. The reason given was that they had worked under a task-oriented or “casual labor” arrangement, and hence legally fell under the category of “task-oriented labor relations” 劳务关系; therefore, the labor laws, which apply only to the legal category of “[regular] labor relations,” were not applicable (“Laowu guanxi,” 2012).²

There were reportedly 5 million such unincorporated “private enterprises,” urban and rural, in 2005, with an average of 13 employees per enterprise. In 2009, the number had risen to 6.24 million, employing a total of 90 million, averaging 15 employees per entity (“Di ba ci quanguo siying qiye,” 2009). The great majority of such enterprises are obviously relatively small entities. Their employees are set apart from the giant state-owned units and are at some remove also from those of the non-state limited liability companies that form the next higher tier of Chinese capitalist enterprise, as well as from enterprises with foreign and Hong Kong–Macao–Taiwan investments (funds), which are also considered legal “employing units.”

If one thinks in terms of what might be considered “Chinese capitalism” today, one clearly must not limit oneself only to the small-scale so-called private enterprises. To be sure, many of the larger so-called non-state 民营 enterprises today are erstwhile (smaller- and medium-scale) state enterprises that had been privatized in the late 1990s and early 2000s. Many of those retain “a thousand and one links” 千丝万缕 with the party-state and its officials. Nevertheless, today they behave in the main like private enterprises in seeking markets and profits, and in the distribution of profits. They need to be distinguished from state-owned (or state owning controlling-shares 国有控股) units, as is done in Chinese statistical practice. A sensible understanding of “Chinese capitalism” today needs to include not just the relatively small-scale “private enterprises,” but also the larger incorporated limited liability companies, plus the foreign-funded enterprises which, though not Chinese owned, are even more completely “capitalist” than the non-state Chinese corporations.

“Individual Entities,” the Self-Employed

Then there are the huge numbers of urban “individual entities,” which average just two (2.03) persons per entity, usually the owner(s) and a family member, sometimes a relative or friend or apprentice (44.67 million in 2010) (Zhongguo tongji nianjian, 2011: table 4-2). They are in the main the “self-employed.”

To judge by three relatively detailed studies of the most developed cities and areas—Shenyang 沈阳 city in 2008 (Liaoning province) (Zhan Na, 2008), Hefei 合肥 city (Anhui province) (2008 data) (Pei Bin 2012), and Guangdong province (2007 data) (Guangdong sheng gongshangye lianhehui, 2009)—a large percentage (56% in Hefei city, 70% in Guangdong province) of these self-employed are engaged in wholesale and retail trade (mainly of daily necessities and clothing), followed by small and modest eateries and hostels (12% in Hefei and 7% Guangdong), domestic and other services

(10% in Hefei and 9% in Guangdong), and transport work (10% in Hefei and 5% in Guangdong). The Shenyang investigation argues that the numbers of trade entities were declining over time while the service entities were increasing. Regardless, the great majority of the people operating the individual entities come from the ranks of the disemployed urban workers and the migrant peasant-workers.

If the impression those data give is mainly of small shops and eateries and such, we need to remember that the surveys were done in major cities (Shenyang and Hefei) and a highly urbanized province (Guangdong). In the less developed inland and rural areas of China, there would be many more old-style itinerant peasant peddlers and stall keepers, rather than new-style shops and stores; old-style artisans (tailors, repairmen, carpenters, ironsmiths, barbers) instead of anything that might be called “enterprises”; old-style cart or tractor-conveyor drivers or pedicabs, rather than new-style motorcycle, car or truck owner-drivers; and itinerant food vendors rather than new-style food stalls and eateries, and so on.

By official statistics of the Industry and Commerce Administration Bureau 工商管理局, the average amount of registered capitalization 户均注册资本 of self-employed entities was modest, just under RMB 16,000 (ca. US\$2,000) per unit in 2002, and RMB 39,000 (ca. US\$6,290) in 2010 (see Table 2) (Gongshang zongju, 2012).³ These people, clearly, are at some remove even from the small-scale *siying qiye*, which in 2007 had an average registered capitalization of RMB 1.7 million (“Di ba ci quanguo siying qiye,” 2009).

The majority of these so-called individual entities actually fit better in the old Marxist and Weberian category of the “petty bourgeoisie,” rather than in “private entrepreneurs” or private enterprises. As Marx pointed out from the perspective of “relations of production,” these people own their own means of production but use their own labor, and are therefore different from both capitalists and workers. Weber, along similar lines but from the perspective of market relations, pointed out that the petty bourgeoisie need to be distinguished from capitalists in that they have no hope or wish to control or monopolize the market, and from workers in that what they sell on the market is not their own labor but rather goods they deal in or produce with their own “capital” (Weber, 1978: 1.302–7).

In historical perspective, the petty bourgeoisie had long been a large part of China’s urban and rural economy, as indeed of “precapitalist” economies in general (Huang Zongzhi [Philip C. C. Huang], 2008; Crossick and Haupt, 1995). With the Chinese revolution’s “socialist transformation,” many of them were reorganized into “collective entities” and lost the identity of “petty bourgeoisie.” With the coming of market reforms and decollectivization, however, old and new petty bourgeois have returned en masse, to provide

Table 2. Numbers of Entities and Employed Persons, and Average Capitalization of Individual Artisan and Commercial Entities, 2002–2011.

Year	Number of entities (10,000s)	Number of employed persons (10,000s)	Average capitalization per entity (yuan)
2002	2,377.5	4,742.9	15,909
2003	2,353.2	4,299.1	17,793
2004	2,350.5	4,587.1	21,518
2005	2,463.9	4,900.5	23,578
2006	2,595.6	5,159.7	24,922
2007	2,741.5	5,496.2	26,813
2008	2,917.3	5,776.4	30,871
2009	3,197.4	6,632.0	33,954
2010	3,452.9	7,007.6	38,771
2011	3,756.5	7,945.3	43,066

Source. Gongshang zongju, 2012.

needed low-cost artisan and petty commercial services for not only the old economy but also the new economy (of modernized enterprises) in the cities and its peasant-worker labor force. Thus, one finds in both the countryside and in every migrant peasant-worker community of the cities large numbers of tailors, carpenters, repairmen, petty traders, and transport service providers, more like a precapitalist petty bourgeoisie than new-style “entrepreneurs” or “private enterprises” (Huang Zongzhi [Philip C. C. Huang], 2008).

There are of course a few among these “individual entities” who could be characterized by the term “entrepreneurs” 企业家, but those are most certainly a small minority. Indeed, the great majority of these self-employed people would be quite shocked to find themselves referred to by anyone as “entrepreneurs” 企业家 (more below).

The realities of these dimensions of the “self-employed” are well captured in the Chinese term *getihu* 个体户, literally “individual entities,” or *geti gongshang hu* 个体工商户, which in this context would be better rendered “individual artisan and commercial entities” rather than the usual “industrial and commercial” translation used when referring to the national Industry and Commerce Administration Bureau 工商管理总局. But those who are bent on seeing the inexorable forces of capitalism everywhere have tended to lump these self-employed entities together with the legal-statistical category “private enterprises” 私营企业, with an eye to spotlighting the “entrepreneurs” 企业家 of the latter who come out of the ranks of the self-employed. Thus, we see alongside the annual surveys of small-scale *siying qiye* conducted since 2002 (“Di ba ci quanguo siying qiye,” 2009), also annual “thousand

entities” surveys 千户调查 that focus exclusively on the entrepreneurs (“2011 nian qianhu minying qiye,” 2011), while ignoring the larger reality of the multitudes of employees and workers of the “private enterprises” who work under terms and conditions of a second-class informal economy, as well as the lowly and menial status of most of the self-employed. With the former, it is a matter of a difference between 5–6 million enterprise owners versus 65–90 million employees. With the latter, the difference is between the small minority who might be called “entrepreneurs” or budding entrepreneurs, such as shop-owners with a storefront, or small eatery or hostel owners, and the great majority, who are “self-employed” artisans, peasant vendors, peddlers, stall keepers, transport service providers with tractor vehicles, pedicabs, or even mule-drawn carts.

The Unregistered

In addition to the registered private enterprises and self-employed discussed above, there are a roughly equal number of people working in the urban areas who are not registered with the state administrative organs, as shown in Table 1, creating an additional divide between the formally registered and therefore legal, as opposed to the unregistered and therefore largely illegal or extra-legal. Those include in the main newer and less established peasants-workers working in the lowest levels of the informal economy, as temporary construction workers, janitors (“cleaning crew” 清洁工), itinerant peddlers or stall keepers, guards standing outside residential compounds and commercial buildings 保安, the help in eateries and hostels 服务员, domestic servants 保姆, manual transport and loading-unloading workers 运输、装卸工, and the like, many of whom work in the shadow of the law without permits, truly members of the so-called floating population 流动人口. They appear in the official state statistical tallies only as the difference between those who have registered with the official state administrative entities and the actual numbers of laborers counted up by the decennial population censuses (which have made every effort to enumerate every person living and working in the cities).

The Rural Employed

The rural employed, as Table 3 shows, today include first of all the 159 million in “rural enterprises” 乡镇企业 that employ mainly the “leave the land but not the village” peasant-workers.⁴ These enterprises include some formally incorporated entities, which by law are supposed to provide full benefits for workers, but as a rule do not. This is in part because of the very

Table 3. The Rural Employed, 1980–2010 (in 10,000s of Persons).

Year	Original projection	Adjusted figure	Increase or decrease	Rural enterprises	Private enterprises	Individual entities	Agriculture
1980	31,836			3,000			
1985	37,065			6,979			
1990	47,708			9,265	113	1,491	36,839
1995	49,025			12,862	471	3,054	32,638
2000	48,934			12,820	1,139	2,934	32,041
2001	49,085	48,674	-411	13,086	1,187	2,629	31,772
2002	48,960	48,121	-839	13,288	1,411	2,474	30,948
2003	48,793	47,506	-1,287	13,573	1,754	2,260	29,919
2004	48,724	46,971	-1,753	13,866	2,024	2,066	29,015
2005	48,494	46,258	-2,236	14,272	2,366	2,123	27,497
2006	48,090	45,348	-2,742	14,680	2,632	2,147	25,889 ^a
2007	47,640	44,368	-3,272	15,090	2,672	2,187	24,419
2008	47,270	43,461	-3,809	15,451	2,780	2,167	23,063
2009	46,875	42,506	-4,369	15,588	3,063	2,341	21,514
2010		41,418		15,893	3,347	2,540	19,638

Source. Zhongguo tongji nianjian, 2011: table 4-2; 2010: table 4-2.

a. According to the 2006 decennial survey of agriculture, that year there were 212 million employed who engaged in farming for more than 6 months, and 91 million who did so for less than 6 months (Zhongguo di er ci quanguo nongye pucha ziliao huibian, nongye juan, 2009: table 2-1-15). From that we can see that among the latter group, many were categorized as employed principally in rural industry, private enterprises, or individual entities.

deeply rooted concept that only urban industrial workers are entitled to benefits, not peasants. And one can rationalize against benefits for peasants on the grounds that they possess land rights, which are tantamount to employment benefits.

Moreover, we know from the two comprehensive and systematic decennial censuses of Chinese agriculture (in 1996 and 2006, which required the investigators to interview and fill out questionnaires on-site for every rural household), that rural persons today are typically engaged in more than one activity—farming and off-farm employment—but are categorized statistically according to the activity in which they are engaged for more than 6 months a year. Many of the township and village enterprise employees are engaged also part-time in farming and/or petty trading (Zhongguo di er ci quanguo nongye pucha, 2008; Zhongguo di er ci quanguo nongye pucha ziliao huibian, nongye juan, 2009; for a detailed discussion of the relevant data and why they are more reliable than others, see Huang, Gao, and Peng, 2012: 148–52). For those who wish, peasants and peasant-workers can easily be conceptualized as part-time, seasonal, or task-based labor. That is another reason why the rural township and village enterprises simply do not provide

employee benefits at all. Those that do provide some measure of benefits (accident insurance, for example) do so only at a much reduced level.

These ideas about peasants and their differences from urban employees-workers are so deeply entrenched that employment benefits for peasants is almost never considered. A search through CNKI under the keywords *rural enterprises* 乡镇企业 + *social (security) benefits* 社会保障 turns up not one study. The fact is that rural enterprises, even the incorporated ones, are simply not expected to provide the kinds of benefits accorded urban employees-workers as defined by the state's labor laws.

Most rural enterprises, of course, are not incorporated entities, or fully legitimate "employing units" by the definition of the labor law. Their employees thus fall unequivocally under the legal category of "task-based labor" or "casual labor" relations, rather than formal "labor relations" as defined by the law. They therefore have no legal obligation to provide regular, formal benefits for their employees.

The next category, the rural small-scale "private enterprises," as might be expected, are even more informal and less well capitalized than the urban ones discussed in the preceding section. Great numbers of their employees are really part-peasant part-worker, engaged in farming and/or self-employment part of the time. They lie even more unequivocally outside the protection of the state's labor laws.

This is of course all the more so with the rural "self-employed," many of them part-time farming peasants, who had long been part of the social landscape of villages and small rural towns. The Reform era has seen the revival and expansion of this part of the old peasant economy. These are truly the petty bourgeoisie that need to be distinguished from both capitalists and workers, far more like peasants who produce goods for the market with their own means of production than capitalists or industrial workers.

In this respect, the Chinese rural social landscape is much like that of most "precapitalist" economies. Even in Europe, recent scholarship has shown that the artisanal, hand-production petty bourgeoisie persisted far longer and in larger scale than our conventional assumptions about modernization and industrialization might lead us to believe (e.g. Crossick and Haupt, 1995; Wright, 1997; Huang Zongzhi [Philip C. C. Huang], 2008). All the more so for China, given its gigantic peasant population (900 million by registration) who still make up the great majority of all Chinese people to this day.

Finally, we have those engaged in farming, their numbers dropping just below 200 million by 2010. To be sure, these numbers (again counted in terms of those who engage in farming more than 6 months a year) have declined sharply in recent years, as I have discussed elsewhere, and hence the amount of land farmed per labor unit has risen substantially (to perhaps 10

mu per labor unit), as has the use of capital inputs (machinery, chemical fertilizers, herbicides), mainly by drawing on income from the urban employment of family members (Huang and Gao, 2013; see also Table 3). Nevertheless, the scale of farming has remained miniscule (1.66 acres or 2/3 of a hectare per labor unit), and the “pay” for their “labor” remains among the lowest of all working people in China. But there can be no mistaking the fact that they form the bottom of China’s social pyramid, working for lower returns even than the “leave the land but not the village” peasant-workers. Today, they are in the main middle-aged or older men and women, most of the younger people having left to join the ranks of the peasant-workers for the higher remunerations of off-farm work.

If we include under the informal economy the above categories of the rural employed, the great majority of whom are family members of the 253 million urban and rural peasant-workers (in 2010), both those who “leave the land but not the village” and those who “leave the land and the village,” the informal economy clearly encompasses the great majority of the working population. The rise and spread of that informal economy is the truly big social story of China’s economic development in the Reform period.

Today, “private enterprises” and the “self-employed” together have come to account for a total of nearly 60 million of the “rural” (i.e., including towns below the level of the county seat) employed; this is in addition to the 100 million thus employed in the urban areas, as shown in Tables 1 and 3. If we count in addition the rural collective-private enterprises that are categorized as “rural enterprises” 乡镇企业, that would be another 160 million. Adding 200 million farming peasants to these groups, we come to a total more than 500 million of the total of 761 million employed, as shown in Table 4.

If one adds then the 114 million unregistered urban employed, it becomes clear that the formal employees-workers, or at least those among them who have actually inherited the benefits of the socialist legislation of the revolutionary and Maoist past, are a relatively small minority—officially tallied at 128 million of the total of 761 million employed, or 16.8 percent. All the rest, employees of small informal enterprises, the self-employed of the individual entities, the township and village enterprises, and the simply unregistered, account for by far the majority, 630 million, or 83.2 percent, as shown in Table 4.⁵

Informal and Formal Economies

The three legal-statistical categories of “labor,” “individual entities” or “self-employed,” and “private enterprises,” then, must be understood against the background of the huge informal economy outside

Table 4. Numbers and Proportions of Formal and Informal Employees of China, 1980–2010 (in 10,000s of Persons).

Year	Total employed persons	Formal-economy employees	Formal-economy employees as % of total	Urban informal-economy employees	Rural informal-economy employees	Informal-economy employees as % of total
1978	40,152	40,152	100.0	0	0	0.0
1990	64,749	14,057	21.7	2,984	47,708	78.3
1995	68,065	15,291	22.5	3,749	49,025	77.5
2000	72,085	11,584	16.1	11,567	48,934	83.9
2005	74,647	11,225	15.0	17,164	46,258	85.0
2010	76,105	12,765	16.8	21,922	41,418	83.2

Source. Zhongguo tongji nianjian, 2011: table 4-2.

the protection of state labor laws, whose employees work with little or no benefits. Only then can we place the categories into their current social-economic context; only then can their real meaning be accurately grasped against existing realities.

Formal Versus Informal Economies

The formal economy carries the weight of the past, of assumptions and practices accumulated over a relatively long time. Thus, the *China Labor Statistical Yearbook* 中国劳动统计年鉴 continues to tally only the formal employees-workers, as if the vast informal economy did not exist, or at least as if it does not fall under the category “labor.” When the yearbook gives average annual wages and work hours and such, it is basing itself only on the formal economy. For 2007, for example, it showed that employees-workers wages averaged RMB 20,856 per year, and all worked within the range of 40 to 50 hours a week (Zhongguo laodong tongji nianjian, 2007: tables 1-28, p. 52; 1-43, pp. 82–83; 1-68, p. 119).

By contrast, the three systematic surveys of peasant-workers now available to us show a very different picture. As Table 5 shows, even today (in 2011), 85 percent of peasant-workers work more than the legal standard of 44 hours. And just 14 percent have retirement benefits and just 17 percent have health benefits (Zhongguo nongmingong diaocha jiance baogao, 2011), this after 3 years (2009–2011) of concerted state effort to reform the healthcare system (Li, Chen, and Powers, 2012).

As for their wages compared with workers of the formal economy, we need to go back to earlier studies for systematic comparative data. The 2006

Table 5. Peasant-Workers: Numbers, Hours Worked, and Rates of Participation in Social Insurance, 2006, 2010, 2011 (10,000s of Persons).

Year of investigation	Total number	Peasant-workers away from home	Peasant-workers locally employed	Numbers of hours worked per week or day	Retirement insurance participation rate	Health insurance participation rate
2006	20,000?	12,000?	8,000?	Average 11 hours per day?	15.0?	10.0?
2009	22,978	14,533	8,445	89.4% >44 hours per week	7.6	12.2
2010	24,223	15,335	8,888	90.7% >44 hours per week		
2011	25,278	15,863	9,415	84.5% >44 hours per week	13.9	16.7

Source. Zhongguo nongmingong wenti yanjiu zong baogao, 2006; Zhongguo nongmingong diaocha jiance baogao, 2011.

centrally directed study found that peasant workers worked on average 11 hours a day, compared to 8 hours for the formal-economy workers, and earned just 60 percent of the pay, without counting the difference in benefits (Zhongguo nongmingong wenti yanjiu zong baogao, 2006).

An independent investigation by a group of international scholars in collaboration with Chinese researchers found that they earned just 50 percent of the pay of workers in the formal economy, also without counting the differences in benefits (Gustafsson, Li, and Sicular, 2008: 12, 29; Khan and Riskin, 2008: 76).

The distinction between the formal and informal economies, in other words, is a fundamental and gigantic reality without which we cannot understand the deep social crisis that grips China today. Labor laws today in fact apply really only to the formal economy, only to 128 million of the total labor force of 761 million, something that is easy to miss entirely if one takes “labor” only by its surface meaning, in English or in Chinese. The 1995 Labor Law, we have seen, in fact deals only with formal “labor relations,” defined by law to include only formally incorporated (i.e., with “legal person” status) firms. And then those definitions are intended to apply only to the urban formal economy, not to the rural firms, incorporated or not. It excludes employers who do not qualify as legal “employing units,” and it excludes temporary workers, part-time workers, labor hired for a particular task, all grouped under the category “casual” or “task-based labor relations,” as opposed to regular, formal “labor relations.” The problem, of course, is that terms like “casual labor” or “task-based labor” do not begin to suggest that they actually amount to the great majority of the laboring people, as they do in China today.

“Dispatched Workers”—A New Category of Informal Labor

The 2008 Labor and Contract Law continues with the two categories of regular versus casual laborers that were in the 1995 Labor Law, but adds a new third category derived and invented from the concept of “task-based labor”—the “dispatched (casual) labor” [劳务]派遣工, dispatched by newly arisen and rapidly proliferating “task-oriented labor dispatching firms” 劳务派遣公司.

This “dispatched labor” practice is a strange new phenomenon that illustrates well the peculiar mixing of capitalist and socialist rhetoric and practices in China today. It had begun in the 1980s as a way for the Chinese government to provide needed labor and services for foreigners and foreign entities in China, by way of an organ tightly controlled by the party-state, which saw this as a matter of national security. Then after 1995, in the face of the massive disemployment of regular employees-workers of the state-owned enterprises (joined with the privatization of the smaller ones under the approach of “keep the big ones and let go of the small ones” 抓大放小), some of the larger state-owned enterprises organized labor dispatching “firms” 劳务派遣公司 or organs 组织 to arrange for alternative employment for their disemployed workers. The state’s Labor and Social Security Bureau 劳动与社会保障部 also engaged in similar efforts at both the central and local levels. Down into the early years of this century, therefore, “labor dispatching” had remained primarily a category describing government activity (2008–2009 nian Zhongguo jiu ye baogao, 2010: 263–64).

But then came a tremendous change around 2005, as large state-owned enterprises as well as large outside-capital funded enterprises came increasingly to rely on cheap casual labor to do low-paid, no-benefits work, like janitorial services 清洁工 and gate and building guards 保安, or special temporary jobs like construction or building repair, or moving and transport (e.g., in the relocating or reorganizing of firms and offices). For those tasks, they have turned more and more to “casual workers,” usually unskilled and often even unregistered (2008–2009 nian Zhongguo jiu ye baogao, 2010: 266–71).

Instead of taking it upon themselves to employ such labor (and risking the violation of the state’s formal labor laws and regulations), the larger formal units have turned to special non-government labor dispatching firms that have emerged to fill the need. These new “task-based labor dispatching firms” 劳务派遣公司 have taken on the role of arranging for such work and acting as the nominal employer, such that labor disputes come theoretically and legally to be between the dispatching firm and the worker rather than between the actual employing unit and the worker.

As one legalistic mind rationalized it, the relationship between the worker and the actual employer is that of a task-based labor relationship, hence outside the purview of the labor laws, which are concerned with formal worker and formal employer “labor relations.” The relationship between the worker and the intermediating “labor dispatching firm,” however, is in theory a matter of “labor relations” and therefore subject to control by the labor laws, with respect to its “contract” with the “laborers” (“Laowu paiqian,” 2013). The unspoken caveat, however, is that the labor dispatching firm usually comes with little capitalization and is not the actual, on-site employer. It is therefore almost impossible for a laborer to hold the labor-dispatching firm responsible for wages owed or compensation for labor accidents, not to speak of any workers’ insurance benefits.

It is this kind of convoluted and legalistic reasoning and contrivance that allow the larger state-owned units (including government and party organs, public institutions including universities, and state-owned enterprises) to circumvent official labor laws and regulations in their use of labor. The basic drive behind the spread of this phenomenon is of course the pervasive demand by the large formal entities and corporations for cheaper informal labor. Small entities such as the small-scale “private enterprises,” by contrast, have not the same need to circumvent state labor laws since the majority of them are by legal definition not a formal “employing unit”—the relations between them and their employees do not fall under “labor relations” governed by labor laws in the first place. Thus, we have the paradox of the largest and most formal institutions resorting the most to labor-dispatching firms and dispatched labor, this according to the detailed investigative report of the state’s Human Resources and Social Security Ministry 人力资源部 (the newly adopted name for the old Labor and Social Security Bureau) (2008–2009 nian Zhongguo jiuye baogao, 2010: 273–74).

In any event, since 2005 there has been rapid proliferation of this new phenomenon of “dispatched workers” and “labor dispatching firms.” The number of “dispatched workers” in 2009 has been conservatively estimated by the state Human Resources and Social Security Ministry at a total of 10 million, but is much more commonly cited (e.g., by representatives to the National People’s Congress calling attention to the problem) as 25 million (2008–2009 nian Zhongguo jiuye baogao, 2010: 263–66).⁶ A lengthy and detailed article in Baidu baike 百度百科 (Baidu baike being China’s equivalent of Wikipedia) argues that this is a positive development to meet practical needs, and estimates that this good thing will reach 60 million by year 2015 (“Laowu paiqian,” 2013). If that forecast should turn out to be correct, then this further informalization of the Chinese economy will have more than counterbalanced and outnumbered the limited amount of formalization that

has taken place under state efforts of recent years to increase the proportion of workers with formal written contracts and with social insurance.

To date, labor dispatching can only be seen as a further expansion of China's already mammoth informal economy, already accounting for 83.2 percent of all employed persons in 2010. What the new labor dispatching phenomenon tells about is that even the most formalized entities—state-owned units and large domestic and foreign corporations, which make up the core of the formal economy—have begun massively to take advantage of China's huge informal peasant-worker labor supply. The difference from past practices, in which numerous local governments, in their eagerness to “draw in business and investments” 招商引资, tacitly or explicitly allowed larger enterprises to circumvent state labor laws and regulations, is that now the practice has become almost completely legalized, with the formal backing of new labor legislation.

By comparison with the dimensions of the problem, state efforts to provide low-level benefits for peasants and peasant-workers in recent years must be seen as of limited import. The persistence of a two-class system of labor, despite official rhetoric, must be seen as a fundamental shortcoming of China's “socialist market economy.”

Misunderstandings of the Above Categories in Past Scholarship

In addition to demonstrating the scope and logic of China's informal economy, part of the concern of this article is to show how the legal and statistical categories discussed above have led to serious misrepresentations of Chinese realities.

Labor

The biggest problem is with the term “labor,” or “workers,” or “the working class.” By standard usages of the term, “labor” and labor laws are understood to apply to most of the society's industrial labor force. Left and Right are the same on this point. In the perspective of the Left, in line with the classical perspective of Marx, factory workers are seen as the main social basis for anticapitalist struggles. Leftist research on Chinese labor, therefore, tends to focus on their struggles against *capital* along orthodox Marxist lines.

What is left out of such a perspective is the fact of the informal economy, which makes up the great majority of the workforce in China today (as in most of the developing world; [Philip C. C.] Huang, 2009). By comparison with

Table 6. Employees of China's Formal Economy by Registration Type 登记注册类型, 2010.

Registration type	Numbers of employee workers (10,000 persons)
State-owned units 国有单位	6,516
1. Party agencies 中国共产党机关	567
State organs 国家机构	1,326
Other	319
2. Public institutions 事业单位	2,196
3. State-owned enterprises 国有企业	2,108
Collective-owned units 集体单位	597
Cooperative units 股份合作单位	156
Joint ownership units 联营单位	36
Limited liability corporations 有限责任公司	2,613
Shareholding Corporation Ltd. 股份有限公司	1,024
Units with funds from Hong Kong, Macao, and Taiwan 港澳台商投资单位	770
Foreign-funded units 外商投资单位	1,053
Total	12,765

Source. Zhongguo tongji nianjian, 2011: 4-2; Zhongguo laodong tongji nianjian, 2011: 4-1.

them, we have seen, those whom the state officially defines/categorizes as “employees-workers” in the legal-statistical category “labor” actually amount to something of a relatively small and privileged group, especially the 22 million regular state-party organ 国家机构、中国共产党机关 employees-workers, another 22 million employees-workers of public nonprofit institutions, and about 21 million more employees-workers of large strategic state (state-owned or state-controlled shares) enterprises, or a total of 65.16 million persons in 2010, as shown in Table 6, who enjoy full benefits and legal protections inherited from the revolutionary and Maoist traditions.⁷ It is actually they who make up a large proportion of the privileged so-called middle class 中产阶级 of China today. Close to them are regular employees-workers of the larger foreign capital and joint Chinese-foreign capital enterprises (including Hong Kong–Macao–Taiwan capital), and the larger non-state firms with officially registered “legal person” status, whose workforce in 2010 totaled 55 million. Adding to these groups the relatively small numbers employed in collective-owned entities 集体所有单位, cooperative units 股份合作单位, and “joint ownership” 联营单位, the formal-economy employees-workers protected or ostensibly protected by the state’s labor laws today total 128 million, as shown in Tables 4 and 6.

Of course, substantial numbers of the latter categories in fact do not receive full benefits of the order of the state units and enterprises. Some are even ruthlessly “exploited” by capital with the tacit agreement of the local government concerned. The most notorious example is the Taiwan firm Foxconn 富士康, maker of Apple’s iPhone, iPad, iPod, and iMac fame, which employs a labor force of more than one million in China.

Nevertheless, by the state’s labor laws, these formal-economy workers are the ones who can call on state labor legislation for support in their disputes with the companies, because they are formally defined by the state as employees-workers, and are deemed to belong under “labor relations” as defined by law, and hence are to be protected by the 1995 Labor Law and the 2008 Labor Contract Law.

But those are just a small minority of China’s workforce. By the discursive legal-statistical gimmick of using “labor” and “workers” for employees-workers of the formal economy, both white and blue collar, the state has conveniently obscured the gigantic reality of the informal economy, and drawn the main attention of researchers to the much smaller, and relatively legally privileged, formal economy.

The Work of Ching Kwan Lee. Thus does even an outstanding researcher like Ching Kwan Lee of the University of California, Los Angeles come to focus on only the formal economy, giving her attention only to those in the formal economy who have been deprived of protections to which they are legally entitled. Her book (Lee, 2007) therefore studies first the unemployed workers of the northeast, most particularly in Liaoning province of China’s industrial “heartland,” which she dubs the “rustbelt.”⁸ She does so under the arresting title of “the unmaking of Mao’s working class.” The book then turns to Guangdong province where the new gigantic non-state and foreign-funded enterprises have taken hold, an area she dubs the “sunbelt.”

Her intention is to show how the peasant workers-employees of those entities have fallen far short of the provisions of the labor laws and how they have used the labor laws to struggle for their rights against employers. She does show graphically and well how the system is stacked against even the formal and legally protected workers: to seek the intervention of the Arbitration Committee of the Labor Bureau, which is a required step by law before a complaint can be filed with the courts, the workers must pay up front 4 percent of the disputed amount, plus a case fee of 50 yuan, and a reproduction fee of 60 yuan for a required copy of the registration of the company with the Industry and Commerce Bureau 工商局. She points out how these requirements alone can be prohibitive for many would-be protesters (p. 177).

What she overlooks is that the last requirement is imposed precisely because the state requires the complainant worker to prove right from the start that (s)he belongs to the formal economy, that the employer is in fact an incorporated firm that fits the legal definition of an “employing unit” of the formal economy. Otherwise, the Labor Bureau would classify the matter as involving a “casual worker” or a “task-based worker” 劳务工 and not accept the case, this even though it is those people not protected by the labor laws and regulations who are the true majority of China’s workforce today.

In numerous places in the book, Lee shows that she assumes that labor laws apply uniformly to all or the vast majority of “workers,” including the peasant “migrant workers.” Thus she writes, for example,

For migrant workers involved in collective disputes with employers, the Labor Law has proven pivotal in labor contentions as it accords, on paper at least, all laborers the same contractual status and rights regardless of social origin and ownership sector. (p. 198)

And, with reference to “migrant-workers,” she writes, “The Labor Law defines them as workers with legal rights and therefore furnishes institutional leverage amidst all kinds of disadvantages” (p. 166).

In making such assumptions, she accepts in effect the state’s formal representations, which ignore the very much greater numbers of informal workers. When she does talk about those informal workers she calls them “flexible” or “casual workers.” Basing herself on the “employment report” issued by the Labor and Social Security Bureau, she mentions day laborers, seasonal, temporary, subcontracted workers, and the “self-employed, and independent service workers such as peddlers and domestic helpers.” Such workers, she says, “can be found in different occupations, principally in community services (care for the elderly, maid service), urban sanitation (garbage collection, street cleaning), secondary production services (e.g., packaging, parts, and components) and personal service (e.g., hair salons, bicycle repair, concession stands, moving, and transportation).” She devotes just nine pages (pp. 130–39) of the entire book to these “casual workers.”

One is thus led unavoidably to think that the informal economy is but a small part of the much larger story about labor. There is no mistaking the intent of her book, which is to demonstrate the injustices visited upon China’s “workers,” and to demonstrate the gap between law and practice (hence the *Against the Law* part of the title of her book). And her sympathies are without doubt against capital and for the underdog majority. What is missing from her work, however, is the awareness that law itself has become a major instrument for covering up the gigantic reality of the informal economy, by simply

defining away the great majority of laboring people, placing them outside the state's legal-statistical categories of "labor" and "workers." Despite her best intentions to study the laboring people, she ends up in effect focusing on just that minority formal economy, and just those among them who have not received the benefits and protections accorded by law.

The official legal-statistical discourse that sweeps the very much larger numbers of informal workers outside the legal-statistical category of "labor," by placing them under the legal category of task-based or casual labor relations, has thus led Lee to focus just on a minority of China's laboring people. Today, it is the informal workers who in fact constitute a great majority of laboring people not only in services but also in industry—as temporary workers, workers hired ad hoc for specific tasks, workers subcontracted on an ad hoc or temporary basis for such, workers contracted through "dispatching labor firms," and the even greater numbers of simply un-contracted workers. Lee, who would otherwise empathize the most with the underdog ("the weaker classes" 弱势群体), has actually had her attention diverted away from the majority of China's "laboring people" 劳动人民, in the true meaning given to that term by the Chinese revolution.

For Lee, perhaps, there is in part also the influence of the long tradition of progressive studies of labor movements in the West, which Lee to her credit takes carefully into account. From those traditions comes the influence of the Western experience, where the peasants and the peasant economy, by contrast with China, gave way quite quickly to "capitalist relations of production" (i.e., capital and wage labor relations). But the social reality in China is that the vast majority of the population have remained peasants, even as the economy becomes the second largest in the world in industrial output. This is the fundamental reality that underlies the continued preponderance of peasant-workers and peasants in the Chinese workforce.

For modern and contemporary China, the term "labor" in fact needs to be reconceptualized not as urban "workers" 工人 in the Marxist or modern Western labor history tradition, nor as "employees-workers" 职工 in the post-1949 contemporary Chinese usage, but rather as "peasants and workers" 工农 in the original Chinese revolutionary tradition. When workers are seen in conjunction with the vast numbers of peasants from whom they come, it becomes clear that the "laboring people" 劳动人民 are not just the urban, industrial "working class," but rather workers and peasants seen in conjunction. One would then not overlook the simple and basic reality that peasants and peasant-workers are those who continue to make up the great majority of the laboring people even today, and that formal urban industrial workers, even those who are mistreated, are in fact a relatively small group among China's vast numbers of laboring people.

The “Self-Employed” or “Individual Entities” 个体户 Versus “Private Enterprises”

Related to the misleading legal-statistical category of “labor” and “the working class” are the “individual entities” and the small “private enterprises.”

“Individual entities,” we have seen above, are actually in the main the “self-employed,” or, in Marxist and Weberian terms, the “petty bourgeoisie,” of artisans and other service workers and petty traders, this even though the pro-capitalism currents of opinion in China have sought to redefine all of them as budding “entrepreneurs,” to be classed and tallied together with the legal-statistical category of small-scale “private enterprises.”

The Work of Kellee Tsai. That tendency has been further exaggerated by taking literally the misleading surface meanings of Chinese legal-statistical categories in their English translations. Thus does a fine scholar like Kellee Tsai of Johns Hopkins University come to use the term “private entrepreneurs” in her book *Back Alley Banking: Private Entrepreneurs in China* to include both the Chinese categories of “private enterprises” and “individual entities.” As concrete examples and illustrations of what she means by “private entrepreneurs,” she tells about and exhibits photos of a one-man bicycle repair shop (Tsai, 2002: 18), a family-operated roadside eating stall (p. 21), women street vendors (p. 46), a pedicab man (p. 86), a woman with a small stall selling spices (p. 111), three peasant women each selling a single basket of produce from her farm (private plot) (p. 253), and a Muslim woman tailor (p. 260), all of whom fit the Chinese category “individual entities” *getihu*. She does include in her narrative also individuals who might fit under the Chinese category “private enterprises,” such as a restaurant owner and an ex-worker with a store selling daily-use sundries, plus a “township and village enterprise”—a village enterprise exporting seafood.

The majority of the first category of people above would be very surprised indeed to find themselves described as “private entrepreneurs” in English, and surely even more stunned to see themselves characterized in Chinese as *qiye-jia* 企业家. For local information on her subject of “private entrepreneurs” in Quanzhou city in Fujian, one of Tsai’s chief sources is the publication by the 泉州市个体劳动者协会 which she renders accurately as Quanzhou City Individual Laborers Association.⁹ But the fact that this was the publication of an entity that named itself “individual laborers association” did not deter her from rendering the data as pertaining to “private enterprises” and “private entrepreneurs” in the three figures she presents (pp. 82–83). She uses the same source on pp. 90–92 in the same way. She would have done better to take heed of the fact that the group’s self-conception was “individual laborers.”

Her method of research is mainly interviews of her “private entrepreneurs,” and she gives little attention to numbers. She starts at the outset with the number of “30 million private entrepreneurs” (p. 2) but nowhere does she discuss where and how she reached that number. Since we know from the annual systematic surveys of the Chinese legal-statistical category of “private enterprises” begun in 2002 that there were just 5 million such entities later in 2005 (and 6.24 in 2009), the remainder of her 30 million “private entrepreneurs,” from her narrative and evidence no less than from her number, are surely intended to be the “individual entities.” The total of the Chinese categories *getihu* and *siying qiye* ca. 2000 would indeed come close to her figure of “30 million.” In her discussion of Henan province in chapter 5, her narrative in fact more explicitly refers to the two Chinese categories.

The problem, then, is first of all with the misleading Chinese categories “individual entities” and “private enterprises.” Those are made doubly confusing by being lumped together under her English expression “private entrepreneurs.” “Private entrepreneurs” and “private enterprises” in the English discursive context would encompass everything from small businesses to larger corporations, indeed nothing short of the essence and stuff of capitalism. Not so with its Chinese term *siying qiye*, which we have seen includes only unincorporated small businesses (averaging 13 employees in 2005, and 15 in 2009), but not the larger capitalist and semi-capitalist limited (liability) companies. That too is a source of confusion. The most important, however, is the misleading rendering of the self-employed as “private entrepreneurs,” when a majority of them are self-employed service people better characterized by the old category “petty bourgeoisie” than by her term of capitalistic “private entrepreneurs.”

The term *siying qiye* 私营企业 is in fact best and most accurately rendered into English as “small private enterprises” (or “small businesses”), not the misleading simple rendering in English of “private enterprises.” And the *getihu* are best rendered into English as the “self-employed.” By merging the two categories into “private entrepreneurs,” her work in fact seriously misrepresents Chinese realities. It comes close to arguing that these people equal private capitalism in China. That notion falsely excludes the larger private capitalist and semi-private capitalist companies as well as the foreign-funded capitalist firms (for all of whom formal banks are the main sources of credit, not “informal financial institutions,” the “curb market,” or “back-alley banking”), while it falsely includes the great multitudes of artisans, peasant peddlers, and providers of other kinds of services. The majority of them are better classed with the laboring people of the vast second-class informal economy, not just in a social science sense, but by their own perception of themselves as “individual laborers” 个体劳动者 among the “laboring people” 劳动人民.

The Work of Yasheng Huang. The work of Yasheng Huang (2008), of the Sloan School of Management of MIT, is misleading in a similar way. The anchor of Yasheng Huang's analysis of Chinese capitalism is his picture of the nature of Chinese development in the 1980s. Contrary to prevailing opinion that collective township and village enterprises (TVEs) played a major role in the dynamic rural industrialization of that period, Yasheng Huang insists that it was rather private enterprises that drove the development of that decade. In his view, what happened after June 4, 1989, is that the free enterprise approach was given up for a much more heavy-handed role by the state. He would have China return to the much more private-enterprise-based experience of the 1980s. The key evidence he adduces for his picture of the 1980s is that collective entities amounted to just a small minority of all enterprises, that "private TVEs absolutely dominated the total pool of TVEs" (Huang Yasheng, 2008: 78).

The way he arrives at such a finding is by including the self-employed *getihu* among the TVEs, much as Kellee Tsai turned them into "private entrepreneurs." It is on that basis that he concludes in his own summary of principal findings that, of the 12 million total TVE units in 1985, "10 million were completely and manifestly private" (p. xiv). On p. 79, table 2.1 of the book, we discover that those 10 million refer to the "individual entities," which he somehow manages to classify as "township and village enterprises."

By his own data, the 10 million private out of 12 million TVEs in total in 1985 is belied by the employment figures he gives in the same table: the "collective" TVEs accounted for 41.5 million employed, compared with 4.75 million employed by the "private-run" TVEs. (To that, Yasheng Huang would of course add his misplaced number of 23.5 million self-employed—p. 79, table 2.1—but, even then, the collective entities would account for 60% of all those employed who are enumerated in his table.)

It is on the basis of the faulty empirical evidence above that Yasheng Huang builds two crucial pieces of his overall argument: namely, that there were two sharply contrasting periods in Chinese Reform period development, "the short 8 years of the entrepreneurial era (1980–1988)" and "the long 13 years of the state-led era (1989–2002)" (p. xvii). He goes so far as to dichotomize between what he calls the "two Chinas—the entrepreneurial, market-driven rural China" and "the state-led urban China" (p. xvi).

I believe Yasheng Huang's "entrepreneurial era" and capitalism-from-below is a mirage. Higher state-set prices for agricultural products, collective-powered rural industrialization, and the expansion of rural petty trade and services are perfectly able to explain the rises in peasant incomes, as well as the more equal income distribution measured in terms of Gini coefficients

and urban-rural gaps of that period (just 1.8: 1 in 1985, but 3.3: 1 in 2009) (World Bank, 2009: 34, and fig. 2.36). We do not need the overly dramatized “short 8 years of entrepreneurial era” versus “the long 13 years of the state-led era” to grasp China’s recent social and economic history.

Conclusion

The mixing of revolutionary and marketist language in Reform China today, then, has resulted in much distortion of the realities of Chinese society-economy. The most serious, perhaps, has been the obfuscation of the legal-statistical category of “labor,” interpreted by arguably *the* leading scholar of Chinese labor to mean the “working class,” when it has in fact come to be applied in Chinese only to the privileged status group of employees-workers of state-owned entities, including government officials, public institutions, and state-owned enterprises, plus those of large non-state corporations, including foreign-funded units, together conceptualized as being involved in formal “labor relations,” which are governed by the state’s formal labor laws and regulations. “Labor” as a legal-statistical category today in fact excludes the vast majority of the “laboring people,” placing them outside the purview of the legal-statistical category of the regular, formal employees-workers. This vast sector of the informal economy is grouped instead under “casual labor relations” or “task-based labor relations,” outside the purview of the official state labor laws. It includes the disemployed state workers 下岗工人 (50 million), almost all the peasant-workers 农民工 (253 million, of which 159 million are urban and 94 million rural) (Table 5), and the other employed members of their families (320 million, of which 65 million are employed in township and village enterprises, 33.5 million in rural private enterprises, 25.4 million as self-employed individuals, and 196.4 million in farming), or a total of 83.2 percent of the labor force. They make up the vast majority of the “laboring people” in the country, but are legally and statistically excluded from the category of “labor,” “workers,” and the “working class.”

The obverse of this is the rendering of the self-employed as “entrepreneurs” by those preoccupied with finding the inexorable forces of capitalism in Chinese society. Hence the spotlighting by Kellee Tsai of the self-employed artisans, petty traders, and other service people, the “individual entities,” as the main content of Chinese “private entrepreneurs” and capitalism while excluding the larger incorporated limited liability companies, and the counting of the “self-employed” as, somehow, “private” “township and village enterprises” by Yasheng Huang. The result is the obscuring of a group that is still best characterized as the “petty bourgeoisie” of present-day Chinese

society-economy, the majority of them still very much tied to the peasant economy, more in the category of the “laboring-people” by the term’s original usage in the Chinese revolution than anything that might be called “capitalists” or “entrepreneurs.”

We have thus an obfuscation of some very big realities of present-day China: first is the focus on a minority of relatively high status group of formal (white collar) employees and (blue collar) workers along with state officials, to the neglect of the majority of the workforce; second is the mistaken equation of the self-employed among China’s laboring peasants and workers with “private entrepreneurs” and “private enterprises.”

These different laboring people of Chinese society-economy, though obscured by official legal-statistical categories, are, however, fairly well captured in popular discourses within China: e.g., by the terms peasants 农民, peasant-workers 农民工, individual entities or the self-employed 个体户, and disemployed workers (of state enterprises) 下岗工人. This is not to say that popular (as opposed to official) Chinese usages are all precise and do not show blind spots and misunderstandings—for those are abundant, especially in academic research imitative of Western scholarship, as for example in current usages of the terms “the middle class,” “the tertiary sector,” and the “Lewis-ian turning point,” as I have discussed in greater detail elsewhere (Huang, 2009), only that the original popular Chinese terms were more descriptive of realities. And those convey fairly well the great difference of Chinese social realities from the modern West: namely, the persistence of peasants, and hence also of peasant-workers and the petty bourgeoisie, who together have remained the majority of the workforce down to the present. It is they who make up the gigantic new “informal economy” without which there can be no realistic comprehension of China’s laboring people.

Here the problem with a good deal of the present research is over-reliance on categories and concepts derived from the experiences of the modern West (a failing in both English-language scholarship, which sometimes applies Western-originated concepts to China uncritically, and of Chinese scholarship, which sometimes employs borrowed Western categories uncritically), where peasants and the petty bourgeoisie did not persist to nearly the same extent, where the forces of capitalism, and the social categories of capitalists and workers, took over more quickly and more completely than in China. To return to fundamental Chinese realities, let us call once more upon the crucial original perception of the revolution, which was made in the name of the laboring people 劳动人民—workers and peasants—who still make up the vast majority of the Chinese population, but who today are to a great extent neglected by the state’s formal labor laws.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

Notes

1. For coal mines, there came in 1959 the establishment of the special category of “both-worker-and-peasant” 亦工亦农, referring to people who alternated mining work with farmwork, termed 轮换工, considered a particularly suitable type of work organization for mines (Guojia laodong zongju, 1980: 44–45)
2. For case examples of what even formal workers are up against in trying to assert their rights, see, “Laodong jiufen,” 2010; “Laodong zhengyi,” 2012; “Meiti gonggao,” 2007.
3. A small minority of the self-employed are new-style and more highly educated types. One 2009 questionnaire survey of 921 such individuals in Changchun city dubs them the “knowledge-type individual businesses” 智力型个体户 and “freely employed persons” 自由职业人, including physicians, teachers, writers, artists, IT technicians, and “free businesses individuals” 自由经济人. The study attempts to look to a still more developed future, but such individuals are clearly just a small number of the total of the individual entities (Changchun shi shehuizhuyi xueyuan ketizu, 2011).
4. The old term for rural enterprises 乡镇企业 was township 乡 and village 村 enterprises 企业, which came to be referred in English-languages studies as “township and village enterprises,” or TVEs for short. The newer term 乡镇 is perhaps best rendered simply “rural enterprises,” with the understanding of the distinctive Chinese meaning for rural, *xiang* 乡 or 乡村, which includes towns up to but not including those of the administrative level of the county seat, this as opposed to the term urban, 城镇, or cities and towns, which include towns down to and including the level of the county seat.
5. To be sure, one needs to deduct from the numbers here the owners of the “private enterprises” as well as the most well-to-do among the self-employed, but those numbers need to be balanced against the substantial numbers among the “formal economy” who do not enjoy wages and benefits even close to those well-treated regular employees-workers of the state units and large corporations, such as the employees-workers of collective units, those “dispatched workers” 劳务派遣工 who are counted among the employees-workers of the state units and large corporations (discussed below), and those in areas where local governments, in their eagerness to draw in foreign investment, have explicitly or tacitly agreed to circumvent formal labor laws and regulations.
6. The Human Resources and Social Security Ministry in its 2008–2009 report called explicitly for the inclusion of “dispatched workers” in official statistical tallies. The

2008 Labor Contract Law, as we can see, represents an attempt to establish some legal oversight of the phenomenon of “dispatched labor,” but its contrast with the 1933 Jiangxi Soviet labor law is a sharp one: 1933 law had explicitly banned private employment entities 私人设立的工作介绍所, surrogate employment entities 雇用代理处, and foremen acting as agents for hiring labor 委托工头招员工.

7. As we have seen, today they employ in addition through “labor dispatching firms” 劳务派遣公司 at least another 10 million informal workers.
8. “Disemployed workers” in my view a more accurate rendering of the Chinese term 下岗工人 than her “unemployed workers.”
9. The publication’s title is 十载光彩路, which she renders “A Radiant Path of Ten Years.”

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