

Dramatic Demonstrations to Demand Back Wages: The Logic of Practice of Informal Defenses of Legitimate Rights*

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“讨薪秀”：正当权利非正式维护的实践逻辑

封小郡

Abstract

Dramatic demonstrations to ask for back wages, especially among construction workers, have attracted much attention. This paper is intended to explore the mechanism behind these demonstrations. Government and capital have reached a kind of tacit agreement centering on informal economic practices. In the opposition between capital and migrant workers, the lack of unified labor action places the latter at a disadvantage when bargaining with the former. The informal economy and its practices have encouraged capital to delay the payment of wages and have rendered the state's labor laws largely ineffective, leaving migrant workers little choice but to go outside the law to protest. Multilayered subcontracting in the construction industry has aggravated delays in the payment of wages and has made it more difficult for workers to obtain payment. The subsistence pressures faced by the workers in their growing proletarianization have driven them to demand payment. The state's insistence on stability, capital's preoccupation with "rational" profit-seeking, and the elitism that currently dominates popular culture have together shaped the form of the dramatic demonstrations. To solve this problem at its root,

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workers' self-organizing to change their disadvantaged status might offer a way out—something the government should encourage and support in order to maintain social stability.

Keywords

“dramatic demonstrations to demand back wages,” state, capital, migrant workers, “the great game”

摘要

农民工，尤其是建筑业农民工的“讨薪秀”行为得到广泛关注。本文尝试揭示该行为背后的机理。分析发现：在转型社会这个场域中，国家和资本在“发展”的大背景下达成一种“合意”，即非正规化的经济实践；在资本和农民工的博弈中，农民工尚未联合起来形成一股足以与资本议价的力量，从而处于下风。非正规经济实践放任了资本的欠薪行为，并从根本上导致了国家劳工保护性立法对于农民工的无效性，使得农民工几乎只能进行法外维权。建筑行业的劳动分包体制加剧了其欠薪的严重性和讨薪的艰难性。农民工生存权利在日益深入的无产阶级化中受到的威胁要求他们尽可能讨回薪水。处于法律之外的讨薪方式，在国家的稳定逻辑、资本的现实践性和精英主义的大众文化的共同运作下，最终聚焦于“讨薪秀”这种方式。要从根本上改变这种境况，农民工自我组织化可作为未来考虑的方向。

关键词

“讨薪秀”、国家、资本、农民工、博弈

Migrant workers have it bitter and hard,
sweat-drenched backs for money earned.

Half tired to death for half a year,
so happy to see a bridge complete.

Tally our money, 600 thousand earned,
we take the slip to collect our yuan.

Government and company both find us a bother,
kick us around between one another.

—A poem written by four migrant workers when demanding back wages for 27 workers including themselves

Laborers shall have the right to obtain remuneration for their labor.

—Labor Law of the PRC, Article 3

At year's end, news reports of migrant workers' demand for back wages proliferate, and among the cases most reported are those of construction workers. In 2003, reports that “the premier demands back wages [for migrant workers]” aroused nationwide attention and were followed by announcements of a series of laws and regulations concerning wage arrears in the construction industry, such as “Notice Regarding Effectively Resolving Payment Arrears in the Construction Industry by the General Office of the State Council” (2003),

"Interim Procedures for Regulation of Wage Payments to Migrant Workers in the Construction Industry" (2004), and so on. The legislative wave peaked in February 2011, when deliberate omission to pay workers' wages was made a criminal offense, termed "refusing to pay remunerations for labor," in the eighth amendment to the Criminal Law passed by the Standing Committee of the National People's Congress. It is no exaggeration to say that the government has made an earnest effort to create legislative guarantees that workers would receive their rightful wages.

But how has the legislation worked in practice? From the earliest "suicide jump to demand back wages" to "wife demanding back wages" and "baby demanding back wages" of recent years, all the way to today's "video demanding back wages" and "weibo [Chinese Twitter] demanding back wages" on the Internet, the public has marveled at migrant workers' creativity stimulated by wage arrears time and again, leading some to dub these protests "dramatic demonstrations to demand back wages" (讨薪秀). We need to ask why migrant construction workers often fail to be paid their wages, since it is their lawful right, and why, when there are protective laws and regulations available, they still tend to use informal methods or actions outside the law to uphold their rights.

I. Overview on Research into Wage Arrears and Wage Demands in China's Construction Industry

I.1. Literature Review of Wage Nonpayment in China's Construction Industry

According to "Oversight Investigative Report on Migrant Workers for 2013," released by China's National Bureau of Statistics, the total number of migrant workers reached 268.94 million in 2013; construction workers made up 22.2 percent, or approximately 59.7 million people, of this group. According to the 2011 issue of this series of reports, 0.8 percent of out-of-township migrant workers (rural laborers employed outside their own township for at least six months of the survey year) encountered wage arrears in 2011; while for construction workers, this ratio was as high as 1.9 percent.

The actual situation may be even more severe. The "Report on Costs of Chinese Migrant Workers' Rights Defense" released by the Beijing Children's Legal Aid and Research Center in 2005, states that "48.1 percent of interviewed migrant workers have experienced nonpayment of wages; of these, 30.6 percent were owed 100 to 1,000 yuan, 15.7 percent were owed 1,000 to 5,000 yuan, and 1.6 percent were owed over 5,000 yuan" (Tong Lihua and Xiao Weidong, 2005).

These data were updated in “False High Wages and Hollow Unions: Report on Chinese Construction Workers’ Wages and Unionization,” jointly issued by the Beijing Xingzai Renjian (行在人间) Cultural Development Center and several other organizations in December 2013. According to this report, “Only 19.9 percent of the interviewed construction workers were paid monthly in 2013, and in 2012 only 46.6 percent received their wages in full without demands.”

Why is China’s construction industry especially prone to arrears? Different explanations are provided from different angles. Zhang Yunhao analyzes the “eight-year journey of demanding back wages” case and points out that three factors contribute to this failure: first, as a vulnerable group, migrant workers can only mobilize very limited resources; second, the buck-passing games played by related authorities do not provide the workers with sufficient protection of their rights; third, the government’s inaction essentially echoes the capitalists’ robust power and makes the weak weaker while the strong get stronger (Zhang Yunhao, 2005). Qi Xin argues that “delaying wage payment . . . is a remnant of the commune labor voucher system (工分制) under the planned economy . . . It recalls collective production practices under socialism and the rural-urban divide . . . In the reform era, the preservation of delayed wage payment serves the needs of capital and markets, gives the construction industry fiscal autonomy, and represents a hyper intensified form of subcontracting” (Qi Xin, 2011). Differing with the above, Pun Ngai et al. argue that wage arrears in the construction industry are rooted in its multilayered subcontracting system, which combines social relations in agricultural society and capital accumulation in industrial society, spurred by the state’s changed model of development and the ever-increasing penetration of capital accumulation (Pun Ngai, Lu Huilin, and Zhang Huipeng, 2012).

1.2. Literature Review of Demands for Back Wages in China’s Construction Industry

Migrant workers deploy various methods to demand their wages. Gao Honggui summarizes several popular ones, including convening press conferences, children making claims on behalf of their parents, weibo demands, nude demands, river god-worship for demands, and suicidal demands (Gao Honggui, 2013), all of which are outside the law. In fact, according to the report “False High Wages,” among the over one thousand cases of construction workers’ defense of their rights followed by Beijing Xingzai Renjian over six years, no case achieved a satisfactory resolution through purely legal processes, and 31.6 percent of interviewees had spent more than one month demanding their wages in 2012.

How costly can wage demands be? "Report on Costs of Chinese Migrant Workers' Rights Defense" gives allegedly the most conservative estimates, "In order to demand less than 1,000 yuan, migrant workers must spend at least 920 yuan on various direct expenses and at least 11-21 days adding up to lost wages of 550-1,050 yuan to complete the legal process; wages for the related state-paid government staff are at least 1,950-3,750 yuan; the total cost is between 3,420 and 5,720 yuan." The legal-rights defense is so costly and difficult to pursue successfully that one migrant worker candidly confessed, "Taking extreme measures gets your money faster than reporting to the Labor Inspectorate" (Zhang Wei, 2011)!

Besides cost, why are migrant workers inclined to exercise a defense of their rights that is outside the law? Xu Xin believes that social injustice is the broad cause of the suicidal defense of rights, and outside-the-law defense is the direct product of China's costly, time-consuming, and ineffective system of labor disputes and arbitration, which is overloaded with procedures (Xu Xin, 2008). Xu Zhiyong discusses the government's role in these factors, pointing out that the labor inspectorate and labor arbitration department's neglect of their duties and the judicial organs' laziness in implementing sentences are important reasons for migrant workers' difficulties in demanding payment of their wages (Xu Zhiyong, 2006). Nie Zaozao, focusing on migrant workers themselves, suggests that their poor education and even poorer consciousness of the need to safeguard their rights also have an effect (Nie Zaozao, 2008). A relatively comprehensive analysis is offered by Gao Honggui, who asserts that "creative demands for wages" is a unique way employed by those workers in the lowest level of the population exposed to subsistence pressures and social discrimination to express their interests; these circumstances can be attributed to formal institutions' nonperformance, migrant workers' development of civic consciousness, networking media, and the like (Gao Honggui, 2013). How could such assertion of rights performed outside the law succeed? Wang Lungang studies the case of a "wives' team demanding back wages" and concludes that public opinion bestowed moral legitimacy on migrant workers' informal struggles for their own interests; the government acquiesced to those acts by following public opinion; the company was forced to deal with them quickly so that the project could be completed on time—all these together allowed for their success (Wang Lungang, 2009).

In sum, previous research indicates that migrant workers in China's construction industry have suffered from severe wage arrears for many years, and they tend to go outside the law to safeguard their rights because the use of legal

channels is repeatedly unsuccessful, costly, and time-consuming. The state, capital, and migrant workers are the three main agents in this situation, and only by analyzing each one's logic of action as well as their interaction can we understand the whole matter thoroughly, and this is where the limitations of previous studies become apparent. First, many studies emphasize the analysis of individual agent, thus failing to fully bring out the roles of every participant in the situation, to say nothing of any interactions; in reality, it is exactly the disputes among these three agents that have maintained the "equilibrium" of nonpayment of wages in the construction industry. Second, previous analyses of individual agents are relatively one-sided: if we blame the government alone for all inaction, it is difficult to understand the frequent release of legal regulations related to wage nonpayment. Third, further analysis is required, especially of the causes of individual agents' actions.

Although the core question of this paper is not a new one, it is explored in a more comprehensive and dynamic way. We will begin by investigating the "field" in which these three agents are operating—that is, the society in transformation, capital, and migrant workers. After examining each individually, we will analyze how the interaction of these three agents results in the informal defenses of legitimate rights.

II. "Field": "The Great Transformation—the Political and Economic Origins of Our Time"

"Field", as defined by Pierre Bourdieu, refers to "[A] network, or a configuration of objective relations between positions. These positions are objectively defined . . . by their present and potential situation (*situs*) in the structure of the distribution of species of power (or capital) whose possession commands access to the specific profits that are at stake in the field, as well as by their objective relation to other positions" (Bourdieu and Wacquant, 1992: 97). Compared to the two-dimensional, static words of "space" or "background," "field" is multidimensional—it highlights subjects with differences of power (or capital); it is dynamic—"to think in terms of field is to think relationally" (Bourdieu & Wacquant, 1992: 96), not to mention that different agents engage in different kinds of continuous struggle. That is why here we introduce the concept of "field" as a basic theoretical frame. It is clear that Reform and Opening have largely reconstructed the positions of these three agents in the "field," but how?

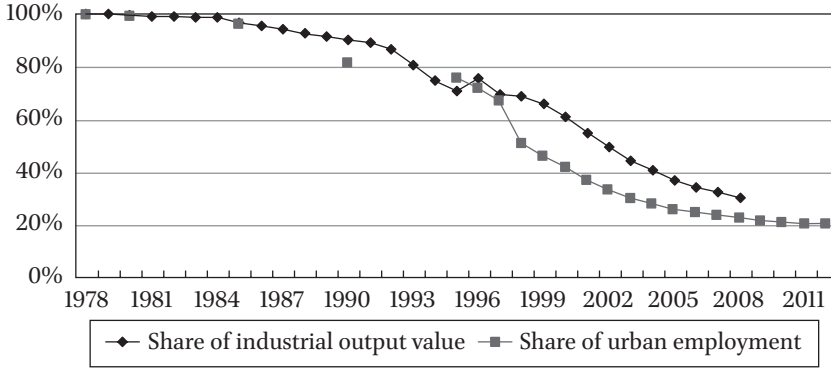
II.1. *Gradual Marketization in Transformational China*

In his masterpiece *The Great Transformation*, which Shen Yuan terms a Polanyian Great Transformation, Karl Polanyi analyzed the market's expansion during Europe's industrialization era. Shen Yuan believes that present-day China is at the intersection of a state-led Polanyian great transformation, unfolding in the context of globalization and the great transformation of former socialist countries embracing market economies in the wake of the Soviet Union's dissolution (Shen Yuan, 2006). These two transformations provide a basic framework for examining the social changes China is currently experiencing.

Unlike Russia's "shock therapy," China's marketization reforms have been a controlled and incremental process: in 1992 the Fourteenth Congress of the Communist Party decided to "give the market a fundamental role in resource distribution under the government's macro-control"; in 2003 the Third Plenary Session of the Party's Sixteenth National Central Committee updated this decision by "giving greater play to the fundamental role of the market in resource allocation"; the greatest leap was made in 2013, when the Third Plenary Session of the Eighteenth Central Committee decided to reinforce the "fundamental" with the "decisive." Growing marketization manifests as growing commodification: initially common goods—consumer goods—and, later, means of production; then comes the commodification of labor, fueled by the dissolution of the People's Communes in the early 1980s, policies that allowed peasants to enter cities to work in 1984, and reform of the state-owned enterprises (SOEs) in the mid-1990s; furthermore, the land market increasingly prospered following the heating up of real estate and the policies rewarding rural land transfer in the new millennium.

Behind the commodification of production factors is the privatization of the market entity. After the complete transformation of private industry and commerce in the late 1950s, the state-owned and collective economies accounted for almost 100 percent of the total industrial output from 1958 to 1979. Subsequently, the private economy went from almost nonexistent to strong and powerful. The constitutional amendment of 1987 recognized the private economy as "supplementary to the socialist public economy." In 2002 the Sixteenth National Congress of the China Communist Party (CCP) called it "an important component of the socialist market economy." In reality, the development of the private economy is even more radical. As shown in Figure 1, the share of gross national output value contributed by the state-owned and collective economies has progressively declined since the late 1970s, and in 2008 this share

Figure 1. The Share of Industrial Output Value and Urban Employment Contributed by State-Owned and Collective Enterprises, 1978-2012.



Source: Data on the share of industrial output value come from *Xinzhongguo 60nian tongji ziliao huibian* [Compendium of Materials on the New China over Sixty's Years], table 0134; data on the share of urban employment come from *Zhongguo tongji nianjian* 2013 [China Statistical Yearbook 2013], table 4-2.

was roughly a mere 30 percent; the share of total urban employment offered by these economies has declined even further, to approximately 20 percent in 2012. Thus, this “important component of the socialist market economy” holds up more than half the sky in contemporary China—the so-called “Workshop of the World” is currently a paradise of global capital.

Marketization reforms force the government to transform from an all-compassing function to a service-oriented function and to appeal to other sources of legitimacy. By far the most important of these was economic development, which is used to redress the loss of traditional political legitimacy triggered by the depoliticization of the CCP as the party in power (Wang Hui, 2014).

II.2. *The Recomposition of Social Strata under Marketization*

Transformations of the economic base have reshaped the structure of China's social strata. Private entrepreneurs as a powerful social stratum have emerged in accordance with the rise of capital. According to “Summary Report on Contemporary China's Social Strata,” the owners of private companies in China have already developed into a social stratum with relatively independent social-economic status and political demands (Lu Xueyi, 2002). Their

economic power is much in evidence, and their political status was officially acknowledged when, in a speech on July 1, 2001, the then Chairman Jiang Zemin recognized them as nation builders, who should be “absorbed into the party as excellent members from other areas of society.”

Meanwhile, with the marketization of labor power, many peasants have become migrant workers, many poor laid-off workers in the SOEs’ reform find reemployment in private sector, and together with the survivors of and newcomers to the SOEs, a new social stratum of workers is in the making. According to “Oversight Investigative Report on Migrant Workers for 2013,” the 166.10 million out-of-township migrant workers received an average monthly wage of 2,609 yuan (not including accommodation); 0.8 percent of these out-of-township migrant workers had back wages; more than half had no labor contracts; less than 20 percent had other forms of insurance besides work-related injury insurance. The huge number seems so disproportionate to the workers’ tragic condition that change must be brewing, especially when those born in and after the 1980s make up 46.6 percent of the total migrant worker population. As the 2010 Honda auto-workers strike in Guangdong Nanhai indicates, that “new workers” (as opposed to the old SOEs workers) no longer operate in total silence.

The abrupt ascendance of capital, the transformation of the government, and the emergence of migrant workers—it is precisely marketization that has constructed the “field” in which these three agents interact. What kind of interaction between these three agents has created the bitter situation of “dramatic demonstrations to demand back wages”? Before examining their contestation, the following segment will analyze the operating logic of each of these agents one-by-one.

III. The State: the Dual Logic of Development and Stability

Reform and Opening has, from the start, faced the problem of legitimacy. The argument for this status has gone through two transformations from the “practice criteria” through “productive-force criteria,” to the current “popular support criteria,” but the main content of the third is still the first, which typically manifests as the “Three Favorables”: “whether it promotes the growth of the productive forces in a socialist society, whether it increases the overall strength of the socialist state, and whether it raises the people’s living standards” (Zhou Bin, 2004). Guided by this type of criteria, the government took economic development as the pivot from the very beginning of Reform and Opening.

Development requires a stable environment, especially in the 1980s and 1990s, when the domestic and international situation was highly complex and volatile. In recognition of this situation, Deng Xiaoping emphasized in 1993 that “In China the overriding need is for stability. Without a stable environment, we can accomplish nothing and may even lose what we have gained” (Deng Xiaoping, 1993: 284). In general, development and stability constitute the dual logic of the Chinese state’s operation since the 1980s and are key to understanding the state’s performance in “dramatic demonstrations to demand back wages.”

III.1. *The Logic of Economic Growth: Informal Economic Practices*

Development, as the pivot of China’s Reform and Opening, is a multidimensional goal; however, it is simplified to pure economic growth in practice and calculated by GDP. In terms of this alone, China’s economic construction has undoubtedly been a huge success—its GDP overtook that of Japan in 2010, making it the world’s second-largest economy.

How did China do it? The market-oriented reforms give a rudimentary clue, and a more sophisticated analysis was provided by Philip Huang, who introduced “informal economic practices”: “Since the mid 1990s . . . the main engine for development shifted to local governments’ competition for and active support of outside investment. Typically, local governments have provided land and related infrastructural support below cost plus special subsidies and tax privileges, and have circumvented formal rules and regulations on labor use and environmental protection. Those informal practices and the huge accompanying informal economy, not just the new enterprises drawn in, have been the main dynamic . . . for China’s striking GDP” (Philip Huang, 2010: 134). The example of Samsung vividly illustrates this practice.

In April 2012, Samsung ultimately decided to build its new flash chip factory in Xi’an. In order to beat such competitors as Chongqing and win the contract, Xi’an made promises of support including the assurance that “the government will subsidize 30 percent of total investment, construct the 1.3 million-square-meter factory building, providing it free along with the land, and offer 500 million yuan to cover Samsung’s water, electricity, green, and logistics fees every year. Taxes will be completely exempted for the first ten years and collected at half-rate for the next ten. Besides, Xi’an will construct a transportation infrastructure, like expressways and subways, for this project.” Added up, Xi’an spent at least 200 billion yuan to acquire Samsung’s investment.

These informal economic practices bring profits to enterprises and bring GDP to the state, while often leaving the workers unprotected by labor laws

and social security. This is exactly the situation of most migrant workers such as those who work at the Yuyuan shoe factory. For many years, Yuyuan had paid its share of social insurance fees based on the minimum wage, and as a result, workers who had served Yuyuan for 15 years ended up with a monthly retirement pay of a mere 500 yuan, clearly not enough to live on. No surprise for the great strike in April 2014, when approximately 40,000 Yuyuan workers rose up to fight for their legal rights. However, to tell the truth, they are even better off than the construction workers, few of whom can enjoy any urban social insurance.

Thus, the state has successfully “made the cake bigger” through informal economic practices but has also provided too little regulation to capital and too little protection to laborers. Feeling increasingly insecure and unsatisfied, the laborers are now speaking up as their anger brews. The Yuyuan incident was not the first, nor will it be the last. Nevertheless, the seemingly good news is that, besides “wholeheartedly pursuing development,” the state clearly has other concerns.

III.2. *The Logic of Social Stability: Repressive Instability Combined with the Promotion of Justice*

As China's marketization deepens, its social contradictions intensify. In the last decade or so, China's Gini coefficient rose progressively from 0.479 in 2003 to 0.491 in 2008, and then gradually came down to 0.474 in 2012—all well beyond the internationally accepted alarm level of 0.4, which indicates a relatively large income gap and exacerbated social instability. In addition, improper implementation of the law and illegal land acquisition and demolition bound up with official corruption also fuel social instability.

Mass disturbances have been a thorny threat for China's social harmony. The *2014 China Rule of Law Report* issued by the Chinese Academy of Social Sciences tallied all the mass incidents involving over one hundred people in the past fourteen years since 2000: from the one or two incidents per year at the beginning of the new millennium, the number has risen sharply to 209 incidents in 2012 alone and amounts to a total of 871, of which, 44 percent consists of incidents between government and citizens, about 30 percent are incited by labor disputes, 20 percent or so by improper enforcement of the law, and a further 10 percent by land acquisition and demolition.

In response, China began to incline toward maintaining stability and drastically increased related departmental operating expenses. According to

Finance Yearbook of China 2011, China's spending on public security rocketed to 551.8 billion RMB in 2010, surpassing that of national defense (533.3 billion RMB). However, whether it is economic construction or maintenance of stability, it is the local governments that play the dominant role and for whom development is the top priority, while stability maintenance is the top responsibility. Both are of vital importance in cadre achievement assessment. If the financial pressure after reform of the tax-division system and political promotion give tremendous momentum to pushing the local governments' informal economic practices, the one-vote negation system in the task of stability maintenance nevertheless gives them tremendous pressure in an increasingly restless society. Consequently, "stability maintenance offices" sprout around China with important local leaders running for the top job. Taking Guigang, Guangxi as an example, "Guigang builds a three-level platform for the work of stability maintenance. The first level is in counties or cities where the department of mass work [the CCP's effort to depend on, mobilize, and lead the masses to attain certain goals] is established, with the local legal secretary of the CCP Committee serving as the head... The second is in townships or urban neighborhoods... The third is in villages... All told, all 5 counties or cities in Guigang establish mass work departments, all 74 townships or urban neighborhoods establish mass work centers, and all 1,148 villages or communities establish mass work stations; the upper two levels employ over 600 full-time staff, and the third level involves over 3,500 part-time informants—the influence of stability maintenance work has percolated throughout the grassroots" (Mo Xiaosong, 2009).

The dilemma, however, is that both development as the top priority and stability maintenance as the top responsibility can wield the threat of veto power in cadre performance assessment for local officials, while the two are not so compatible in reality as many destabilizing factors are born within economic development, thus leaving the local governments no choice but to walk a line between the two. In practice, this means that repressive blocking, rather than communicative dredging becomes their default choice when social contradictions are not extremely intensified and capital has the upper hand. Petition stopping, for example, is a common demonstration of this oppressive side of stability maintenance. Before Beijing called for a cessation of petitions bypassing local authorities in May 2014, the number of such petitioners was a vital index in local officials' performance evaluation, breeding prolonged tugs-of-war of expensive and laborious stopping of petitions that literally turned the local government's liaison offices in Beijing into "petition-stopping

offices in Beijing.” In regions where labor disputes are frequent, the programs of extending comprehensive control and stability maintenance into private enterprises are booming.

In fact, not repression but the promotion of social equity is the way to real solutions, especially when justice has become the major appeal of the masses, and to which, unlike the stopping of petitions, the state responds in a slow but persistent manner: the weight of “fairness” went from “individual income distribution shall give . . . efficiency in priority and fairness in consideration,” as stated in the Fourth Plenary Session of the Party’s Thirteenth National Central Committee in 1993, to “importance should be attached to social justice, especially in employment opportunities and the distribution process; the state shall strengthen the adjustment of income distribution and impose tighter regulations on distribution results” in the Eleventh Five-Year Plan in 2005, and again to “a proper balance shall be struck between efficiency and equity in both primary distribution and redistribution, with particular emphasis on equity in redistribution” in *Report to the Eighteenth National Congress of the CCP* in 2012. The shift in policy is partly reflected in the advancement of labor protection laws: after the introduction of labor law in 1994, China’s labor legislation entered a sort of dormancy until thirteen years later, when the labor Contract Law, the Employment Promotion Law and the Mediation and Arbitration of labor Disputes Law came out in a row, making the year 2007 a turning point of deep significance (Meng Jie and Li Yile, 2013). However, considering that the equilibrium of the stakeholders is very vulnerable, the way forward cannot be plain sailing but must be a slow and tortuous one. In June 2013, the newly revised Labor Contract Law enhanced the regulation about the rights of dispatched workers in Article 63: dispatched workers shall enjoy the right of equal pay for equal work as do the workers of the receiving unit. However, just three months later, a relevant official from the Ministry of Human Resources and Social Security stated that the concept of equal pay for equal work did not include social benefits and insurance, which largely made the new article a hollow one.

In summary, the informal economic practices successfully generate growth in GDP and intrinsically bring about opposition and resistance. To maintain stability, the government on the one hand uses repressions to create a climate of seeming harmony and on the other attempts to construct a long-term foundation for justice through legislation. However, it is clear that law, as superstructure, is determined by the economic base, which necessarily suggests that unless China changes its informal economic practices, its protective legislation, no matter how sophisticated and well-intentioned, can only

be poorly executed. That is exactly why so many migrant workers are literally unprotected by the labor laws (Philip Huang, 2013), and those in the construction industry are no exception. Meanwhile, the state's eagerness to maintain stability empowers the "dramatic demonstrations to demand back wages," as they are considered labile factors. Then, the question is how these "dramatic demonstrations" can be effective and why migrant workers demonstrate their demands in a dramatic way.

IV. Capital: the Dual Logic of Ultimate Profit-Maximizing and Current Pragmatic Compromises

In the pursuit of greater profits, capital gallops around the globe seeking cheaper raw materials and a docile labor force, and that pursuit takes the form of transregional industrial transfers in the postcolonial era. It is in this sense that China's Reform and Opening and the Western world's industrial transfers echo each other, bringing out the informal economic practices by which the local government provides special subsidies and tolerates the relevant enterprises to circumvent formal rules and regulations on labor use and environmental protection. This is key to their high rates of return (Philip Huang, 2010). As a major component of production costs, wages constitute a deduction from profits. No surprise that when capital attempts to maximize its profits, wage arrears occur. Meanwhile, it is through competition that capital realizes profit (Meng Jie, Gong Jian, and Xiang Yuewen, 2012), which suggests that individual capitalists have to go beyond their ultimate goal and make some indispensable compromise in certain situations.

IV.1. Profit-Seeking in China's Construction Industry

Capital's profit-seeking nature is universal across industries, but in terms of operation, different industries have different rules. For China's construction industry, its uniqueness lies in the multilayered subcontracting system: "[A]t the very top of this system is the developer . . . Developers adopt methods, such as inviting tenders, to contract the work out to one or more construction companies. After the construction company has taken over the specific construction project, it will participate only in part of the management of the project. The specific production tasks are often broken down and further subcontracted to other construction companies; these companies then subcontract the work out again to specialist labor agencies or to individual teams of contracted workers . . . The labor agencies, or the top-level head contractors,

may be directly responsible for the recruitment and management of workers, or they may again break the project down and subcontract out to a smaller-scale head contractor" (Pun Ngai, Lu Huilin, and Zhang Huipeng, 2012: 90-93). The head contractors, however, are not only responsible for supervision of the labor process, they are partially or entirely responsible for settling wages. And if they have not received the project payments from the upstream contractors, they themselves have to make advances; the upstream contractors have the same obligation, if they fail to get paid by the even higher contractors or the developer, thus turning the multilayered subcontracting system into a multilayered advancing process and in the end forming a debt chain. Meanwhile, this system allows the construction companies to adjust the number of workers according to the needs of the project, to break the whole payment relationship and the whole labor force into parts, and to inject the place-of-origin ties into the industrial relations (Pun Ngai, Lu Huilin, and Zhang Huipeng, 2012).

To some extent, the multilayered advance allows the construction industry to get something for nothing. Wage arrears occur as the integral requirement and inevitable consequence of this journey of profit pursuit. Wage nonpayment in the top layer of head contractors can often be traced back to the layer of developers. Once the upper entities have no cash flow or deliberately refuse to pay their direct subcontractors, the construction workers are unable to receive their wages. The subcontracting chain raises the question as to who is the boss, and the place-of-origin ties and friendships between workers and the head contractors further blur their relationship in terms of rights and obligation, together attaching vital importance to labor contracts, as they are the proof of actual labor relations in court (Wang Ying, 2009). However, only 24.9 percent of migrant construction workers had a labor contract in 2011; this figure is the lowest across all industries. Furthermore, under the subcontracting system, the acquaintances formed in villages between workers and their bosses tend to evolve into a sort of personal bondage (Pun Ngai, Lu Huilin, and Zhang Huipeng, 2012), by which the bosses' wage arrears are overlooked, and the law is effectively prohibited from acting as a wieldable weapon to uphold workers' rights.

"[E]xploitation constitutes a social relation which simultaneously pits the interests of one group against another and which requires their ongoing interactions; and . . . it confers upon the disadvantaged group a real form of power with which to challenge the interests of exploiters" (Burawoy and Wright, 2000: 22). The crucial point here that emphasizes is the exploiters' dependence on the exploited. This dependence allows the latter to fight back by such means as stoppages on the assembly line. But this ploy is not true for the construction

workers, who are usually not paid until they finish their part of the work. The lack of control over the labor process aggravates the extreme methods construction workers may use to demand their wages. In one case, the mother of the unpaid worker, who was employed in the canteen at the construction site, announced that if her son did not receive his wages, she would poison the canteen food. In the end, she forced the project contractor to pay the wages in full. But such cases are still very rare. How do the majority of successful “dramatic demonstrations” force the bosses to surrender?

IV.2. *Capital's Pragmatic Compromise in Competition*

The profit-seeking rationale alone cannot explain why some construction workers are eventually able to win their wages through “dramatic demonstrations.” The full explanation involves the question of capital's pragmatism. Although private entrepreneurs can often circumvent laws and regulations on labor use and environmental protection, they cannot do whatever they please but choose to make compromise in accordance with specific conditions. Take the case of the “wife demanding back wages” for example, why did the construction company so quickly agree to pay back wages? The project manager explained that the resolution was in order to get the “wives demanding wages team” out of the construction site as quickly as possible, as the project deadline fell in a few days and the consequences of missing the deadline were extremely severe—construction units that exceeded their deadlines would be put on the province's blacklist, and this listing would affect the company's future bids in that province (Wang Lungang, 2009). Cases of suicidal demands for wages or other instances in which workers used the media to create a negative social impact on the capitalist party can often get a quick response as well, thanks to capital's pragmatic rationality. To make things clearer, it is the competition among capitalist enterprises that pushes the construction companies to ultimately make the necessary payments, as the “dramatic demonstrations to demand back wages” may harm their reputation which is crucial in the market economy. Furthermore, the dual logic of the state implies the dual pattern of state-capital relations, which to a large extent underpin the success of those “dramatic demonstrations.”

In general, the logic of capital accumulation in the construction industry makes it easy to delay paying wages but hard to claim back wages. In the ultimate pursuit of maximizing profit, capital has to make some pragmatic considerations for its long-run profit-seeking, leaving the workers room to exercise the “dramatic demonstrations to demand back wages.” Why, then are these

“dramatic demonstrations” so necessary, solemn, and tragic or comical to migrant workers?

V. Migrant Workers: “Fight or Die”

If migrant workers’ wages do not constitute the principal proportion of family income, then back wages will at most lower the standard of living without threatening the family’s subsistence, and thus, the unpaid workers will not have the pressing need to go to extremes or use stunts to demand wages. Turning the situation around suggests that in order to understand “dramatic demonstrations to demand back wages,” one must further analyze the impact of marketization reforms on migrant workers’ condition of subsistence. Once this impact reaches a degree that threatens their families’ basic living conditions, workers’ resistance will become a common occurrence.

V.1. *Subsistence: Marching from Semi-Proletarianization toward Proletarianization*

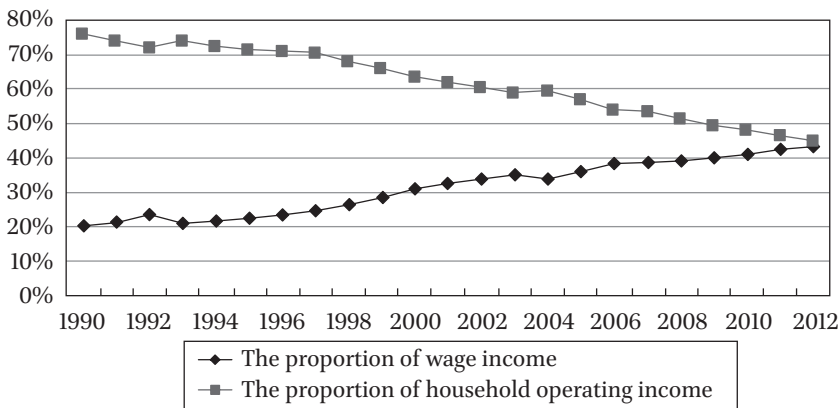
Proletarianization, as a prerequisite to capitalist production, implies that the proletariat is free in two different senses: “as a free man he can dispose of his labor-power as his own commodity, and on the other hand, he has no other commodity of sale, is short of everything necessary for the realization of his labor power” (Marx, 2004: 192). Since Reform and Opening, the general rise in the cost of the means of production, healthcare, and education has significantly increased peasant families’ dependence on monetary income, pushing the young people in rural areas to leave the land for urban jobs. This migration is, “coincidentally,” permitted by the government; thus the young people achieve “freedom” in the first sense. The land, together with the migrant workers’ children, is often taken care of by their old parents in villages, and provides a portion of the goods necessary for the whole family, so the second level of “freedom” is incomplete. Therefore, at the micro level, many migrant workers are currently in a situation of semi-proletarianization, and at the macro level, China’s industrialization does not necessarily come along with urbanization (Pun Ngai and Lu Huilin, unpublished).

In essence, the living of migrant workers themselves and their offspring is propped up by both the urban wages and by the rural operating income, as the former is actually less than a subsistence wage. Therefore, when the rural operating income constitutes the bulk of total income, a loss of workers’ urban wages is not significant, but such has not always been the case. According to

Figure 2, income from wages as a proportion of net income for rural households in China has steadily grown from 20 percent in 1990 to roughly 44 percent in 2012, while over the same period, rural operating income has decreased gradually from 76 percent to 45 percent. These figures indicate that, although migrant workers may still possess some means of production, the land's role in families' daily livelihood is constantly weakening; put another way, migrant workers are continually moving further from semi-proletarianization to proletarianization. Given regional differences, this process goes even deeper in certain areas.

Behind this process is the active or passive loss of peasants' right in land contracts. According to *2011 Annual Report on Urban Development of China*, China's total number of landless peasants has already reached 40 to 50 million, and this number will grow by approximately 3 million people per year, to reach around 110 million by 2030. At the same time, land transfers are transferring a portion of land from small farmers to major grain-growing households. According to statistics from China's Ministry of Agriculture, by the end of 2013, transfers of contracted agricultural land amounted to 340 million mu (1 mu=667 square meters) nationally, reaching a transfer ratio of over 26 percent. In addition, in order to stabilize land contract relations, the policy of "additional people, no additional land; fewer people, no less land" widely

Figure 2. The Proportion of Wage Income and Household Operating Income in Net Income for China's Rural Households, 1990-2012.



Source: Zhongguo nongcun tongji nianjian 2013 [China Rural Statistical Yearbook 2013], table 11-1.

promoted in the 1990s has resulted in some migrant workers never having any land to begin with. Add to this situation the not-uncommon abandoned farmlands and the new generation of peasants' lack of farming skills, and the contribution of land to families' net income is decreasing in absolute terms.

The rapid advance of migrant workers toward proletarianization is causing them deep anxieties about raising a family and how to live after retirement. The latter is clearly demonstrated in the Yuyuan shoe factory strike of April 2014: due to the low wages and exposure to poisonous chemicals, those working at Yuyuan are mainly middle-aged workers unable to enter "good factories"; when they discovered that their social insurance had been vastly underpaid, their anxiety about survival after retirement drove them to carry out a drastic strike. For many of the new generation of migrant workers, income from wages has become the key source of income that allowed them to start a family and raise the next generation, thus rendering the nonpayment of wages an immediate threat to their family plans. In fact, the new generation of migrant workers (born in or after 1980) already constitutes 46.6 percent of the national total number of migrant workers in 2013, of which 14.5 percent were working in the construction industry. Their miserable circumstances and their huge number suggest that they will necessarily rise up and fight back.

The threat of deepening proletarianization to migrant workers' reproduction is clearly and tragically embodied in "suicide jump to demand back wages." When migrant workers threaten to jump off from the ten-or-more-meter-high tower cranes or buildings and cry out, "Give me my sweat and blood money," they are already using their most precious possession—their lives—as a betting chip: getting the back wages or die, there is no other alternative. It is in the broader context of proletarianization that wage demands have become struggles that must be undertaken and, to an extent, must be won, thus leading to the "dramatic demonstrations to demand back wages."

V.2. *Resistance: "Weapons of the Weak" in the Age of Mass Media*

Besides the pragmatic rationality of capital, what kinds of factors still contribute to the success of "dramatic demonstrations to demand back wages"? Whether it is "babies demanding wages" or "wives demanding wages," one can clearly recognize the hallmarks of a rural society's handling of disputes: these are all forms of individual self-help making use of morally laden identities; these constantly innovated incidents are constant and tenacious; on the one hand, they differ from legal defenses of rights in contemporary rule-by-law society, and on the other hand, they differ from collective, organized political

movements; these two differences delimit the normal condition of migrant workers' rights defense at the present time.

The difficult access and low effectiveness of the legal rights defense explains the first difference, but what about the second? In analyzing Southeast Asian peasant struggles, James C. Scott points out, "[M]ost subordinate classes throughout most of history have rarely been afforded the luxury of open, organized, political activity . . . [T]he peasantry . . . [is] best equipped for extended, guerrilla-style, defensive campaigns of attrition" (Scott, 1985: xv-xvii). Whether in terms of apathetic political consciousness or diffuse organization, how could China's migrant workers, who maintain such deep ties to rural society, not fit this description? When their interests are harmed, the most familiar and convenient weapons of resistance available to them are the informal methods used by generations of their ancestors that they have been exposed to all their lives: petty and protracted year-end wage demands, silent and hopeless demands for back wages by risking their lives, deity—worship to demand back wages with a touch of feudal superstition.

When the rural society's reverence for life and worship of deities are brought together with wage demands, especially when this procedure is further linked to video, weibo, and other types of new media, a kind of "creativity" arises in the eyes of current popular culture dominated by elitism: astonishment that lower-class people can have such imagination and creativity! With the logic of "the top people are wise, and the lowest are stupid" of elite culture, once such creative "dramatic demonstrations to demand back wages" reach public platforms, they can easily cause a sensation, which will push the relevant authorities to mediate justice. If the government takes no action in a situation when "the people face gross injustice and officials fail to intervene," the government would meet with a crisis of legitimacy, which would bit by bit corrode the ruling foundations of the party.

For migrant workers in the context of proletarianization, the demand for wages has become an absolute necessity for subsistence. In the elitist culture of the mass media, only "dramatic demonstrations" can catch the attention of the masses, increase the odds of success, and in turn trigger more "creative" demonstrations.

VI. "The Great Game"

The society in transformation is a "field" full of struggles, bringing along the three agents of the state, capital, and migrant workers with different habitus,

who in order to maintain or improve their position, are in a permanent struggle. In contemporary China, migrant workers as a social stratum have multiple identities: as human beings, they need living materials to survive; as the masses, they bear and prop up state authority; as labor power, they are the ones who realize capital's surplus value, and they constitute the production cost. The relationship of migrant workers as members of the masses to the state exists in an elastic space, and to some extent, the state can choose to side either with capital or with the people: while the state's primary focus on development drives it to side with capital, its strong desire for stability on the one hand triggers the forceful repression of factors of instability and, on the other empowers the masses: they can force the government to initiate social protections by creating incidents of social instability.

As labor power, migrant workers' contradictions with capital are fundamentally difficult to reconcile. Therefore, the somewhat autonomous state is a key variable. Whichever side the state favors will see its power increase. It is clear that the state's practice of maintaining political legitimacy, capital's profit-seeking instinct, and migrant workers' logic of subsistence cannot fully coexist peacefully, and their interaction is continuous dynamic contestation. Strikes and petitions demonstrate the contestation of workers with capital and with the state respectively. The suppression of the labor contract law by a coalition of the rich and powerful led by Nine Dragons Paper's chairman of the board, Cheung Yan in 2008 vividly demonstrates the conflict between capital and the state. A more recent example occurred in 2014, when six Hong Kong chambers of commerce petitioned the Chief Executive of Hong Kong and 13 related departments of the central government to oppose the implementation of the Regulations on Collective Negotiation and Collective Contract in Enterprises of Guangdong Province (Revised Draft).

Currently, this endless contestation has achieved a temporary equilibrium: government and capital have reached a kind of tacit agreement centering on informal economic practices; together with the multilayered subcontracting in the construction industry, these practices have encouraged capital to delay the payment of wages and have rendered the state's labor laws largely ineffective, driving migrant workers, faced by subsistence pressures in their growing proletarianization, to go outside the law to demand payment of back wages. The state's insistence on stability and capital's preoccupation with "rational" profit seeking, and the current elitism that dominates popular culture, have together shaped the form the dramatic demonstrations migrant workers have taken.

VII. Conclusion

Whether the aggrieved use legal or extralegal methods to defend their rights is not in itself the key question. The real question is how to fundamentally prevent nonpayment of wages from continuing. As a vulnerable group in the three-way contestation, migrant workers may offer a break-through point for reflecting on this problem. Individuals or small groups' "dramatic demonstrations to demand back wages" may singly resolve each problem of wage arrears, but to systematically uproot this problem requires transforming the weak position of migrant workers.

In truth, in terms of number, migrant workers—especially construction workers—are indisputably not a vulnerable group: by 2013, China had nearly 60 million construction workers. However their numerical advantage is greatly counteracted by their lack of organization, which suggests that workers self-organization might be a way out. As to exactly how this is to be achieved in the context of the state's pursuit of constructing a harmonious society, this cannot be merely a task for migrant workers, it also calls for the government's energetic action.

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