

The Impact of the 2008 Labor Contract Law on Labor Disputes in China

Thomas F. Remington and Xiao Wen Cui

*China's Labor Contract Law came into force on January 1, 2008. One of several important legislative acts aimed at improving the processing of labor grievances through mediation, arbitration, and litigation, and averting collective labor protest, it provides that all employed persons must work under written individual employment contracts. We evaluate the legislation's impact nationally and by province for the years before and after the law's adoption. Observing that the law's effect varied substantially across provinces, we estimate the effects of the law, controlling for time, development level, export intensity, and migrant labor share, on the volume of disputes by province using a cross-sectional time series design. We also examine the law's impact on the incidence of collective disputes and the grounds for disputes. We find that the law significantly increased the volume of labor disputes, raising questions about the relative costliness of the government's strategy for managing employment relations. **KEYWORDS:** China, Labor Contract Law, labor relations, labor disputes, mediation, arbitration, litigation*

CHINA'S LABOR CONTRACT LAW WAS ADOPTED BY THE STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS ON JUNE 29, 2007, and came into force on January 1, 2008.¹ The law represented a milestone effort by the government to shift the balance of power in employment rights away from employers and toward employees (Becker and Elfstrom 2010; Cooney et al. 2007; Li 2008; Zhao 2009). The new law went well beyond its predecessor, the 1994 Labor Law, in protecting workers' rights and enhancing their ability to seek adjudication of labor disputes.² Together with two companion laws also passed in 2007—a law on the mediation and arbitration of labor disputes, and a law on employment promotion³—it signaled the government's effort to extend and enforce legal protections to workers vis-à-vis state and private employers (Brown 2010; Cooney et al. 2007; Gallagher and Dong 2011;

Josephs 2009). In this article we seek to evaluate its actual impact on employment relations.

Enactment of the Labor Contract Law was a response to a rapid rise in labor unrest in China in the 1990s and 2000s. A 2007 survey conducted by the All-China Federation of Trade Unions, the official trade union organization, found that around 12 percent of surveyed workers had been involved in a labor dispute (Liu 2014, 491). Collective labor disputes (defined until 2009 as disputes involving at least three people) grew at a rate of 11 percent per year between 2001 and 2008 (Wang 2012, 3). From the standpoint of the Chinese government, collective labor disputes pose a risk of turning into politically oriented protest. We argue in this article that the Labor Contract Law represented an effort by the regime to reduce the incidence of collective labor actions by encouraging the orderly processing of individual contract disputes.

Broadly speaking, the growing incidence of labor disputes has been prompted by China's rapid shift from a command to a market economy. As contractual relations replace administrative terms of employment, the weakness of political rights for workers to defend their collective interests, the lack of independent judicial institutions, and the government's drive for economic growth hindered workers' ability to negotiate and enforce labor contracts. Competing to achieve high economic growth rates, many local governments preferred to back managers in disputes with workers (Cooney 2007, 677–678). Trade unions are also normally reluctant to support worker protests. As a result, workers often resort to spontaneous confrontational forms of collective protests to air their grievances. Lacking local residence registration, migrant workers are especially at a disadvantage in defending themselves against exploitative employment practices and participate extensively in overt collective protest to voice their demands (Kuruvilla, Lee, and Gallagher 2011; Solinger 1999; Wang 2005). As the number of "mass incidents" rose to alarmingly high levels in the late 1990s and early 2000s, the Hu Jintao–Wen Jiabao leadership made easing tensions over employment relations a high priority. Concurrently with promoting the ideal of "harmonious development" as a central party goal, the government initiated a new body of legislation that would strengthen employees' legal rights (Gallagher 2014; Wang et al. 2009; Warner and Zhu 2010; Zhao 2009). At the same time, the leadership also began favoring policies designed to reduce China's dependence on cheap mass-produced exports to reduce the number of poorly paid jobs held by migrant laborers (Chen and Funke 2008; Ho 2009; Wang et al. 2009, 489).

Accordingly, an important purpose of the Labor Contract Law was to resolve labor grievances peacefully and on an individual basis before they spill out into open, collective, confrontational forms (Chen 2007; Lee and Zhang 2013), which could evolve into political opposition. This is consistent with the observation that China's government is strongly averse to collective action of any form (King, Pan, and Roberts 2013), thus it would prefer that if labor grievances arise, they are adjudicated by mediation, arbitration, and litigation. The law was probably directed not at reducing the number of grievances per se, but at reducing the volume of collective protest. Although the earlier labor legislation of the mid-1990s had also required individual employment contracts, Chinese labor legislation has been poorly enforced by employers and local governments (Cooney 2007; Halegua 2007; Ho 2009; Josephs 2009). As Mary Gallagher (2014, 85) observes, Chinese labor law has tended to be "aspirational." The 1994 Labor Law, for example, had previously stipulated that employees must work under signed written contracts. This provision was widely ignored, however, particularly in the case of migrant workers. It is reasonable to consider, therefore, whether the 2008 Labor Contract Law had any more effect than its predecessor in ensuring that all workers are covered by individual labor contracts and have widening access to the institutions for adjudication of labor disputes.

Shortly after the law went into force, some observers attempted to assess its effects. They found mixed results. Small-scale snowball surveys of migrant workers in regions with high concentrations of migrant workers—the Pearl River and Yangtze River deltas—found that the percentage of workers with labor contracts rose modestly in the first several months of 2008, as did the percentage of workers covered by social insurance benefits (Becker and Elfstrom 2010; Chan 2009; Freeman and Li 2013; Ho 2009). Similar findings were reported by Gallagher et al. (2013) based on the China Urban Labor Survey in 2010 and in a survey of manufacturing enterprises conducted by the People's Bank of China in fall 2009. Surveys have also found large-scale circumvention of the law by employers. Some employers, for example, laid off large numbers of workers just before the law took force in January 2008, either rehiring them so as to reset the employment clock or hiring replacements. Some employers compelled workers to sign blank contract forms, or contracts with intentionally inaccurate information, or contracts written in English. Some employers closed their firms and reopened them under a new name so as to restart the employment clock. Some relocated their firms to inland China or Indochina. Some simply went out of business, leaving unpaid wages behind (Becker and Elfstrom 2010; Chan 2009;

Ho 2009). Scholars also noted an immediate and sharp increase in the number of arbitrated disputes—for example, the number of cases filed in Guangdong province tripled in May and June 2008 (Ho 2009, 96). These may have been prompted both by employers' efforts to evade compliance with the law and by the greater awareness of the law's provisions on the part of workers.

Enactment of the new labor legislation coincided with two other important developments affecting labor relations in China. One was the long-term depletion in the supply of low-wage, low-skill labor to fill the export-intensive manufacturing jobs on which China's growth boom has depended (Cai and Wang 2012; *China 2030*). Labor markets began tightening in 2003, loosened during the economic crisis of 2008–2009, then resumed tightening again with economic recovery starting in 2010. By 2011, the ratio of job vacancies to job seekers nationally had risen above its 2007 peak to almost 1:1 (Cai and Wang 2012, 26). The phenomenon of labor shortages began spreading from the coastal provinces inland. The second factor was the recession of 2008, which provoked layoffs and firm bankruptcies. Labor disputes could have increased as workers challenged wage delays and unfair termination of jobs. Furthermore, many employers sought to delay or circumvent compliance with the Labor Contract Law. Local governments concerned with economic growth and reducing unemployment were complicit in helping local employers evade compliance with the Labor Contract Law. All these short- and long-term factors stimulated a rise in labor militancy.

Accordingly, in this article we seek to isolate the effect of the Labor Contract Law and its two companion laws from the sometimes contradictory broader economic trends on labor relations. We are unable to detail the law's effect on the incidence of individual contracts for lack of data. However, we can examine two other trends: incidence of reported labor disputes and use of collective contracts. Fewer reported labor disputes and increased use of collective contracts could indirectly point to an increased use of individual contracts. Reported labor disputes and use of collective contracts are also proxies of success for the Labor Contract Law. If reported labor disputes, especially collective disputes, decrease, it indicates that the government has succeeded in its aim of reducing potentially politically inflammatory collective action. If use of collective contracts increases, it could indicate the successful construction of an institutional channel by which the government could contain the buildup of labor discontent. Our analysis is based on national- and provincial-level statistics on the number of labor disputes accepted for adjudication through mediation, arbitration, and litigation, and on the use of collective

contracts. Before turning to the evidence, we review the background and content of the legislation.

Background

Overview of Labor Relations in China

Prior to 1978, labor relations in the urban sector were managed in the context of a planned, state socialist economy. The state was the only employer in industry and all workers were employed by the state or by state-authorized entities such as collective enterprises. For the state socialist sector (and to a lesser degree for the collective enterprises), the “social contract” made by Chinese leaders with the Chinese urban working class after 1949 was that the state would provide lifetime employment and comprehensive social benefits (Lü and Perry 1997; Walder 1986).⁴ The state-owned enterprises, which were the workplace or *danwei* of workers, became an anchor point of everyday life for Chinese workers, as they provided jobs, housing, and welfare facilities. The *danwei* was a basic cell of society, not just a place of employment and a small-scale welfare state. Except during extraordinary times, such as the Cultural Revolution, the combination of secure benefits and coercion preserved a relatively high degree of labor peace. Doctrinally, workers were the leaders and owners of the factory under the socialist system and were therefore officially considered to be partners in the project of socialist construction.

In its relations with workers, the command economy was supported by a set of bodies led by the Chinese Communist Party (CCP). The official trade union federation of China, the All-China Federation of Trade Unions (ACFTU), was one of them. To this day, the main task of the ACFTU as set by the regime is to help the state achieve its economic development goals; representing workers in disputes with state or private employers is secondary. Classically, in communist systems, the trade unions’ mandate is to be a “conveyor belt” connecting the party and workers. Consistent with the communist model, the ACFTU enjoys a monopoly in labor representation; alternative trade unions are forbidden. In return for its monopoly status, the ACFTU must uphold party policy. In recent years, the Chinese trade unions’ role has evolved, but it is still accurate to call the ACFTU “a quasi-governmental social organization with multiple functions” (Brown 2010, 44).

However, the ACFTU has its own institutional agenda, seeking to increase its influence while fulfilling its formal responsibility of representing the workers in such a way as to minimize conflict between work-

ers and the party. A former president of the ACFTU, Ni Zhifu, emphasized the importance of the ACFTU working independently of the government (Pringle and Clarke 2011, 87). However, the government is wary of the organizational capabilities of the ACFTU, as it is afraid that trade unions might become a focal point of workers' mobilization. Thus, organizationally, the government also recognizes an alternative structure for representing the workers at each enterprise, the Staff and Workers Representative Congress, for which the official trade union organization acts as a kind of executive committee. Under Mao, the trade unions were sometimes regarded as a rival to the Chinese Communist Party. Trade unions twice tried to increase their measure of independence in the 1950s and 1980s (Pringle and Clarke 2011, 86). However, the ACFTU's first attempt resulted in its own disintegration during the Cultural Revolution. The second attempt ended with the suppression of the Tiananmen Square protests in 1989.

The old labor relations structure changed dramatically after 1978 as the "iron rice bowl" system of guaranteed employment and benefits in state industrial enterprises crumbled and was replaced by a market-oriented economy built on contractual relations between labor and employers. The transition from a command to a market economy had varying impacts on workers, depending to a great degree on local conditions.

The restructuring and liquidation of a large number of state-owned enterprises in the late 1990s resulted in massive and painful dislocations. These hit regions with high concentrations of state-owned manufacturing enterprises (such as the industrial northeast) particularly hard. Tens of millions of workers lost their jobs. Estimates vary widely, but some experts claim that 50 or 60 million workers were affected. Because the system of social protection was severely inadequate to provide unemployment benefits to laid-off and unemployed workers, many workers were thrown into poverty (Lee 2007; Solinger 2007).

At the same time, a different set of challenges arose in regions that were opened up to international trade and investment. As excess labor in rural areas gained greater mobility following the introduction of the household responsibility system in agriculture, rural residents flowed into cities, particularly in southeastern coastal regions, to take up low-skill jobs. By the 2000s, the migrant population accounted for 57.5 percent of China's industrial workforce and 37 percent of its service-sector employees (Lee 2007; Solinger 2007). In the garment, textile, and construction industries, these migrant workers constituted 70–80 percent of the total workforce (Lee 2007). The large "floating population" of rural migrants helped fuel China's rapid economic growth by providing low-

wage labor for the export sector, but it also generated large numbers of labor grievances as foreign and domestic employers took advantage of their social and legal vulnerability. Most of the migrant workers were employed on an informal basis, so they lacked proper labor contracts. Without urban residency registration status (*hukou*) and without formal contracts, migrants had to work for lower wages and lesser benefits than laid-off state enterprise workers (Tomba 2002). A government survey in December 2003 found, for example, that 72 percent of migrant workers were owed back wages (Brown 2010, 9).

These two macroeconomic changes created fertile conditions for labor disputes. Many labor disputes were initiated due to mass retrenchment and unfair compensation given to previously privileged workers when state-owned enterprises were privatized, downsized, or closed (Lee 2007). Migrant workers also generated a large number of labor disputes as they suffered from poor working conditions with little legal protection. Moreover, sociologists observed that whereas many of the older generation of migrant workers were willing to put up with harsh working conditions, their sons and daughters often were not (Zhang 2011).

Local governments are often caught in the crosswinds of labor disputes. Local governments are responsible for cultivating a growth-oriented economic environment, while at the same time they must implement labor laws promulgated by the central government. Although they tend to favor business interests over labor, they are eager to resolve labor conflicts in order to maintain social stability (Lee 2007, 11). Local government officials are promoted based on their ability to achieve GDP targets, but serious outbreaks of labor unrest tarnish ambitious officials' performance records (Edin 2003, 40; Li and Zhou 2005; Saich 2008). Therefore, the local government has a vested interest in supporting enterprises that provide employment and economic growth but also in maintaining peaceful relations with workers. It is not unheard of, for example, for local officials to rush out to deal with a strike or threatened strike by summoning a judge at short notice to convene a trial at the enterprise in order to rule on—and often to satisfy—workers' grievances (Su and He 2010). As Lee and Zhang (2013) argue, local governments employ an array of methods, including handing out cash to protesters and creating informal mediation commissions, to weaken collective expressions of unrest. The government's preference for mediation over arbitration is evident in the fact that more disputes are handled by mediation than by arbitration.⁵

Trade union officials are in a similarly ambiguous position. Because the local party committee appoints leading trade union cadres, trade

unions are beholden to the local government (Pringle and Clarke 2011, 35–39). At the enterprise level, union leaders tend to depend on management, because they depend on enterprise managers for their salaries and benefits, and indeed often their jobs. In some cases, particularly in private enterprises, the positions of the trade union leaders are combined with management positions (such as human resources manager) in the same enterprise (Pringle 2011, 167). A common pattern in the private sector is for the spouse of a firm's owner to serve as the head of the trade union organization (Liu and Li 2014). Therefore, workers tend to view the trade union as a body serving management's needs rather than workers' needs. At the same time, however, trade unions seek to maintain or increase their institutional power. They are intent, for example, on expanding the number of union branches in private enterprises and participating in tripartite collective bargaining commissions. Empirical studies find that enterprises that have labor union organizations have higher productivity and more workers covered by labor contracts and eligible for social insurance benefits (although wages are not higher) (Lu, Tao, and Wang 2010). Unions are closely allied with the party in their relations with employers, but employers also use trade unions as channels of communication with local party offices. This intermediate position helps explain trade unions' reluctance to assert their independence by adopting a confrontational posture in defending workers' rights.

By the early 2000s, the regime confronted widespread labor unrest. The party recognized that the existing political and legal framework for averting and resolving labor disputes was failing to prevent a growing number of protests. Therefore, the Hu-Wen leadership initiated a set of laws that would strengthen existing channels for resolving disputes. For the most part, the new legislation does not introduce fundamentally new rights for workers but it clarifies existing rights, makes it easier for workers to defend them, and increases legal sanctions for employers who violate them. As a means to regulate labor relations, the law is consistent with the professed goal of a "law-governed society" (*fa zhi shehui*). To be sure, the changes are incremental. The existing rights of trade unions to represent workers in collective negotiations resulting in collective contracts are reinforced, but the trade unions are by no means made independent of the party-state. Given the party's wariness of independent organizational capabilities of trade unions, it is not surprising that the trade unions are not given full reign over their constituents. The new legislation strongly favors the adjudication of disputes on an individual basis, while slightly expanding the range of opportunities for collective contracts and collective disputes (Gallagher 2014; Liu 2014; Yao and Zhong 2013). The new labor legislation thus tilts the formal balance in

employment law modestly toward the workers' advantage, but does not create a new institutional framework either legally or politically.

Overview of the 2008 Labor Contract Law

The Labor Contract Law was first proposed by the government in 2005, enacted in 2007, and entered into force on January 1, 2008. Five months after the Labor Contract Law was adopted, a companion law, the Labor Disputes Mediation and Arbitration Law, was passed, taking effect on May 1, 2008. This law clarified and simplified the procedures through which workers could seek redress in disputes with employers over wages (Brown 2010). The law emphasized mediation and arbitration over lawsuits, but stipulated that if either party was dissatisfied with the outcome of these procedures, it could file suit in court. Adoption of the Labor Contract Law and its companion law on the mediation and arbitration of disputes reflected the Hu Jintao and Wen Jiabao leadership's intent to reduce social tensions brought about by liberalization of China's economy. A third law, the Employment Promotion Law, bore on employment relations less directly, but prohibited discrimination in hiring and employment (Brown 2010; Ho 2009). Unlike the other two laws, however, the Employment Promotion Law tended to lay out objectives and obligations without providing institutional remedies for enforcing them. These three laws were far from the only labor-related laws adopted in the Hu-Wen era: the decade of their leadership saw the adoption or development of eleven major laws or regulations on labor relations in China (Yao and Zhong 2013, 639).

The Labor Contract Law's final passage followed a long and contentious debate among competing interests. In the thirty-day period of public comment, the National People's Congress (NPC) received over 191,000 comments regarding the draft Labor Contract Law. This number far exceeded the comments received about other important and controversial laws (Gallagher and Dong 2011, 36). Numerous policy experts contributed comments, with some advocating greater government protection of workers' rights, and others a greater role for market relations. Foreign and domestic business interests weighed in as well, generally seeking to strengthen the rights of employers vis-à-vis workers. The American Chamber of Commerce expressed serious concern that the law would be enforced more stringently in foreign-owned firms than in domestic ones (Freeman and Li 2013; Gallagher et al. 2013; Pringle 2011).

The ACFTU only entered the debate over the Labor Contract Law after the initial draft had been proposed, although it did participate actively in the revision process (Gallagher and Dong 2011). Consistent with their institutional demands in the past, the trade unions took the oppor-

tunity of the public debate over the law to press for greater use of collective contracts and tripartite bargaining institutions. Trade unions cite the number of collective contracts signed at the enterprise, local, or branch level as evidence of their effectiveness and value the opportunity collective negotiations give them to represent workers (Pringle 2011, 110). They were successful in winning broader recognition of collective contracts and their role in enforcing them. Even here, however, the legislation hedged against the trade unions' exclusive representational rights by providing that other bodies, such as the Staff and Workers Representative Congress, had the right to approve collective contracts (Article 51).⁶

The government's clear preference for individual over collective contracts is evident in the text of the law in several ways. For example, the government avoids using the term *collective bargaining*, preferring instead the term *collective consultation* (*jiti xieshang*) to avoid any implication of conflict or confrontation between capital and labor, and the negotiations are called conferences (Pringle 2011, 117). Negotiations over collective contracts are overseen by, and final agreements must be approved by, government labor bureaus. Collective contracts may be signed on a territorial or industrial basis, or both, but in practice they tend to be broad, framework documents, usually laying out minimum standards for pay and working conditions. Workers are often unfamiliar with their terms (Pringle 2011, 122). At most they operate as framework agreements on the basis of which individual contracts are drafted. This system suits employers, who are free to differentiate wages and working conditions on an individual basis with employees.

Moreover, under the Labor Contract Law collective contracts are not required; the law treats the individual contract as the primary reference point for adjudicating disputes (Article 51). If a dispute cannot be settled within the framework of the individual contract, then the terms of the collective contract, if one exists, are to be used to resolve the issue. If there is no collective contract, then state law is to be invoked. Collective contracts may not set wage and other conditions for employment worse than those spelled out by the government, and individual contracts may not provide for conditions worse than those in collective contracts. If an employer violates the terms of a collective contract, then the trade union can intervene on behalf of the workers and, if bargaining fails, can demand arbitration or file suit. In the case of disputes, the law allows labor unions to express their views or demand redress (*yaoqiu jiuzheng*) (Article 78).

However, it is the employee who chooses whether to pursue redress through arbitration or court; if he or she does so, then the labor union is required to "provide help and support in accordance with the law" (*yifa*

jiyu zhichi he bangzhu) (Article 78). Thus, the law restricts the trade union's role to that of support, lays primary responsibility for seeking redress of grievances on the individual employee, and assigns government labor departments and courts the responsibility for adjudicating disputes. There is provision for the pursuit of collective grievances arising from violations of collective contracts, but only where the trade union acts (Article 56).

Thus the Labor Contract Law reinforces the trade unions' rights to pursue collective labor contracts and their role in representing workers at the bargaining table. However, it minimizes pressure on employers by requiring only that collective contracts adhere to minimum wages and working conditions. It encourages resolution of disputes at the individual level by requiring active participation by the individual in order for the dispute resolution process to begin. Thus, although both individual and collective labor rights are recognized in the law, individual rights are given greater emphasis.

Still, notwithstanding the clear limits on collective representation of workers' interests, there is no question about the fact that on the whole the Labor Contract Law strengthens the rights of individual employed persons vis-à-vis employers. Above all it does this by stiffening penalties for violations of the 1994 Labor Law's provision that all employed workers have an employment contract. A crucial provision of the new Labor Contract Law is that after the end of two five-year-term contracts, an employer *must* renew the contract on an open-ended, non-fixed-term basis. (The law also provides for temporary, project-based contracts.) To be sure, the law grants employers' rights as well. Under certain specified conditions, either party may end a contract before its expiration (*jie chu*) or refuse to renew a contract upon its expiration (*zhong zhi*). In addition, the law requires that contracts include several specific types of provisions, among them compensation, social insurance, and work conditions (Article 17). If the contract fails to stipulate these and a dispute arises, the worker may renegotiate the contract. The law also provides numerous grounds on which employers may terminate a contract. The law devotes a section—new since the 1994 law—to the use of “dispatch” labor, a system widely used (both before and after the legislation passed) to allow employers to avoid their obligations to pay wages on time and make the required contributions to workers' social insurance funds on the often-unfounded premise that the labor dispatch organization is doing so.⁷ An employer who fails to sign an employment contract within thirty days of employment must pay double wages for the period of the violation.

Moreover, the legislation (the Labor Contract Law and the Dispute Mediation and Arbitration Law taken together) greatly eases the burden

for individual workers in pursuing redress of grievances. Whereas under the old labor law, workers needed to pay legal fees for arbitration of disputes (prorated according to the size of the award sought), the new legislation eliminated filing fees. It also allowed partial awards, where the facts justified an award on the basis of an initial finding and before a final judgment; this was intended to reduce foot-dragging by employers and to reduce the incidence of appeals of arbitration decisions in court. Workers now have one year rather than sixty days in which to file a grievance. Finally, although the law did not entirely eliminate the requirement that workers pursue arbitration before seeking adjudication in court, in a restricted set of cases, workers can take labor grievances directly to court.⁸

As we noted above, the actual impact of the new law is hard to measure precisely. The use of labor contracts, both individual and collective, had been rising following the 1994 law. So had the incidence of labor disputes, due in part to long-term trends such as the tightening of the labor market. The global recession in 2008 and 2009 also stimulated a burst of labor protest, just as the law came into effect. Given that Chinese legislation on social issues is often honored more in the breach than in the observance, and that legislation providing for employment contracts in the past had not prevented the wide and growing use of informal labor, there is good reason to question whether the new law has had much real effect. Nevertheless, the Hu-Wen leadership had committed itself to easing social tensions generated by the rapid rise in market relations and put considerable effort into publicizing the new law. For example, soon after the law passed, the Chinese media publicized a scandal involving forced labor of children and handicapped workers in Shanxi and Henan provinces (*China Daily* 2013).

Early reports indicated that the 2008 legislation led to a sharp rise in the number of disputes filed by workers and accepted for mediation or adjudication (Gallagher et al. 2013, 18–20). Surveys in 2009 and 2010 found that most workers were aware of the legislation, at least in general terms. The number of workers covered by labor contracts increased significantly (Freeman and Li 2013, 8; Gallagher et al. 2013). Because the Labor Contract Law provides that contracts cover not only wages and work conditions, but social insurance protection as well, the law increased the number of workers who were enrolled in pension and other social insurance plans (Gallagher et al. 2013). In some cases, this seems to have brought about a reduction in earnings as employers cut wages in order to pay the social insurance contributions (Gallagher et al. 2013). Moreover, as noted above, employers found other ways to evade the obligations of the law, which in turn fueled more labor disputes. The use of labor contracting or dispatch firms increased significantly, although

under the law, dispatch firms are obliged to offer workers contracts. Observers noted that the flood of new cases was largest in the Pearl River and Yangtze River delta regions, as well as in regions that had been experiencing rapid economic growth, and in regions with high concentrations of state-owned industrial enterprises (Brown 2010, 170).

Hypotheses

This review of the background of the law suggests three testable implications for the impact of the law on labor contracts and labor disputes. First, we would expect to see a surge both in contract coverage and disputes immediately following the law's enactment, followed by a leveling off of both as the initial impact of the law subsided. The new legislation spells out a number of employer responsibilities that must be embodied in individual contracts (including the fact of a detailed written contract and the requirement that it provide social insurance coverage) and specifies the methods by which workers can pursue redress of grievances. Accordingly, we expect that these would serve as focal points for disputes filed for mediation and arbitration. There would be an initial spike in disputes as workers initiated claims based on past grievances and as employers resisted complying with the legislation. However, both because the economy soon began recovering from the economic downturn in 2008 and because both sides would adjust to the new situation, we would expect the volume of disputes to level off.

Second, we would expect the legislation to have a stronger effect in stimulating individual grievances than collective ones, given the liberalization of the procedures for filing individual cases. As we have emphasized, the legislation is aimed at channeling disputes into individual forms of resolution to prevent them from expanding into collective incidents. Therefore, we predict that the surge in disputes would be above all seen in individual rather than collective cases accepted for resolution.

Finally, we would expect the effects of the law on both contract coverage and disputes to vary significantly across provinces. Provinces where exports form a larger share of economic activity are likely to manifest more labor conflicts as international competitive pressures push employers to cut wage costs. Likewise, provinces with a larger share of migrant labor in the workforce would be expected to record a higher number of disputes. This is because migrant laborers had the lowest individual contract coverage rates before the enactment of the new legislation. Therefore we would expect the greatest increases in both contract coverage and the incidence of disputes to occur in those provinces with the highest levels of exports on a per capita basis and the highest levels

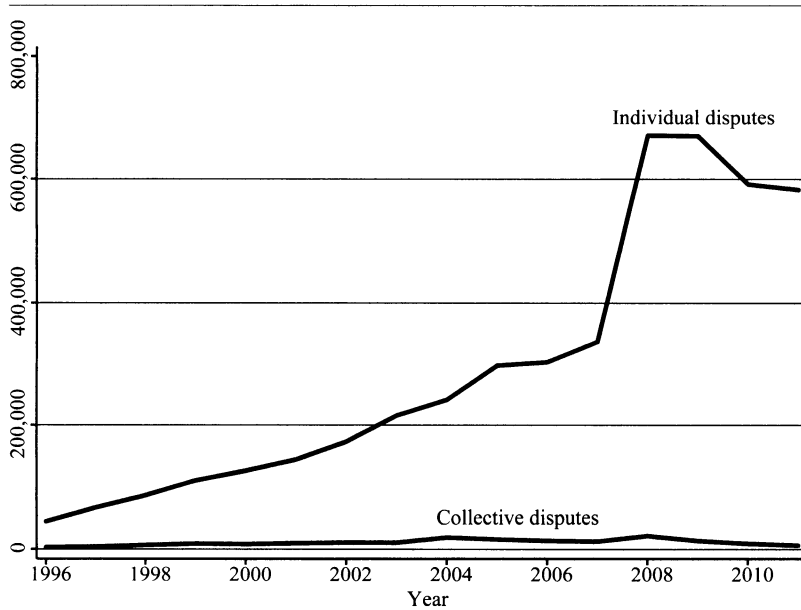
of employment of migrant workers. Likewise we would expect provinces with denser information media to record higher numbers of disputes. This is because information would travel faster to the extent that personal, social, and regular media networks are denser, and would increase the scale of disputes, as well as increase copycat labor disputes. Also, we would expect that provinces with higher levels of output per capita are likelier to see higher levels of disputes as rising output stimulates demands for better wages and social insurance coverage.

Note that we expect that the incidence of individual contracts will vary positively, not inversely, with the incidence of disputes. This is because the two phenomena are closely related: as workers become more aware and demanding about their rights, we would expect to see more contracts signed and, at the same time, more effort by employers to find ways to renege on their obligations, in turn triggering more disputes. Unfortunately, the labor statistics only report on collective contracts, not individual ones, so we can only explore this assumption for collective contracts. We therefore examine national-level and province-level trends in individual disputes, collective disputes, and collective contracts. Our source of data is China's annual labor statistics and trade union statistical yearbooks.⁹ (See the appendix for the descriptive statistics.)

Results

Our first two propositions about the effect of the Labor Contract Law on the volume of individual and collective disputes are borne out by the data. Figure 1 shows that although the number of total disputes accepted by mediation and arbitration boards had been rising throughout the decade, 2008 brought a sharp spike in the total, followed by a modest decrease in 2010.

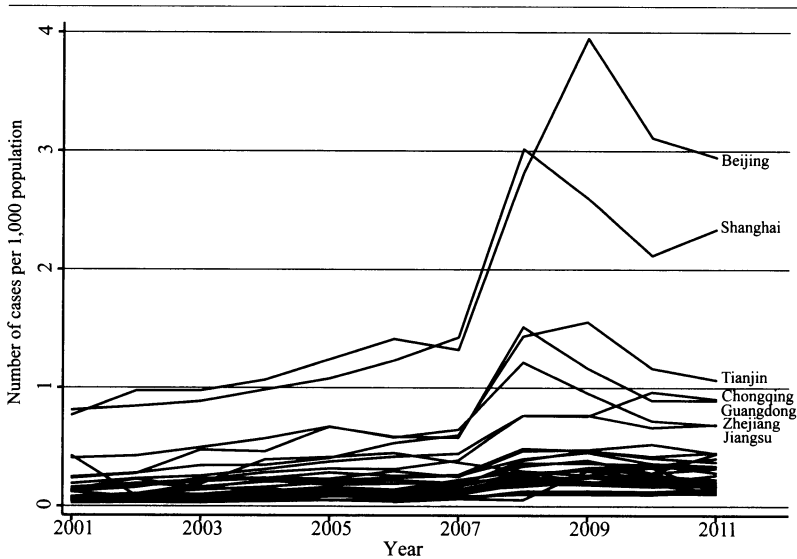
Note that Figure 1 also shows a decline in the number of collective disputes after 2008. However, these figures are misleading, as Mingwei Liu (2014) has pointed out. First, the government changed the definition of collective disputes in 2009. Previously, a collective dispute was defined as one joined by at least three workers. In 2009 the definition was made far more restrictive, so that only disputes involving at least ten workers could be classified as collective. That alone would reduce the reported total. Second, labor administration departments worked to break up collective disputes into larger numbers of individual ones, which would inflate the number of individual disputes and reduce the apparent number of collective disputes. Finally, the government moved more directly to intervene in resolving collective grievances, bypassing the me-

Figure 1 China: National Incidence of Labor Disputes Accepted for Adjudication, 1996–2011

Source: Labor and Social Security Statistics Yearbooks and Chinese Trade Unions Yearbooks.

diation and arbitration procedures (Liu 2014, 491). Therefore the sharp increase in the number of individual disputes may indicate that more collective disputes were being handled as multiple individual ones, as well as that there were likely more disputes of all kinds accepted for adjudication after passage of the legislation.

As the third proposition suggests, there is wide variation in the impact of the law across provinces. Because provinces differ so greatly in population, we have normalized the incidence of individual disputes by population. Figure 2 shows that the effect was modest in most provinces and much more pronounced in a handful of rich provinces (measured by GDP per capita). Not surprisingly, Beijing and Shanghai, the political and financial capitals of the country, far exceed the other provinces in per capita disputes. This is consistent with the supposition that the density of information networks is a factor driving labor disputes.¹⁰ Localities with higher shares of those employees possessing the skills and resources to lodge disputes would also likely experience a higher number of disputes.

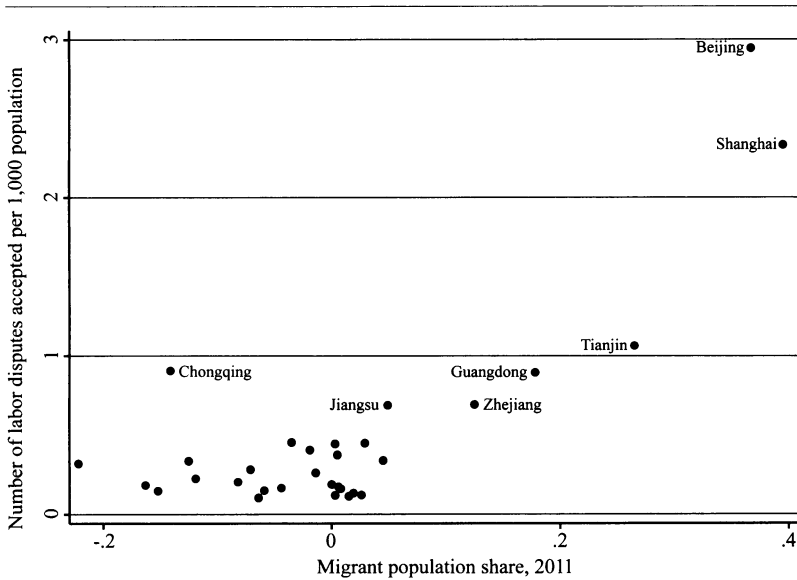
Figure 2 Number of Individual Labor Disputes per 1,000 Population, by Province

Source: Labor and Social Security Statistics Yearbooks and Chinese Trade Unions Yearbooks.

We can get a visual impression of the impact of the migrant labor factor in driving labor disputes in Figure 3. It suggests that provinces with a net positive flow of migrant labor in the 2000s experienced more labor disputes. Although the published Chinese statistical yearbooks do not provide data on the share of migrants in the workforce of provinces, they do report figures on the size of the permanent population and of the registered resident population of each province by year. We can use the share of nonresidents in the total population as a rough proxy for the size of the migrant labor population. Figure 3, therefore, plots the number of individual labor disputes per 1,000 population in 2011 against the share of the nonresident permanent population of provinces in the same year. Those provinces with a large nonresident population, such as Shanghai, Tianjin, and Beijing, tended to have higher rates of labor disputes.

Figure 4 explores regional variation in collective disputes. These are not normalized by population because collective disputes can have varying numbers of plaintiffs. The graph indicates a great deal of variation by year and by province. Guangdong, however, with its enormous number of migrant workers, tops the list both in 2004 and 2008. The graph does

Figure 3 Number of Individual Labor Disputes per 1,000 Population by Province by Share of Migrant Population, 2011



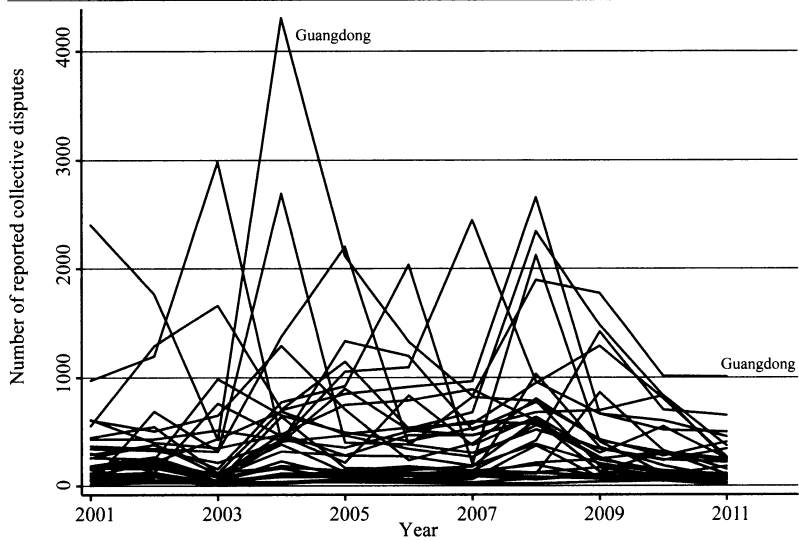
Source: Labor and Social Security Statistics Yearbooks and Chinese Trade Unions Yearbooks.

appear to show some decrease in the number of collective disputes after the law's passage, but, as indicated, this may be deceptive.

At the same time the law seems to have little impact on the use of collective contracts. Figure 5 displays the province-by-province trends in the total number of collective contracts signed (which can include both enterprise- and higher-level agreements). Both series show a generally rising trend over time, with a few provinces leading the way. But the graph does not show a discontinuity in 2008.

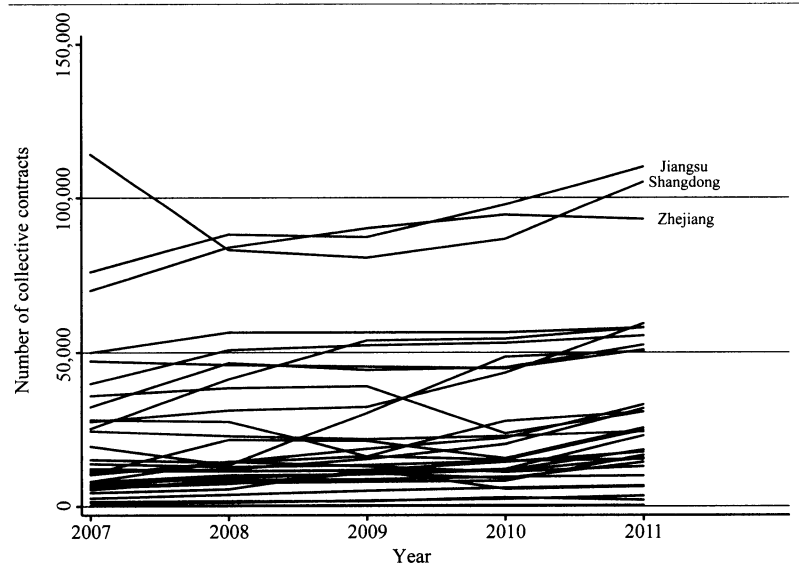
The graphs provide initial confirmation that the Labor Contract Law had an impact in stimulating more labor disputes, particularly individual ones. We argue that this confirms that the pursuit of individual grievances has the effect—and probably reflects the goal—of increasing the use of individual grievance-adjudication mechanisms in order to preempt pressures and capacities for collective protest.¹¹ At the same time, we saw no evidence that the law stimulated the signing of collective contracts, which continued generally to rise throughout the period before and after the law. The increase in collective contracts could be a broader trend caused by government actions other than the passing of major labor

Figure 4 Number of Collective Disputes per Year by Province



Source: Labor and Social Security Statistics Yearbooks and Chinese Trade Unions Yearbooks.

Figure 5 Number of Collective Contracts per Year by Province



Source: Labor and Social Security Statistics Yearbooks and Chinese Trade Unions Yearbooks.

laws. To be sure, the very short time span covered by our data makes such a conclusion very tentative. We also noted a distinct difference among provinces in the effect of the law. A half dozen wealthy provinces showed marked changes, with the rest of the territories much less dramatically affected.

We next attempt to test whether these effects are spurious and whether the actual driving forces are not the labor legislation, but other factors, such as economic growth, simple time trends, export intensity, or the share of migrant labor in the province. In order to sort out these effects, we estimate a series of cross-sectional time-series regression models, with province-years as the units of observation. In each model, we estimate coefficients for five covariates: a dummy variable reflecting whether the year was 2008 or later; year (in order to account for underlying trends over time); province GDP per capita in current prices; total value of exports per capita; and the share of migrants in the province's population (as a proxy for the share of migrant labor in the workforce). We use province fixed effects to hold constant other unobserved province-specific effects and cluster errors on the provinces. Tables 1–5 present the findings.

The data show that the dummy variable for the new legislation had a positive and statistically significant effect on the number of total disputes, even after we account for the effect of GDP per capita, year trends, migrant labor share, and export intensity.¹² The onetime effect of the law also is positively related to the incidence of disputes over wages. And, although Figures 1 and 4 showed a decline nationally in the number of col-

Table 1 Number of Disputes Accepted, per 1,000 Population, 2001–2011

	Coeffic.	S.E.	t	$p > t $
LCL dummy ^a	.233**	.07	3.33	.002
Exports per capita ^b	.068*	.03	1.99	.060
Year	.017	.01	1.21	.234
GDP per capita	-.0000	-.0000	-0.07	.946
Migrant share ^c	3.44*	1.8	1.92	.065
Constant	-33.51	28.34	-1.21	.235

Notes: $R^2 = .6698$; * $p < .1$; ** $p < .01$; *** $p < .001$; N observations = 340; N groups = 31

a. LCL dummy: 1 if year is 2008 or later; otherwise 0.

b. Total value of exports from province per capita (US\$).

c. Percentage of nonresident population registered in province.

Table 2 Number of Collective Disputes Accepted, 2001–2011

	Coeffic.	S.E.	t	$p > t $
LCL dummy	77.96	88.63	.88	.386
Exports per capita	−30.59	56.54	−.54	.592
Year	53.93**	17.95	3.00	.005
GDP per capita	−.02**	.006	−3.13	.004
Migrant share	1,903.13*	814.44	2.34	.026
Constant	−107,369.2	35,889.65	−2.99	.006

Notes: $R^2 = .0271$; * $p < .1$; ** $p < .01$; *** $p < .001$; N observations = 340; N groups = 31

Table 3 Total Number of Collective Contracts Signed, 2007–2011

	Coeffic.	S.E.	t	$p > t $
LCL dummy	−354.59	2,061.15	−.17	.865
Exports per capita	134.05	2,148.79	.06	.951
Year	156.57	1,497.71	.10	.917
GDP per capita	.544*	.316	1.72	.095
Migrant share	−52,541.21	32,737.87	−1.6	.119
Constant	−302,393.6	2,999,770	−.10	.92

Notes: $R^2 = .203$; * $p < .1$; ** $p < .01$; *** $p < .001$; N observations = 155; N groups = 31

lective disputes, the time trend was positively related to the number of collective labor disputes, once other province-specific variables are held constant. None of the variables except for GDP per capita was positively related to the incidence of collective contracts. The results for wage-related contracts are not clear-cut; time itself did not have an effect and the law's effect was negative. The tables also show that the share of migrant labor is positively related to labor disputes even when controlling for export intensity of the region. Higher GDP per capita by itself was not related to the incidence of individual disputes, but did seem to lower the incidence of collective disputes.

Overall, the law prompted an increase in the number of individual labor disputes accepted for adjudication but did not stimulate an in-

Table 4 Wage Collective Contracts Signed Above Enterprise Level, 2005–2011

	Coeffic.	S.E.	t	$p > t $
LCL dummy	-2,532.97*	1,405.4	-1.80	.082
Exports per capita	3,385.82	3,415.56	.99	.329
Year	-1,030.05	1,263.28	-.82	.421
GDP per capita	1.13**	.34	3.31	.002
Migrant share	-111,454.2*	42,194.98	-2.64	.013
Constant	2,053,846	2,529,139	.81	.423

Notes: $R^2 = .29$; * $p < .1$; ** $p < .01$; *** $p < .001$; N observations = 217; N groups = 31

Table 5 Disputes Concerning Wages, 2001–2011

	Coeffic.	S.E.	t	$p > t $
LCL dummy	3,405.71*	1,272.96	2.68	.012
Exports per capita	2,175.66	1,420.93	1.53	.136
Year	126.86	185.81	.68	.5
GDP per capita	-.017	.10	-.17	.868
Migrant share	39,035.92*	22,496.82	1.74	.093
Constant	-253,320	371,648.5	-.68	.5

Notes: $R^2 = .48$; * $p < .1$; ** $p < .01$; *** $p < .001$; N observations = 339; N groups = 31

crease in collective disputes or collective contracts. If it was the intent of the law's sponsors to channel disputes into individual-level legal channels rather than allowing them to take more large-scale collective forms, the goal appears to have been realized. However, the effect of the law is not evenly distributed across provinces. Richer provinces, particularly those with large inflows of migrant labor and denser information networks, saw far more dramatic effects on disputes than poorer inland provinces. Clearly, diversity of social and economic conditions across the country plays a major role in influencing the effect of the legislation.

Conclusion

Our findings are consistent with a large body of literature arguing that the Labor Contract Law and the Labor Dispute Mediation and Arbitration Law formed part of an effort by the leadership to improve employment conditions for China's population by strengthening the legal rights of individual workers vis-à-vis employers. In doing this, the regime did not concede political autonomy to collective instruments of labor's interests, such as trade unions, communications media, or political parties. Nor did the regime move toward a system of collective bargaining between organized labor and employers' associations. Rather, it reinforced the mechanisms that had been worked out in the 1990s through which individual workers could defend their employment rights through mediation, arbitration, and litigation. It broadened the set of rights workers enjoyed and eased the path for defending them institutionally. It extended the existing framework for collective contracts modestly and modestly enhanced the trade unions' rights in negotiating and defending them. However, it did nothing to change the practice of treating collective contracts as floors below which workers' wages and benefits could not fall and ensured that enforcement of collective contract rights remained squarely in the hands of the government.

We do not mean to understate the law's impact. Clearly, the publicity campaign surrounding it, coupled with the flagrant efforts by some employers to evade it, produced a spike in disputes, particularly in those provinces where workers were mostly likely to have grievances and to be aware of their rights to seek redress. Our data show a subsequent leveling off in the caseload, but not a return to the status quo ante in the level of disputes. Time of course will tell whether the overall level remains constant, or falls or rises. Still, if it was the goal of the authorities to use the law to forestall more widespread, confrontational collective grievances, the results were only partially successful. Wildcat strikes have continued to occur, as at the Honda plant in 2010 and Yue Yuen plant in 2014. The China Labour Bulletin reported in January 2015 that there were three times as many strikes in the fourth quarter of 2014 than in the same period in 2013 (*Economist* 2015). Workers' greater awareness of their rights to social insurance coverage (the basis for the Yue Yuen strike) and the more widespread use of the instruments provided them under the Labor Contract Law suggest that workers are likely to continue to use whatever means are available to defend their interests.

In the future, if the regime's major goal is to forestall open labor protest by using contract negotiations and legal adjudication of disputes, then the regime may find it less costly to negotiate labor agreements

through collective bargaining than to adjudicate millions of individual disputes. An indication that collective agreements are becoming more widespread is a new regulation passed by Guangdong province in late 2014, taking effect in January 2015, that authorizes trade unions to represent workers in negotiating enterprise-level collective agreements (“Guangdong Provincial Regulation on Collective Contracts for Enterprises” 2014). The 2008 labor legislation does not expressly rule out such agreements, but provides for them only at higher levels, such as branch or region. The increasingly tight labor market and rising awareness on the part of workers of their rights—stimulated in part by the 2008 labor law—make it likely that enterprise-specific collective bargaining and collective dispute adjudication will become more widespread.

We also substantiated the impression of many initial observers that the law’s effects varied widely depending on local conditions. As Ronald Brown (2010, 170) noted, regions with rapid economic growth, high incomes, and large shares of migrant labor (such as Beijing, Tianjin, Shanghai, Zhejiang, Jiangsu, Guangdong) have higher numbers of disputes on a per capita basis. However, his observation that regions with high shares of state-owned enterprise employment and heavy industry (Liaoning, Hubei, Fujian, Chongqing, and Sichuan) also are higher than average in disputes is not borne out by the data apart from the case of Chongqing. Note also that we do not see large numbers of disputes in poorer regions or regions with large populations of ethnic minorities or lower incomes.

Data limitations prevent us from addressing some related issues. Of particular importance would be data on the actual incidence of individual contracts. So far, these data are lacking on a province-by-province basis. It would also be useful to know more about the nature of disputes: How many are actually collective disputes that have been administratively processed as individual ones? How well are the judgments of arbitrators and judges enforced? At the individual level, what are the factors associated with the likelihood of seeking adjudication of a dispute? Consistent with the literature, we might expect that younger and more educated workers are more likely to file grievances, and that private sector firms and smaller firms are likely to see a larger number of disputes, but only more fine-grained data would allow us to confirm those suppositions.

Further research will also be needed to examine the changing role of trade unions in representing the individual and collective rights of labor. Firm-level data would allow us to identify conditions under which the size and cohesiveness of a trade union branch are associated with a higher level of individual contract coverage, more effective collective contract

bargaining, and more vigorous defense of individual and collective worker rights. We can imagine two alternative patterns. In one, a stronger labor union branch presses the employer to ensure that all workers are covered by contracts and that contracts are enforced—resulting in fewer labor disputes and more harmonious labor relations. Alternatively, a stronger labor union organization might prefer to press individual and collective disputes as a way of demonstrating its collective power vis-à-vis employers. To test these propositions we will need good measures of trade union strength (share of workers who are members, cohesiveness of trade union preferences) and firm-level measures of contract coverage and disputes.

Nevertheless, the findings in this article allow us to draw several inferences. The 2008 law had an effect in stimulating a rise in individual labor disputes accepted for adjudication. This effect varied widely across provinces, depending on the development level, export orientation, and share of migrant labor of the province. The data are consistent with the idea that the law represented an effort by the government to parcel labor grievances into individual disputes and to keep them from assuming collective and confrontational forms. In this the law had only modest success: the number of disputes rose, but the number of collective labor protests has not diminished. Therefore it is likely that the law is one step on the path toward wider use of collective labor bargaining and dispute resolution. It is likely, therefore, that the 2008 law will be followed by a new body of legislation on collective labor rights.

Thomas F. Remington is Goodrich C. White Professor of Political Science at Emory University and senior research associate, International Center for the Study of Institutions and Development, Higher School of Economics, Moscow, Russian Federation. He has published a number of books and articles on the development of political institutions in postcommunist states. His current research is a comparative study of inequality and social policy in Russia and China.

Xiao Wen Cui is a graduate student in East Asian studies at Harvard University. Her work focuses primarily on government-business relations in China. Prior to coming to Harvard, she studied international politics and economics at Peking University.

Appendix: Descriptive Statistics

The items are total number of disputes filed for adjudication through mediation, arbitration, or litigation per province, normalized to 1,000 population; number of collective disputes filed per province; number of collective contracts signed per province; number of wage-related collective contracts per

province (note that figures for total number of collective contracts concerning wages were not available for 2001); number of disputes related to wages per province; and number of disputes related to social insurance per province. To simplify the presentation, we only show figures for 2001 and 2011.

	Mean	Median	Min.	Max.	CV ^a	Std. dev.	<i>N</i>
Disputes accepted per 1,000 population, 2001	.16	.08	.02	.81	1.25	.19	30
Disputes accepted per 1,000 population, 2011	.49	.28	.10	2.94	1.28	.63	31
Collective disputes, 2001	321.1	174	14	2,397	1.4	448.8	30
Collective disputes, 2011	212.5	113	5	1,008	1.02	216.4	31
Wage collective contracts above enterprise level, 2011	29,685.7	20,834	31	103,517	.93	27,572.72	31
Disputes over wages, 2001	1,505.1	660	52	8,103	1.4	2,115.1	30
Disputes over wages, 2011	6,462.03	3,224	253	38,270	1.41	9,082.4	31

Note: a. Coefficient of variation.

Notes

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1. The law's text in Chinese and English may be found at www.lawinfochina.com/display.aspx?lib=law&id=6133&CGid=#.

2. During the debate over the law, some argued that the law should provide equal protection to employers and employees, others that the law must emphasize protection of workers. The "single-protection" position won out even though some concessions were made to employers' interests in the final draft (Li 2008, 1107–1108).

3. The text of the dispute mediation and arbitration law may be found at www.cietac.org/index/references/Laws/47607b5418c9657f001.cms. The text of the employment promotion law may be found at www.npc.gov.cn/englishnpc/Law/2009-02/20/content_1471590.htm.

4. Note that the old *danwei* system did not apply to rural enterprises.

5. *Zhongguo laodong wang*, www.labournet.com.cn; *Laodong zheng yi chu li tong ji shu ju* (Statistical Data on Labor Disputes Handled) www.labournet.com.cn/ldzy/ckzl/ckzl2a (accessed August 6, 2014).

6. This permits workers' participation in bargaining over collective contracts in those enterprises lacking a trade union organization. We are grateful to an anonymous reviewer for pointing this out.

7. Dispatch services recruit workers for an employer, who signs a subcontract with the service. In turn, dispatch services may sign subcontracts with other contractors who recruit laborers. It is not uncommon for there to be multilink chains of subcontract relations separating an employee from the final employer. Often responsibility for ensuring that wages and social insurance contributions are paid properly is lost (see Pun and Lu 2010).

In December 2012, the National People's Congress amended the Labor Contract Law so as to tighten requirements for the use of dispatch agencies to employ temporary labor. The amendments stipulated that dispatch labor could only be hired for temporary jobs, replacement jobs, or "auxiliary" positions and that dispatch workers must be paid at the same rate for the same work as regular workers. It also raised the capital requirements for a dispatch agency to register and increased the fines for violations of the law; www.china-briefing.com/news/2013/03/18/china-revises-labor-contract-law.html.

8. Unlike ordinary contracts, for which the parties may seek adjudication through litigation, employment contracts must be dealt with first by mediation and/or arbitration before going to court. The 2008 legislation relaxes this requirement for certain types of employment cases (Brown 2010, 168).

9. *Zhongguo lao dong he she hui bao zhang nan jian* and *Zhongguo gong hui nian jian*.

10. As a reviewer pointed out, the major cities also have high shares of office workers, who also often file employment disputes.

11. Although collective protests increased, it is plausible that there would have been still more in the absence of approved institutional channels for individual disputes.

12. It is the case that the dummy variable representing the impact of the law simply records whether the year was 2008 or later. As noted above, 2008 brought economic recession as well as the law. However, despite economic recovery, the post-2008 levels of disputes remained significantly higher than the earlier levels, supporting our supposition that the law had an effect independent of economic conditions.

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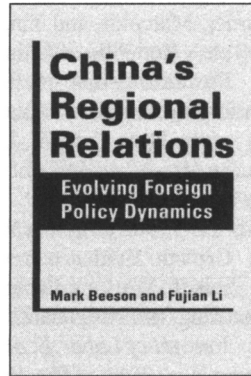
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