

**Cornell University, ILR School**

**Conference on “Breaking Down Chinese Walls:  
The Changing Face of Labor & Employment in China”, September 26-28, 2008**

**“Reflections on International Labor Education and the Lessons for China”**

**Remarks of Jay W. Waks\*  
September 26, 2008**

I am honored to address this distinguished group of workplace scholars and China hands. And I thank Professor Sarosh Kuruvilla for this opportunity. At the outset, I should explain that I am not a China scholar. Nonetheless, we all have our own stories of how and why we became focused on international labor studies, and on China in particular.

I relate my own deep interest in international labor matters to my undergraduate education here and to the months in 1964, right before I matriculated at Cornell. During that summer, I was one of a dozen U.S. students selected by the old *New York Herald Tribune* for its inaugural “World Youth Forum” in Europe. This Forum was a magical seven-week learning adventure where we met with some of Free Europe’s rising political leaders, such as Berlin’s Willy Brandt. We visited a number of Europe’s reconstructed, post-WWII industrial workplaces. And we were introduced to the EEC, the precursor to today’s European Union. I was struck by the spirit of entrepreneurial optimism that prevailed in the attitudes of Europe’s youth and youthful leaders. These were fascinating times, in the midst of the Cold War. And I had caught the international bug.

But when I entered ILR, I found that its International curriculum offered slim pickings, at least as compared to today. I early recognized from my coursework in U.S. labor history that it was the product of events stretching back to medieval Europe’s development of the mercantile and craft economies. But the faculty who taught truly International labor studies were few. And at the ILR School, Asia was hardly on my academic radar.

Back then, Comparative Labor Relations was taught by a soft-spoken scholar, Professor John Windmuller. And my International studies focused largely on the ILO and on the developing labor movement in post-colonial Africa. ILR also offered a fascinating introduction to the Soviet Union and its system of economic planning, taught by ILR Professor M. Gardner Clark. I suppose that I should not overlook my ILR Professor Milton Konvitz, since much of his course, in “American Ideals,” related to experiences and philosophies developed elsewhere in the world, including those of China and India. In reality, however, my ILR Professor Alice Cook

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seemed to be the lone scholar of the Asian workplace, having been published on the role of gender and trade unions in Japanese corporate society.

Now elsewhere at Cornell, *The History of China* was my most intriguing course. It was taught by Professor Knight Biggerstaff, a Sinologist in Cornell's History Department who had worked alongside General George Marshall in trying to avert a Chinese civil war after WWII. But this course had nothing to do with workplace studies. For me, the Asian workplace was a virtual unknown.

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To fast forward, I am fortunate that my law practice at Kaye Scholer has evolved over the past 36 years into a healthy mix of domestic and international employment and labor matters involving a wide range of countries and work cultures – principally Australia; Brunei; Bermuda; Brazil; Canada; China; France; Germany; Great Britain; India; Ireland; Italy; Japan; Korea; Mexico; and South Africa. My interest in China also has been fueled by that of my son and daughter who began taking courses in the Mandarin language in junior high school, continuing into college. In college, both pursued other China studies that rubbed off on me, as well.

In terms of experiencing China first-hand, however, I likely am way behind many of you. I have traveled to China only twice, and only beginning two years ago. My first-hand exploration of China's economy and culture began in 2006 when I joined Cornell Law School faculty on a trip to China that coincided with its academic conference on the World Trade Organization that it co-sponsored with Peking University and its law and international schools – Bei-da and Bei-wa. To his farewell banquet in Beijing, Cornell's law dean invited an ILR undergraduate, Cornell Class of '07, who was studying there. Her name is Helen Yang, and in 2006 she was ILR's first credited intern in Asia. Helen had spent that 2006 Spring semester working in Beijing on a United Nations' project to prevent the trafficking in girls for labor exploitation within China.

Helen's internship had been made possible largely by a travel grant from the Waks Family Fund for International Education & Research that Harriet and I set up in the ILR School some four years ago. Our vision was to enhance ILR's visibility internationally and to expand an understanding of the globalization of work as a way to promote worldwide economic and human development, with special emphasis on China and Asia. We are pleased that, this year, the ILR School has chosen to use our Fund to help sponsor this remarkable conference.

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Admittedly, I am not as steeped in China's workplace studies as you all are. But I would like to share with you briefly some observations from my own focus on China.

While China obviously does not have the same industrial, labor or commercial antecedents that helped to frame the uniquely American evolution of labor and employment

policy, China, I have observed, has an entrepreneurial spirit and an eager workforce and, over time, may roughly track the American model. In an article entitled, “Misunderstanding the Chinese Worker,” researchers writing in the *Wall Street Journal* this summer (Kathryn King-Metters and Richard Metters, July 2, 2008), observed that “China is becoming a society in which both men and women care equally about quality of life, where leisure time is important and where taking initiative is a good thing.” If I did not know they were writing about China, I would say that this description sounds so typically Western in the emphasis on “quality of life,” “leisure time,” and “initiative”. Certainly initiative and entrepreneurial spirit will help to mold the future of China’s workplaces although this spirit alone is not a workplace panacea.

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There are two intersecting developments I view as being critical to the evolution of a modern workplace and workforce in China.

I see the *first* development as being largely internal. As subsistence pay or low wages of the Chinese workforce progress gradually and standards of living improve, albeit under the (heavy) footprint of China’s planned economy, the pressure to increase pay further and, in turn, improve living standards and workplace standards, is inevitable. In a broad sense, this aspirational pay progression has been the American experience, and there is every reason for it to become the Chinese experience. Over time, internal workplace pressures themselves will improve wages and the quality of working life in China although this will be an incremental process. And this progression should occur regardless of the Government’s efforts to impose its captive union movement.

I see the *second* major development that is rapidly improving the quality of work in China as reflecting social movements outside of China that are directed at U.S. companies and other Western entities which have invested hard capital in China. Here I am speaking principally of the Nikes, the Walmarts, the Adidas-es and the Disneys, and the influence that activist labor and human rights NGOs have had in pressing these and other corporations with considerable capital (and their reputations) tied up in China, to improve the living standards and quality of working life of their Chinese workforces and those of their Chinese contractors.

The unionization of China is not among the developments upon which I will comment further, except to observe that forced unionization, especially by labor unions that are captives of the ruling party and regional governments, will count for much less in the quest for improved living and working standards than would the commitment of corporate investors acting on their own.

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Besides these two workplace developments – as I see them, one which is *internal* and roughly reflects an evolutionary aspirational progression, and the other which is *external* and reflects the pressure of the International community for workplace reforms – China itself must

quickly overcome a number of key challenges, five major challenges by my count, if it wants to be respected worldwide in terms of the treatment of its workforce.

I will comment on them briefly and then conclude.

*First*, China must do more to prevent the trafficking in girls and young women for labor exploitation within its boundaries. To this point, if China wants to continue attracting huge investments from industrialized nations and wants to be considered a true leader among the modern, enlightened commercial powers, it must provide training to all of its young workers, and especially its young women. China must commit itself to teaching them the intellectual and manual skills that will permit them to pursue socially and economically productive ventures and avoid their being channeled for purposes of exploitation, into indentured servitude, prostitution, and the like.

On the other side of this equation, China must clamp down hard on those who traffic in and otherwise abuse the human and labor rights of young women. This must be a priority.

In addition to the morality aspect of this subject, education and training to avoid exploitation will only serve to enhance the productivity of China's vast human capital. This training is an investment that should reap huge returns for China.

*Second*, China must remove remaining workplace barriers that may impede its ethnic and geographical minorities. Again, this is not just an issue of morality or human rights. This is a matter of good common sense – actually, dollars and cents. For bigotry diverts resources and artificially restrains the productive use of human capital.

*Third*, China must ensure safe workplaces and healthy working environments in all of its ventures, within China, as well as where China itself has invested heavily outside of China.

*Fourth*, China must pay more careful and scrupulous attention to the protection and enforcement of intellectual property rights of others, as well as to the enforcement of reasonable restrictive covenants, comparable to the workplace experiences of the United States and Europe.

*Fifth*, and finally, China must encourage effective systems of workplace dispute resolution that rely on the professional judgment of neutrals . . . true neutrals.

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It is far, far easier for me to identify these challenges than to analyze them. I only wish that I had the time to explore each in depth this evening.

In closing, my sincere charge to you is that, being some of the most influential China workplace scholars and teachers of our day, you remain focused on each of these critical challenges in your research, in your scholarship and in your teaching.

Take heart ... just as I have reflected fondly upon the impact of my international labor education of some 40 years ago, your contributions to China workplace studies will be the subject of reflections, hopefully fond reflections, some 40 years from today.

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