

The Challenge to Traditional Labor Rights and
Policies in China from 1911 to 1949:
Some Cultural, Historical, Human Rights and
Criminological Perspectives

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1. Introduction

China became embroiled in conflicts with the colonial powers at a time of dynastic collapse. Through the decades that followed, and into the early twentieth century, these western nations and Japan forced a host of territorial, economic, and political concessions from China, and ultimately

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threatened the very existence of the nation and culture. Chinese society was shaken to its very foundations and the welfare structures of the Qing disintegrated and collapsed.¹⁾

The historical conditions that prepared the way for the rise of modern Chinese social welfare in the twentieth century had been gradually emerged: rural disintegration and deepening landlord-peasant conflict, the small but growing weight of the proletariat, the growth of modern educated elite, superficial and un-even modernization, and the development of the national movement.

There were about 1.8 million workers engaged in modern capitalist production, of which about a third were employed by foreign companies. The majority of workers were villagers who had recently come to the cities, many of them recruited according to the hiring agents system which placed workers under the personal control of an agent who received their salary and provided them with a miserable lodging and a tiny wage. According to Pan²⁾ and Chan³⁾, women and children formed a large part of this proletariat. A working day of twelve to sixteen hours, brutal foremen, wages bare subsistence wages, and unstable employment constituted the harsh living conditions of the working class.

The workers' movement, responding to these conditions, emerged as an important force to advance the struggle for modern social welfare rights and to challenge traditional ideas and practices of social welfare. This struggle was bound up with the early activities of both the Nationalist and

1) Chan, F., "Individual rights and collective rights: Labor's predicament in China", *Communist and Post-Communist Studies*/40, 2007, p. 59.

2) Pun, N., *Made in China: Women factory workers in a global workplace*, Durham, NC, Duke University Press, 2005, p. 47.

3) Chan, J. W., "Chinese women workers organize in the export zone", *New Labor Forum*/15(1), 2006, p. 19.

the Chinese Communist Party (below CCP).⁴⁾ The present study highlights to explore the impacts of traditional social security in China from 1911 to 1949 using the cultural, historical, human rights, and criminological perspective. These points contribute to better understand in terms of situational contexts of Chinese labor rights. Policies such as legal system tend to create with multi-interaction with the points. Through the process, the present study provides how Chinese social security system has the process for transformation and development between Nationalist and Communist Party. To analyse the impact and influence in terms of it, secondary data such as book, government report, and journal paper in relation to the fields.

2. The Rise of Modern Protective Legislation for Workers

Prior to the 1911 Revolution, working conditions were governed by craft traditions, customs and personal relations.⁵⁾ The Provisional Constitution of 1912 republic guaranteed the right of association and assembly as well as freedom of the press and speech were guaranteed to all Chinese citizens.⁶⁾ Neither the national Constitution nor any provincial legislation, however, protected or guaranteed laborers' working conditions and welfare or the

4) Walder, A., *Communist Neo-Traditionalism: Work and authority in Chinese industry*, Berkeley, University of California Press, 1986, pp. 52-54.

5) Hurst, W., "Understanding contentious collective action by Chinese laid-off workers: The importance of regional political economy", *Studies in Comparative International Development*/39(2), 2004, p. 94.

6) Cai, Y., "The resistance of chinese laid-off workers in the reform period", *The China Quarterly*/170, 2002, p. 327.

right to organize and strike. Until the mid-1920s labor welfare and labor rights were virtually un-known in China.⁷⁾ Excepting the small funeral allowance that some employers provided when an employee died on the job, there was virtually no compensation for accident or illness.

The first modern strikes in China were reported as early as 1912. In 1916 the police and employees of the French Concession in Tian-jin struck in protest against the illegal extension of the Concession boundary by the French Consulate.⁸⁾ The May Fourth movement of 1919 stimulated working class protests and strikes and boycotts followed in Beijing, Tianjin, and Shanghai.⁹⁾ In 1919 the International Labor Conference in Washington asked China to adhere to the principle of the protection of labor by factory legislation. Public sentiment, coupled with repeated labor union agitation, forced the warlord-controlled Peking government to accept labor protection legislation.¹⁰⁾ In 1923, in response to continued pressure from labor and from the International Labor Office, China's first Provisional Factory Regulations were promulgated by Presidential Decree.¹¹⁾

According to Howell¹²⁾, the regulations applied to all factories, whether foreign or Chinese owned, which employed more than one hundred workers. They prohibited employment of boys under ten or girls under twelve, while boys under seventeen and girls under eighteen were

7) Zhang, L., "Lean production and labor controls in the Chinese automobile industry in an age of glottalization", *International Labor and Working-Class History*/73(1), 2008, p. 1.

8) Cai, Y., *Op. cit.*, 2002, p. 330.

9) Chan, F., "Lagal mobilization by trade unions: The case of Shanghai", *The China Journal*/52, 2004, p. 27.

10) Chan, F., *Op. cit.*, 2007, p. 64.

11) Zhang, L., *Op. cit.*, 2008, p. 6.

12) Howell, J., "All-China federation of trade unions beyond reform? The slow march of direct elections", *China Quarterly*/196, 2008, p. 845.

permitted 'light work' only. Working hours were limited to eight hours a day for young persons and ten hours a day for adults. Young persons were assured two rest days a month. The Regulations also provided for breaks in the working day, rotation of shifts, and guarantees of wage payment. Employers were required, at their own expense, to provide education for young persons and uneducated adults – at least ten hours a week for a young worker and six hours for older workers. They were required to pay full wages and medical expenses for employees who were injured or became sick in their employment. A maternity leave of five weeks before and after childbirth was stipulated for female employees. Factory owners were ordered to make provision for health and safety and to draw up regulations stipulating the amount of compensation to be paid to the families of deceased employees as well as for bonuses and pensions for all workers.¹³⁾ The promulgation of these Regulations led the Official Bulletin of the International Labor Office to point to the great step forward that had been taken and to congratulate itself on the fact that this represented the first direct effect of the work of the Conference in the Great Chinese Empire and signify the first introduction into that country of modern principles of labor protection.¹⁴⁾

This great step forward, however, remained for the most part on paper only. The jurisdiction of the Beijing Government, which issued these Regulations, extended only to a few provinces, and even there civilian government exerted only nominal control. The government, moreover, had insufficient authority, facilities, administrative machinery, or funds to

13) Liu, T., Zhong, M. and Xing, J., "Industrial accidents: Challenges for China's economic and social development", *Safety Science*/43, 2005, p. 503.

14) Gallagher, M., "Time is money, efficiency is life: The transformation of labor relations in China", *Studies in Comparative International Development*/39(2), 2004, p. 15.

enforce these Regulations even in Peking.¹⁵⁾ No provision was made for their enforcement nor was any penalties stipulated for non-compliance. In fact, the Regulations were unknown in most parts of the country. The Government apparently considered its responsibility ended once the regulations were issued. In South China after 1920 Communist and Guomindang (under Nationalist) influence and the rise of organised labor, contributed to sudden pressures to protect labor.¹⁶⁾ The manifestoes of the Nationalist bristled with demands for protective legislation.

3. The Labor Policy of the Chinese Nationalist Party

Nationalist's labor policy may be reviewed in three stages. In the first stage, from 1924 to 1927, the Nationalist Party in cooperation with the Communist Party put forward a programme of unionization and support for labor rights policy.¹⁷⁾ Such a policy had been explained in the party's declaration at its first national convention in 1924. The declaration was drafted by the party's founder, Sun Yat-Sen. When talking about the doctrine of the People's Livelihood, Sun pointed out that it included two essential points: first equalization of landownership of land; and second, the regulation of the growth of private capitalism.¹⁸⁾ According to the doctrine, the state will provide land for the cultivation to those farmers who have been deprived of their land or to those who have suffered from their landlord.¹⁹⁾ The Nationalists adopted a positive policy toward labor,

15) Hurst, W., Op. cit., 2004, p. 98.

16) Walder, A., Op. cit., 1986, p. 64.

17) Ibid., p. 69.

18) Hurst, W., *The Chinese worker after Socialism*, Cambridge, Cambridge University Press, 2009, p. 81.

legalized unions in the Trade Union Regulations of 1924, and actively promoted the rise of organised labor.²⁰⁾

The Nationalist Party repeatedly pledged to improve the economic and social status of working people. The First National Congress of the Nationalist Party, held in Canton 1924, proclaimed the party's social policy. The Congress declared that it was the duty of the state to improve the conditions of life of the industrial workers and farmers, to provide assistance in case of old age, sickness and supersaturation, and to promote the education of workers. At the same time Party undertook to assist the workers in their struggle for emancipation.²¹⁾ It can be argued that the Nationalist Party passed a resolution calling for legislation to improve workers' living conditions, to protect the labor unions and support their development.

At Second National Congress in 1926, the Nationalist Party adopted an even more specific labor platform and twelve principles of social policy were laid down as the workers' minimum demands, calling for immediate realization. The twelve principles were summarized as follows: (1) enactment of labor laws; (2) enforcement of the eight-hour day and prohibition of work beyond ten hours per day; (3) promulgation of a minimum wage law; (4) protection of women and child workers; (5) improvement of sanitary and health provisions in the factories; (6) institution of laborers' insurance; (7) freedom of the workers to hold meeting, to issue publications and to strike; (8) granting of general suffrage without financial or educational qualifications; (9) promotion of workers' education; (10) promotion of the cooperative movement; (11)

19) Cai, Y., *Op. cit.*, 2002, p. 331.

20) Hurst, W., *Op. cit.*, 2009, pp. 113-114.

21) Chan, F., *Op. cit.*, 2007, p. 68.

abolition of the labor-contractor system; and (12) designation of official holidays for workers during the year with regular wages paid during these holidays.²²⁾

It can be argued that these labor and social policies led to the mobilization of more than two million Chinese laborers who responded enthusiastically to the Northern Expedition from 1926 to 1927. The labor movement provided a pillar of support for the Nationalist Party and was a major factor in its military victory. However, in the wake of military victory, little was done to improve worker welfare.

During the second stage, from the ouster of the Communists from the Nationalist Party in 1927 to the outbreak of the War with Japan in 1937, Nationalist labor policy became much together, and even reactionary. The Nationalist abolished the Soviet-style women's department, youth department, workers' department peasants' department and merchants' department in its central headquarters, and established a department for the training of mass movements, placing the labor and the peasant movements under its own thumb.²³⁾ With the establishment of the formal Nationalist Government in Nanjing in 1927, a special labor bureau is built to be charge of labor affairs and problems. In the following year, the Bureau was incorporated into the Labor Division of the Ministry of Industry. In 1928, the Standing Committee of the Central Executive Committee of the Nationalist Party adopted the Regulations relating to the Organization of Labor Unions, which formed the basis of a new labor law promulgated by the National Government in 1929.²⁴⁾

It can be argued that the Nationalist Party sought to re-organize the

22) Zhang, L., *Op. cit.*, 2008, pp. 13-15.

23) Chan, J. W., *Op. cit.*, 2006, p. 23.

24) Howell, J., *Op. cit.*, 2008, pp. 853-854.

labor unions in all parts of the country. Although the Labor Union Law recognized the right of association, it limited it very strictly. It gave the government power to control labor organization so as to transit from the system of free development of the labor movement to the principle of regulated development. The distinction between 'free development' and 'regulated development' was indeed the watershed between the Labor Union Regulation of 1924 which promoted the power of organized labor and the Labor Law of 1929, which sought to exercise tight control over the working class. In every city or town where labor unions existed, a labor union re-organization committee was set up by the local Nationalist Party, and all unions had to re-organize in accordance with the rules and procedures promulgated by the Central Party authorities.²⁵⁾

According to Liu et al.²⁶⁾, The Nationalist Government formulated a number of laws and regulations to promote working class welfare, but enforcement was quite another matter. Enforcement was at best lax and the central government provided no regular funds for local welfare. The burden of welfare fell to local authorities and private charities whose resources were overwhelmed by the magnitude of the problem. Most of the national welfare legislation was never implemented. Local public authorities and individual private charities were left to their own discretion to decide whom to help and how.

It can be argued that the body of legislation exemplified the Nationalist Party's propensity for advanced but unenforced reforms. The problems involved in the enforcement of labor laws are much more difficult than the task of drafting them, and unless the Nationalist government can tackle these issues satisfactorily its legislative efforts would become entirely

25) Liu, T., Zhong, M. and Xing, J., *Op. cit.*, 2005. pp. 508-509.

26) Liu, T., Zhong, M. and Xing, J., *Ibid.*, 2005. p. 513.

meaningless and futile.

During the third stage, from 1945 to 1949, the Nationalist Party, now actually competing with the communists, proposed many social welfare policies. Among them were: (1) establish employment service; (2) provide social insurance against accidents, aging, handicap, death, illness, maternity, and unemployment; and (3) make up deficiencies in social insurance with poor relief. These social policies were written into the constitution promulgated in 1947. The social security policy was influenced by the Atlantic Charter, the United Nations Charter and Declaration of Philadelphia, and was actually copied from the social policies of the industrialized countries.²⁷⁾ However these grandiose welfare state measures came too late and in the final years of Nationalist Party collapse the programme remained on paper.

4. Communist Struggle for Labor Rights and Policies

1) Labor Rights and Policies from 1927 to 1934

In 1930 the Soviet Areas Delegates Conference, held under Li Lisan's strongly urban-proletarian leadership, adopted a draft 'Labor Protection Law' dealing with questions of working hours, wages, labor unions, and so forth. The law was in keeping with advanced industrial conditions which were hardly present in Shanghai, let alone in the Jiangxi soviet region. For example, the draft established 40-yuan minimum monthly wage, prohibited overtime, and banned employment of those under 16 years of

27) Walder, A., *Op. cit.*, 1986, pp. 89-90.

age.²⁸⁾ Information concerning its implementation is not available. It was more for propaganda rather than implementation in Nationalist Party areas.

In 1931, a labor law with 75 articles pertaining to worker rights and benefits was passed by the First National Soviet Congress. The law covered all wage workers in industrial, workshop, and other productive enterprises, and in state, cooperative, and private organizations.²⁹⁾ The law established the eight-hour day, with correspondingly reduced hours for youth (16-18) and child (14-16) workers and four those on night shifts or in dangerous occupations. Employment of persons under age 14 was forbidden. A weekly rest period of 42 continuous hours, annual paid vacations of at least 2 weeks (4 weeks for those in potentially injurious occupations), 8 additional paid holidays, rest days, and sick leave were also mandated. Overtime and holiday work was to be paid at double rates. The law also provided for paid maternity leave (6 to 8 weeks, to be paid for by social insurance or by the employer) and day-care and child-nursing arrangement financed by the enterprises. State, cooperative, and private enterprises were also obliged to set aside from 10 to 15 per cent of their total wages for a social insurance fund.³⁰⁾ This fund was to provide all workers and their families with medical care, sick benefits, un-employment compensation, special childbirth expenses, funeral costs and survivors' payments to needy families, and old age and disability pensions. The insurance funds were to be administered by the union under the supervision of the Ministry of Labor.

In 1933, the shift to more flexible welfare measures, strongly promoted

28) Chan, F., *Op. cit.*, 2004, p. 31.

29) Hurst, W., *Op. cit.*, 2009, pp. 146-147.

30) Zhang, L., *Op. cit.*, 2008, pp. 16-17.

by the Mao forces, apparently represented a basic consensus of the party leadership.³¹⁾ It was there by acknowledged that earlier attempts to enhance labor's leadership role through class struggle, linked to untenable demands and unmanageable benefits, had inevitably clashed with the interests of the general economy and of the peasants, the new goal was maintenance and development of a small-scale, non-agricultural, private economy, with emphases on production priorities and cost-accounting considerations of the modest state and cooperative sector.³²⁾

Despite the growing recognition of these inherent problems and imputing them to 'extreme left mistakes', they were never thoroughly resolved. This was not only because the Jiangxi Soviet entered its final struggle for survival, but also because labor retained its clearly advantaged status under Soviet rule despite Party pressure for greater moderation on labor's part.

It can be argued that this was evident in Liu Shaoqi's report on the soviet labor movement to the Second National Soviet Congress in 1934. The report showed Liu's overriding concern with the dualistic nature of the labor issue. There was, on the one hand, a need for pragmatic emphases on economic construction and military priorities and on problems associated with the soviet economy's inability to accept extreme labor demands. On the other hand, however, the goal of proletarian leadership remained linked to an enhanced economic as well as political status. Actually this has remained one of the most difficult issues for the CCP in dealing with labor's welfare down to the present.

31) Lee, C. K., "From the specter of Mao to the spirit of the law: Labor insurgency in China", *Theory and Society*/31, 2002, p. 195.

32) Liu, T., Zhong, M. and Xing, J., Op. cit., 2005. p. 517.

2) Benefits between Labor and Capital from 1935 to 1945

With the establishment of a new base in Northwest China in 1935 and then throughout north and central China following the outbreak of the Sino-Japanese War in 1937, the CCP and the Nan-jing government entered a Second United Front on the basis of resistance to Japanese aggression. Under the united front, the Communists gradually modified their revolutionary labor policy of the Jiangxi period.³³⁾ Besides, as the CCP edged toward a second united front, Mao delineated what was presumably the current labor-capital line in response to questions posed by leaders of the All-China Federation of National Salvation Unions. Mao had also noted that while the land confiscation policy could be negotiated as part of a united-front agreement, the anti-Japanese programme cannot be realized without relief to the peasantry.³⁴⁾ Agrarian revolution is of bourgeois character. It is beneficial to the development of capitalism. The themes that Mao advanced constituted a departure from the Party's earlier anti-capitalist class line and from over commitment to labor's narrow 'economist' interest. Mao stressed the shared anti-imperialist goals of diverse classes. At the same time, he continued to emphasize the importance of peasant mobilization through new approaches to agrarian reform.³⁵⁾ In the period of the united front this would take the form of rent and interest reduction and tax reform.

The new policy outlined above constituted a marked departure in the approach to labor and the peasantry consistent with the party's united

33) Walder, A., Op. cit., 1986, p. 107.

34) Chen, F., "Subsistence crises, managerial corruption and labor protests in China", *The China Journal*/44, 2000, p. 41.

35) Lee, C. K., Op. cit., 2002, p. 202.

front policies. Liu et al. pointed out that, on the one hand, it stressed the need to moderate worker demands and protect capitalist interests. On the other hand, it gave strong support to the poorer peasants by carrying out the rent and interest reduction policy.³⁶⁾

However this position was not yet clearly established within the party, in particular there was no consensus on the role of the urban labor movement in overall party policy and strategy. Ming focused on the cities and the working class continued attempts to build a powerful urban base. They saw in the developing anti-Japanese united front a new opportunity to build a strong urban labor constituency and base.

It can be argued that the new labor guidelines marked a further significant step in the Maoist move away from any primary political commitment to a worker base that would wider workers-peasant differentials, and reflected Mao's policy of defusing labor-capital class antagonisms. The approach would emerge full blown in the mutual benefits theme in CCP urban policy in subsequent year.

With the economic and military crisis of 1940 to 1942 in the base areas as a catalyst, Mao initiated the 1942 rectification movement. During the period of 1942 to 1945 the Party would now still further away from privileged status for the industrial workers, emphasizing decentralized rural development, reducing state expenditures, and more egalitarian approaches to the worker-peasant and industry-agriculture relationships. In line with these policies, the Party concentrated on peasant mobilization.³⁷⁾ It can be argued that labor-capital contradictions became increasingly submerged in the concept of a wartime multi-class coalition led by the CCP which represented itself as defending the interests of both labor and

36) Liu, T., Zhong, M. and Xing, J., *Op. cit.*, 2005. p. 518.

37) Lee, C. K., *Op. cit.*, 2002. pp. 208-209.

capital.

According to Lee³⁸⁾, Mao's report to the Seventh Congress of the CCP in late 1945 underlined the continued rural orientation of the Party. He reiterated the need to overcome an urban standpoint in dealing with rural problems and stressed the centrality of the agrarian question. In projecting the future role of the workers in a new democratic regime, Mao declared that under the new democracy the interests of labor and capital would be adjusted fairly. On the one hand, the state will protect the interests of the workers, institute an eight- to ten- hour working day according to circumstances, provide suitable unemployment relief and social insurance, and safeguard trade union rights. On the other hand, it will guarantee legitimate profits to properly managed state, private and cooperative enterprises. It can be argued that both the public and the private sectors and both labor and capital would work together to develop industrial production. These constitute the twin party policies pertaining the labor and urban economic growth in the Liberation War period.

3) Care for Labor and Capital from 1945 to 1949

The communist gained control of some major cities in 1945. The urban economic programme called for the abolition of bureaucratic capital and nationalization of large commercial and industrial enterprises, assistance to small enterprises, and improvement of the workers' livelihood. However, as the CCP prepared politically for the impending takeover of China's major industrial centers bringing the communists into massive organizational contact with the main elements of the Chinese working

38) Lee, C. K., *Ibid.*, 2002, pp. 221-224.

class for the first time since the 1920s; the potential dangers for the Party's urban strategy posed by radical tendencies were evident.³⁹⁾

One manifestation of this radical tendency was that from 1946 to 1947 some labor movement cadres in old liberated areas one-sidedly emphasized labor benefits and welfare at the expense of increasing production and reducing costs. Wage increases and improvements in working conditions sometimes pushed production costs so high that goods could not be sold and industrial expansion came to a halt. Some enterprises were unable to sustain themselves leading to layoffs and even bankruptcies, and a number of publicly-owned factories required excessive amounts of government aid just to continue in operation. Harbin's privately owned factories were said to have been especially hard-hit by substantial wage hikes and other benefits that strained the local economy.⁴⁰⁾

As the Communists conquered cities and towns in central and southern Manchuria, many individuals as well as military and civilian administrative units swarmed over factories, stripping machines and other equipment for their own or their unit's use, and staked out claims to buildings, factories, hospitals, and schools without order or discipline.

Aggressive promotion of a class struggle could generate labor dissension by pitting apprentices and ordinary workers against exploitative master craftsmen and skilled workers, a situation highly damaging to productivity.⁴¹⁾ The main center of the radicalized line in 1946 to 1947 was the Communist controlled north Manchurian city of Harbin. Li Lisan, erstwhile urban labor leader of the CCP, had returned from Russian 'exile' with the Soviet

39) Chan, F., "Union power in China: Source, operation, and constraints", *Modern China*/35, 2009, pp. 674-675.

40) Zhang, L., *Op. cit.*, 2008, pp. 3-4.

41) Gallagher, M., *Op. cit.*, 2004, pp. 21-22.

experience entering Manchuria in 1945 to become a key figure in both the CCP's Northeast Bureau and the labor movement centered in Harbin.⁴²⁾

Mao's report to the party's central committee set basic guidelines for the period ahead. He listed the three major economic policies of the new democratic revolution as the confiscation and redistribution to the peasants of the land of the feudal landlord class, the confiscation by the new state of bureaucrat capital, and the protection of the industrial and commerce of the national bourgeoisie.⁴³⁾ In calling for protection of the small and middle capitalist sectors of the economy, both urban and rural, Mao pointedly warned against any repetition of the 'ultra-left' policies of the Soviet period, describing policies of that era as promoting unduly advanced labor conditions, excessive income tax rates, encroachments on the interests of industrialists and merchants during land reform, and the adoption of a goal of the so-called 'workers' welfare'. Mao criticised this last goal as a 'short-sighted and one-sided conception' if applied without understanding of the material limits of the urban economy and the crucial war situation.⁴⁴⁾

In a directive of 1948, Mao again criticised the narrow-minded policy of 'relief', which purports to uphold the workers' welfare but in fact damages industry and commerce and impairs the course of the people's revolution. He called for educating party members in the trade unions and the masses of the workers to enable them to understand that they should not see merely the immediate and partial interests of the working class while forgetting its broad, long-range interest. In reiterating the programme of

42) Walder, A., Op. cit., 1986, p. 72.

43) Lee, C. K., *Against the law: labor protests in China's rustbelt and sunbelt*, Berkeley, CA, University of California Press, 2007, p. 52.

44) Chan, F., Op. cit., 2009, p. 668.

mutual benefits, reduced costs, and increased output, he added that the mistakes committed in many places are due to the failure to grasp all of the Party's policies. The party launched a campaign to rectify labor policy in 1948. The campaign sought to curb rising expectations among cadres by cracking down on a militant but far from politically conscious labor movement in the soon to be liberated major cities. In fact, the problem centered in the party's own cadres.⁴⁵⁾

It could be argued that it was quite clear by this time that with communist forces poised for the final campaign of the civil war, which would take them into the major urban strongholds of both private capitalism and organized labor, the proposed path of labor capital cooperation would become increasingly complex under conditions in which the party would face the pressures and demands of a labor force operating in the heady new atmosphere of impending liberation.

The CCP sponsored Sixth All-China Labor Congress met in Harbin and adopted a line similar in tone to the Party's decisions on land reform of 1948. The Party's labor policy hewed to a production-oriented course geared toward achieving the military victory now within sight.⁴⁶⁾ Concerning wages, the Congress resolved that all workers must be guaranteed a minimum standard of living, namely, their lowest wages should be sufficient to provide for the livelihood of 2 people. The congress resolutions guaranteed equal pay for equal work to men, women, and children. Women were granted 45 days paid leave for childbirth, plus 15 days during the first 3 months after giving birth and 30 days thereafter.⁴⁷⁾

45) Hurst, W., Op. cit., 2009, p. 166.

46) Hurst, W., Op. cit., 2009, p. 178.

47) Ngok, K., "The changes of Chinese labor policy and labor legislation in the context of market transition", *International Labor and Working-Class History*/73, 2008, p. 45.

It could be argued that the congress also resolved that, because of the war, the liberated area government could not yet guarantee employment and social security for every worker. The employer must therefore assume responsibility for the health and safety of his employees, although cities with large concentrations of industrial workers might initiate labor insurance programmes. The executive committee of the general labor union later noted that the congress had been unable to reach agreement as to how the issues of labor insurance and fringe benefits should be settled. The executive committee itself outlined three different methods for experimentation by individuals' localities, but the labor insurance programme introduced some months later differed from all three. Meanwhile, the government was to assume responsibility for aiding the un-employed.

5. Conclusion

The concept of critical criminology philosophy has criticized the entire normal notion in terms of issue such as worker abuse and exploitation against social welfare and quality of life in the community. The contribution to the form of de-bunking varies according to the different approach of the stream of critical criminology involved. A Marxist theory predominantly took the stand that worker exploitation by master class was a product of the capitalistic system, and that problem would disappear if a new society took come. The philosophical concept the disappearance of worker exploitation by master class was seen as a dis-appearance of the problematic situations which are supposed to trigger the criminalization

processes.⁴⁸⁾ This approach problematized the class biased and irrational aspects of the processes of primary and secondary criminalization relation to worker exploitation. It has pointed to the far more weighty exploitations of the powerful and asked for a change in criminal justice activities from the weak and the working class towards white collar crime. It has pictured the war against exploitation as a side-track from the class struggle, at best an illusion invented to sell news, at worst an attempt to make the poor scape goats. With very few exceptions however, the concept of exploitations as such, the ontological reality of exploitation, has not been challenged.

It can be argued that the approach of Marxism is not fundamentally a theory of class structure. It is to explore the class struggle and social change. The analysis of class structure is intended not as the end point of an investigation, but as the starting point. The premise is that the structure of class relations establishes the basic context within which social struggle and change will take part. The purpose of present studying traditional labor rights and policies in China is to be able better understand the constraints on and possibilities of transformation. Ultimately, for Marxists, the means to understand the conditions for the formation of a working class capable of generating revolutionary socialist change in aspects of historical perspective.

With the development of capitalism and the rise and growth of the industrial proletariat in China, the increasing importance of the concept of human entitlement as a basis for social welfare gradually grew in the concept of the struggle for Chinese national liberation.⁴⁹⁾ While the

48) Akers, R. L., "Theory and Ideology in Marxist Criminology", *Criminology*/16(4), 1979, p. 527.

49) Ngok, K., Op. cit., 2008, pp. 51-52.

welfare state was taking shape in advanced capitalist countries and in different form in the Russia (previous Soviet Union) throughout the first half of the twentieth century, in China, as in many other colonial and semi-colonial countries, welfare conditions deteriorated while needs grew to mammoth proportions. China, in the early stages of capitalist industrialization and hammered by decades of foreign invasion and civil war, proved incapable of developing welfare programmes that effectively addressed deep and growing social needs. This was true not only in warlord Guomindang and Japanese-occupied areas, but in the communist base areas as well.⁵⁰⁾

To be concluding, it may be recalled that from the 1920s to the late 1940s several laws of factory and labor were promulgated by the warlord-controlled Beijing government, the Nationalist Government as well as by the Communist Government. The ambitious provisions of much of this labor legislation could not be successfully enforced as long as internal political disturbances and foreign invasion obstructed China's industrialization process. A poor nation could not afford to implement labor legislation modelled on western approaches to labor and welfare predicated on high levels of industrialization and much higher level of standards.

The policy and practice of social welfare implemented by the Chinese Communists in their base areas were among the most important early attempts to implement modern social welfare. As a result, the scope of social welfare measures was enlarged from primarily helping the destitute to meeting the on-going needs of workers, farmers and cadres. Yet here too there was a substantial gap between model legislation and reality. The

50) Chan, F., *Op. cit.*, 2009, p. 681.

CCP took a number of significant steps to advance social welfare rights for workers. Yet communist efforts under various versions of the proletarian line to give priority to labor's welfare sometimes provide not only impractical, but even counterproductive to finally realizing laborers' right.

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〈國文提要〉

이 논문은 1911년부터 1949년까지 중국에서 시행되었던 노동인권과 정책들이 중국사회 복지에 어떠한 영향을 미쳤는지에 대해 문화적, 역사적, 인권적, 범죄학적 측면에서 접근하였다. 또한 중국사회복지제도 및 체제가 과거 국민당과 공산당사이에서 어떻게 변화되고 발전되어갔는지를 구체적으로 서술하고 분석하였다. 구체적으로, 1920년부터 1940년대 후반까지, 공장건설 및 노동과 관련된 모든 법률 및 정책들은 북경에 기반을 둔 국민당정부 혹은 공산당정부에 의해서 관리되었으며, 또한 이렇게 만들어진 법률과 정책들은 중국내부에 혼재된 정치계파들 간의 싸움과 서구열강의 지속적 방해로 인해 기반산업의 성장을 성공시킬 수 없었다. 이렇게 영세한 국가산업으로 인해 중국은 가난할 수밖에 없었고, 동시에 외국의 노동과 복지관련 제도들이 들어오면서 노동과 복지관련 이상과 현실사이의 차이는 더욱더 증가되었다. 하지만 중국공산당 정권에 의해 현대 중국사회복지의 기틀이 완성되기 시작하였고, 특히 노동자와 관련된 여러 가지 중요한 복지적 철학이 완성된다.

본 논문의 2장에서는 노동자를 보호하기 현대적 법률들이 증가하게 된 배경 및 내용들에 대해서 역사적·문화적 관점에서 분석하였으며, 3장에서는 국민당에서 시행했던 노동관

런 정책들을, 4장에서는 공산당에서 시행했던 여러 노동관련 정책들에 대한 담론적 분석(문화적, 역사적, 인권적, 범죄학적 측면)을 시도하였다.

주제어 : 노동인권, 정책, 문화적, 역사적, 범죄학적, 중국

〈Abstract〉

The aim of present paper is to explore in terms of the traditional Chinese labor rights and policies from 1911 to 1949. The paper highlights to analyze the impacts of traditional social security in China from 1911 to 1949 using the cultural, historical, human rights, and criminological perspective. Through the process, the present study provides how Chinese social security system has the process for transformation and development between Nationalist and Communist Party.

The findings of present study provided that from the 1920s to the late 1940s several laws of factory and labor were promulgated by the warlord-controlled Beijing government, the Nationalist Government as well as by the Communist Government. The ambitious provisions of much of this labor legislation could not be successfully enforced as long as internal political disturbances and foreign invasion obstructed China's industrialization process. A poor nation could not afford to implement labor legislation modelled on western approaches to labor and welfare predicated on high levels of industrialization and much higher level of standards.

The policy and practice of social welfare implemented by the Chinese Communists in their base areas were among the most important early attempts to implement modern social welfare. As a result, the scope of social welfare measures was enlarged from primarily helping the destitute to meeting the on-going needs of workers, farmers and cadres. Yet here too there was a substantial gap between model legislation and reality. The CCP took a number of significant steps to advance social welfare rights for workers. Yet communist efforts under various versions of the proletarian line to give priority to labor's welfare sometimes provide not only impractical, but even

counterproductive to finally realising laborers' right. In particular, we have noted the danger that labor policies would greatly privilege industrial workers over peasants.

Key words: Labor Right, Policy, Cultural, Historical, Human Rights, Criminological, China

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