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MIAO TIAN

**Legal Resistance with Collective Mobilisation –
Patterns of Chinese Labour Protest in the 2010s**

ABSTRACT Drawing on the dispatched workers' protest in the automotive joint-venture FAW-VW, this paper analyses the power resources of the temporary workers and how workers are mobilised to extract concessions from the employer. The author finds a protest pattern of 'legal resistance with collective mobilisation' in which workers organise themselves through a legal dispute and act collectively on their workplace bargaining power. The study suggests further research should be done to address the connections between the strategies of labour resistance and labour relations in workplaces under circumstances of changing workforce composition, labour regulations, and economic slow-down.

KEYWORDS Chinese labour relations, labour protest, collective action, labour power resources, dispatched labour, legal resistance

1. Introduction

From November 2016, 1,028 dispatched (agency) workers in the automotive assembly company FAW-VW in Changchun staged a collective protest demanding equal pay and regular employment. The workers claimed they had 10-year seniority but were paid only half as much as the regular workers doing the same jobs (CLB 2017a, 2018; Gongchao 2018a). The protest constituted the first collective legal case over the issue of 'unequal pay for equal work' in China (Sun 2018). FAW-VW is a joint venture of the state-owned corporation China First Auto Work (FAW) and the world-leading brand name Volkswagen (VW). It is among the biggest and most

powerful car producers in China and dominates the automotive industry in northeastern China. It was the first time that a large-scale labour protest was staged by workers in the automotive assembly joint venture since car production began to rocket in China. During the yearlong protest, workers attempted various formal dispute-resolving channels (such as a petition to the official trade union ACFTU, filing arbitrations and a lawsuit) and public demonstrations and appeals to the works council of Volkswagen in Germany (CLB 2017c). While the local government oppressed the protest by detaining the leaders of the protest in May 2017, FAW-VW was forced to respond to the workers' struggle by offering regular contracts to more than 3,000 dispatched workers at its plant in Changchun, with two rounds of recruitments in April and December 2017 (Gongchao 2018a). This inspired more temporary workers working in FAW-VW to start their protest (Hua 2018; Gongchao 2018b).

China relies on a legal system to regulate labour relations; it tends to disperse collective labour conflicts into individualised cases (Chen/Xu 2012), and continually suppresses workers' demands for higher wages and genuine labour organisations. Substantial labour protection legislation, yet loose law enforcement has provoked large-scale labour protests as labour-capital conflicts escalate. More importantly, the individualised labour regulation system cannot coordinate the systemic conflicts of interest between labour and capital, especially at the production sites. Therefore, workers have gone on numerous strikes and have taken other forms of collective action that exceed the legal and institutional scope. Scholars have focused on two basic patterns of labour protest in China: the first concerns the rural migrant workers in the private and foreign manufacturing companies with low wages and low skill jobs. They often carry out wildcat strikes that lead to workplace bargaining with the employers, as indicated by the strike wave in the Pearl River Delta (PRD) (Chen 2012; Butollo/ten Brink 2012; Chan/Hui 2014; Friedman/Kuruville 2015). Laid-off workers and urban pensioners of the bankrupt state-owned enterprises (SOEs) on the other hand, take their grievances to the streets and ask for political bargaining with the government. The desperate migrant workers of closed factories in the PRD also hold street demonstrations asking for the authorities to intervene (examples see: Lee 2007; Su/He 2010; Chen/Tang 2013).

The FAW-VW protest, however, highlights the increasing discontent of migrant workers in a section of relatively high-skill and high-wage workplaces that emerged in the reinvented SOEs, joint ventures and large transnational companies, which achieved substantial success in the course of China's economic restructuring. In the context of the rapid differentiation of labour relations in China's rising modern manufacturing sector (Lüthje 2014), scholars have suggested that labour relations in these companies are relatively stable. For instance, in the car assembly industry, higher wages, job security, and global standard production practices helped to keep labour amicable (Lüthje et al. 2013; Jürgens/Krzywdzinski 2016). Some point out that employees in this privileged employment sector tend to use institutionalised and rationalised conflict resolution, a process that seldom involves collective mobilisation (Lee 2007; Lüthje et al 2013; Gallagher 2017). This conforms to the state legal hegemony and is less threatening to the employment stability of companies and the local economy.

Nevertheless, the relatively peaceful labour relationship becomes increasingly fragile when these companies deploy a large number of irregular workers, which exacerbates the trend of work precarisation and the inequality among diverse groups of workers (also see: Zhang 2015). The ACFTU reported that China had 60 million dispatched employees, which accounts for 20 per cent of the employed population (Jiang 2011). The SOEs hire the largest number of dispatched employees, accounting for more than 16 per cent of the total number of employees in SOEs (ACFTU 2012). In recent years, the economic slowdown is raising the profile of labour conflicts. The FAW-VW protest happened at a time when the automotive market growth rate dropped from 9.6 per cent in 2016 to 0.5 per cent in 2017 (CAAM 2017). Many automotive companies are suffering problems of overcapacity and declining profit rates, which leads to job reduction and workload intensification. This protest is a critical case for labour conflicts associated with the excessive use of irregular labour in China's leading manufacturing industries. A closer look at the FAW-VW case will deepen the understanding of how this situation may affect labour relations in China's high-wage and multi-layered employment sectors, and how workers can take effective action to improve their conditions.

The data presented in this paper is derived from seven unstructured interviews with three worker representatives; nine semi-structured interviews with protest participants; and observations of workers at FAW-VW in 2017 and 2018. The unstructured interviews were conducted more than twice with each interviewee. Nine interviewees, including three worker representatives, were contacted through their social media pages. Three were contacted through former interviewees. The interviews were not recorded due to the sensitivity of the topic. Notes that helped to recover the information were kept during the conversation. This research also obtained important data from workers' publishings on social media. The analysis of the working conditions of the company is supported by the fieldwork data (2013-2016) of my doctoral project *Changing Production Systems and Labor Relations in China's Automotive Industry*. The major drawback of the data comes from the absence of the voice of the employers, trade unions and local government due to the difficulty of access. Some responses of the works council and management of VW were documented by German and international media (CLB 2017, 2018; Hornung 2017; Express 2017; LabourNet 2017, 2018). Their attitude is evaluated through the documents they have published; their actions; and the narrative of workers.

To explain workers' strategies and their choices under given circumstances, I draw on the power resources approach (PRA), which was developed by a group of German industrial sociologists and based on the concept of structural power and associational power of Erik Olin Wright (2000) and Beverly Silver (2003). The PRA adds two other types of power resources, institutional power and societal power, which play important roles in workers' legal resistance.

I find that temporary workers of FAW-VW deployed a strategy of 'legal resistance with collective mobilisation', which effectively combines workplace bargaining power, associational power, institutional power, and societal power with delicate organisational skills and tactics. This strategy runs counter to individualised legal protest and is different from 'rightful resistance' involving collective actions, as documented by other researchers (O'Brien/Li 2006; Chen/Xu 2012). I will show in this paper that legal protest and collective action were aimed at the authority of management and the order of capitalist production, rather than at the political interests of local officials. Workers filed legal cases against the company to estab-

lish solidarity among themselves and demand a seat at the table to bargain with the employer. While it is technically a form of legal resistance, it is essentially workplace bargaining rather than political bargaining. While the governmental and legal systems disregarded workers' demands and repressed their organisation, FAW-VW had to make a compromise to stop the trouble, which had threatened the general stability of its workforce. The temporary workers' collective mobilisation and the complexity of workplace bargaining must be analysed in the context of labour relations inside the workplace and the changing industrial environment. Automakers have adopted lean production principles and 'labour force dualism' to enhance productivity and increase labour flexibility (Zhang 2008). 'Labour force dualism' divides formal and informal, as well as regular and temporary, workers, with disparities in employment security, wages, and benefits. Such disadvantages, in particular the lack of job security, discourages temporary workers from workplace bargaining. However, when they act collectively, they can break through the false boundaries drawn by the company and reveal the fragility of the production process based on 'lean and dual' (idem) labour control methods. In the case of FAW-VW such collective mobilisation took the form of the legal resistance as the workers deemed the authoritarian constraints on labour collective actions to be harsh.

2. Changing labour protest and power resources in China

Chinese industrial unrest saw a qualitative shift towards an offensive mode (CLB 2013; Elfstrom/Kuruville 2014). Nevertheless, scholars agree that labour protests in China are still cellularised within individual enterprises (Friedman/Lee 2010) and fragmented in different regions, industries, ownership types, or positions in supply chains (Lüthje 2014). The state dominates state-labour relations with various devices in different spheres and on different occasions. Lee remarks that the decentralised legal authoritarianism and uneven process of accumulation shaped different forms of protest taken by migrant workers in the South and SOE workers in the Northeast (Lee 2007). Gallagher notes that the state set up highly protective labour laws to facilitate more inclusive and stable urbanisation and to change the developmental model. The government put a substantial

effort into propagating the knowledge of workplace rights to assist bottom-up legal mobilisation, but restricted legal mobilisation in both the individualised and fragmented form (Gallagher 2006, 2017). Friedman indicated that the state handled labour unrest paternalistically to ‘depoliticise’ worker collective protests and constantly exclude labour from the right to associate (Friedman 2014:1003). This made workers’ resistance in China highly antagonistic towards employers and the local state, while maintaining the stability of the system. Recently, Howell and Pringle proposed evaluating state-labour relations through the lens of ‘shades of authoritarianism’ that have shifted the state’s approach to issues of labour organisation, labour disputes resolution, labour legislation, and labour coalitions with civil society. Changes in the state’s approach to labour are driven by the need to maintain legitimacy through continued capitalist growth, and ensure regime stability through the management of state–labour relations in the wider context of globalisation, development strategy, and leadership manner (Howell/Pringle 2019). For instance, the recent suppression of labour NGOs and labour activists, and the restriction on the democratic reforms of local trade unions, manifested signs of the approach shifting.

Meanwhile, the segmentation of urban and rural working classes continues to affect labour struggles in the process of the heterogenisation of China’s industrial and economic structure. The rural-urban segmentation provides a foundation for rapid accumulation in the export-led sectors and the lower end of supply chains, which facilitates the formation of the heterogeneous industrial bases. Research suggests that multiple types of labour regimes have emerged in Chinese workplaces, with urban labour usually at the higher end and migrant labour at the bottom (Lüthje et al. 2013). On the enterprise level, the split between urban and rural workers is often expressed in the divide between regular and temporary employment status. Migrant workers without local *hukou* only get access to secondary positions with lower wages and less job security through third-party labour agencies (Lüthje et al. 2013). This is the case for most large automakers in China. Temporary workers recruited through labour agencies and vocational schools earn significantly less than regular workers and have no access to full social benefits, job security, and promotions (Zhang 2015). Such a division increases the discrimination against migrant workers at workplaces (Gallagher 2014). Excessive dependence on irregular labour has

raised state concern for social stability, resulting in amendments to the labour law to restrict the use of temporary labour. These new rights may in turn provide workers more space for collective action and encourage them to challenge the unequal employment system imposed by management.

Although workers' power increased and their ability to self-organise was enhanced in the course of industrialisation, their protests have not significantly affected the power imbalance between capital and labour (Friedman 2014). Regardless of the authoritarian control over labour organization from the state side, the segmentation of the working class on the labour side has been deemed a key factor that undermines solidarity and weakens the power of the Chinese working class (Lüthje 2014; Zhang 2015). A critical example is the 2010-2011 wave of strikes in the auto parts industry in Guangdong. The strikes forced employers, local governments, and the Guangdong ACFTU to experiment with union elections and annual collective bargaining at workplaces to institutionalise labour conflicts over wages, benefits, and union representation. However, the non-participation of workers in the car assembly industry in the strikes diminished the movement's influence. Although trade union reform spilled over to the assembly plants, workers still have had no voice regarding the operation of workplace trade unions and collective wage bargaining. This wiped out the possibility of establishing a sustainable collective bargaining system at industry level in PRD (Lüthje 2014; Lüthje/Tian 2015) and limited the space for action of the progressive trade unionists that emerged from the strikes in the auto supplier firms (Fn 2014).

Concerning the complex restrictions and space of the labour struggle, there is a need to study the interpretations, strategies, and actions of the workers and the complexity of labour-capital relations inside the workplaces to understand the insights produced by worker activism in the shade of authoritarianism.

2.1 The power resources approach

Workforce can defend its interests via the collective mobilisation of different power resources in the asymmetric and antagonistic relationship between capital and labour. Structural power stems from the position of wage earners in the economic system and is distinguished between workplace bargaining power and marketplace bargaining power (Wright 2000;

Silver 2003; Schmalz et al. 2018). Workplace bargaining power focuses on the workers' ability to interrupt or slow down the capitalist production process by means of a strike, sabotage, or sloppiness. Marketplace bargaining stems from a tight labour market, as employees possess valuable qualifications needed by employers, low unemployment is the norm, and employees can "withdraw from the labor market and [...] live off other sources of income" (Silver 2003: 13). Increasing labour unrest and more offensive protests in China is related to the increase in structural power. Workers' workplace bargaining power was highlighted in the 2010-2011 strikes in the automotive industry. The Honda strike, for example, exploded in a gearbox factory, interrupted production in four assemblies belonging to Honda across China, and inspired more strikes among other auto part suppliers. The globally integrated mass production factories concentrated in large industrial parks and clusters are especially vulnerable to workers' collective action. Workers' market bargaining power was strengthened by a labour shortage in 2010-2013 (Chan/Nadvi 2014; Elfstrom/Kuruville 2014; Pringle/Meng 2018). Recently, plant relocation waves driven by the rising labour cost and US-China trade war, along with the state-led campaign of industrial upgrading with robotic technologies, may undermine structural bargaining power. On the other hand, high market bargaining power is associated with individualised forms of resistance. Skilled employees with higher marketplace bargaining power are more confident and capable of mobilising legal and institutional resources when labour disputes occur (Gallagher 2006; Lee 2007; Lüthje et al. 2013).

Associational power means "the various forms of power that result from the formation of collective organizations of workers" (Wright 2000: 962). It usually refers to union organisation under the freedom of association. Therefore, many researchers maintained that Chinese workers have little associational power. However, this notion cannot explain why collective industrial action empowers workers and increases other power resources in the authoritarian regime. Associational power means more than the mere existence of a labour union and should be seen as the capacity of workers to mobilise themselves and to act collectively (Brookes 2015, 2018). This helps us to shift the focus from the state-labour relationship to the shop floor relationship and the actual organising process when analysing Chinese workers' collective mobilisation.

Institutional power is based on concrete institutions, such as labour legislation, collective bargaining, and the workplace representation system, which were formed as the result of class struggle and compromise. It can have an impact even if associational and structural power are shrinking (Schmalz et al. 2018). Institutional power requires a closer examination in Chinese cases. The 2012 amendment of the Labour Contract Law, which gives a clear definition of temporary positions and limits the number of temporary workers in workplaces to 10 per cent, grants workers new institutional power. Institutional power can also be applied to analysing ACFTU when it advocates for pro-labour legislation and promotes workplace union election, collective contracts, and wage bargaining. The ACFTU's ability to act on behalf of workers relies on its position in the government system rather than the organisational power of mobilising union members. Institutional power, on the other hand, can restrict the space for action (Schmalz et al. 2018). When radical workers proceed through the circles of petition offices, courts, and the local and central governments, their problems are usually circulated but not resolved (Cheng 2010), resulting in a legal/bureaucratic absorption of conflicts (Lee/Zhang 2013). The labour institutions installed by the ACFTU after the strikes can serve as a paternalistic device that traps class consciousness and political demands (Friedman 2014).

Societal power arises from cooperation with other social groups and a society's support for labour demands. The two sources of societal power – coalitional power and discursive power – depend on networks with other social actors' and workers' ability to activate these for mobilisations and campaigns (Schmalz et al. 2018). The discursive power of the veteran SOE workers who resorted to the socialist ideology is well documented by Lee (2007) and Zhang (2015). Workers' cooperation with civil society can foster collective consciousness and actions that lead to positive protest outcomes (Xu/Schmalz 2017). Recently, the suppression of labour NGOs and civil society activists created a worrying situation for the coalition between labour and NGOs, as well as between scholars and students. As the domestic networks and support are getting more constrained, transnational connections may become more important. Workers' integration into the global economy makes it possible to draw on societal power on a more global scale and enlarge their influences. Workers' actions and union

politics can be closely monitored by international media when a company holds a reputation for co-determination and pro-union company culture, as shown in the VW cases in Chattanooga, Poznan, and Changchun.

The exercise of mobilising power resources is always embedded in social relationships and power relations (Brookes 2018). Analysing what power resources the employers have in labour conflicts is crucial. Silver remarks that capital deploys new technologies, relocation, and flexible management strategies to undermine labour bargaining power (Silver 2003). Nevertheless, employers cannot equally mobilise this power. For example, McNally et al. suggested that the state-owned enterprises and Sino-foreign joint ventures such as FAW-VW, which are categorised under a 'state capitalism' mode of regulation, are usually closely monitored by the state (McNally et al. 2013). Expansion, relocation, and redundancies of these companies are strictly controlled. In addition to the modern management methods, they handle workers' exercise of power resources through the close connection with the government, party organisation, and the trade unions.

3. The dispatched workers' protest in FAW-VW

3.1 Workers' structural power and the employment system in FAW-VW

FAW-VW was established in 1991 with FAW and VW holding 60 per cent and 40 per cent of the investment share, respectively. It delivered 1.87 million cars from three manufacturing bases in Changchun, Chengdu, and Foshan, with over 37,000 regular employees in 2016. The Changchun headquarters in which the protest took place produced 50 per cent of this volume and hired over 23,000 regular employees (FAW-VW 2018). Changchun used to be the 'first auto city' in Mao's period and became a centre of China's rustbelt by the 1990s (Thun 2006). The local economy depends heavily on FAW-VW, which contributes a quarter of the entire GDP of Jilin Province and provides about 600,000 jobs (FAW-VW 2016a: 66). The joint venture is also important for VW. The Changchun factory produced 33 per cent of its profitable Audi cars worldwide. When VW was crippled by the diesel scandal, the Chinese market provided a strong backup for its recovery and transformation.

The high level of profitability allowed FAW-VW to offer higher wages, generous benefits, and job security that far exceeded the local standards (Zhang 2008). In the years of rocket growth, the company paid ample bonuses to the workers for their hard work. Workers' income increased every year. The turnover rate was low, especially for blue collar workers, and remained at around 1 per cent (FAW-VW 2016a: 48). Workers' structural power has been strong concerning the substance of production fluency and continuity. They accumulated considerable skills and knowledge, which were valuable to the company when it had enormous demand for trained labour. However, in Changchun, market bargaining power has been encumbered by the rustbelt unemployment.

FAW-VW implements an employment system that divides the manufacturing workforce into four layers: the regular, the dispatched, the outsourced, and student workers. The regular workers are employed directly by FAW-VW and normally hold their first fixed-term work contract for five years and would extend it for another five years. After 10 years of service, they receive an open-ended work contract. Except for some old workers, the regular workers are recruited directly from vocational colleges (Fn 2015). Dispatched workers sign contracts with a third firm but work under the management of the FAW-VW. They are normally mixed with the regular workers in work teams as operators on the production line and sign the dispatching contract for one or two years, while the extension of the contract depends on the needs of FAW-VW. Their wage is paid by FAW-VW through the dispatching agency at a much lower rate (Int1; Int2). The outsourced workers are under a more precarious status. They are employed by the outsourcing companies contracting production projects from FAW-VW. Their wages and benefits are even lower than dispatched workers (Int14). While the outsourced workers work inside the client companies, they can be excluded from the protection of regulations on dispatched labour. Dispatched and outsourced workers come from local technical schools; and most of them hold a rural hukou (Int2; Int8). Student interns are at the bottom of the hierarchy. They work in the factories before graduating from vocational college with an internship agreement and allowance. Most of them are sent back to school after six to twelve months of internship (Fn 2013, 2015).

The multi-layer employment system not only divides workers into regular and temporary categories, but also divides the temporary workers into different groups. This drastically restricts workers' ability to mobilise structural power. For example, in one assembly shop of the Changchun plants, the percentage of regular workers was only around 31 per cent; dispatched workers accounted for 18 per cent; and outsourced workers for 11 per cent. The remaining 40 per cent was made up of student interns (Liu 2014). The company implemented a performance evaluation system that was linked to the actual monthly wages of every worker (Fn 2013, 2015). Regular workers regard the temporary workers as competitors, while dispatched workers complain about the inequality of the wage-bonus distribution and the discrimination from the regular workers (Fn 2014; Int1; Int9). Meanwhile, all three groups are concerned that the company could use student interns to push down wages or replace workers of other categories. Workers saw that their interests were different and even in conflict with other groups. One dramatic illustration is that when the dispatched workers were protesting in 2017, outsourced workers started a separate protest. The two groups of workers excluded each other and ruled out the possibility of struggling together (Int1; Int11; Int14).

3.2 The changing structural power

After years of high-speed growth and expansion, FAW-VW experienced a sharp decline in sales in 2015. The sales volume contracted from 1,780,000 to 1,650,000 and the market share dropped from 9.8 per cent to 8.4 per cent (FAW-VW 2016b:21). A wage reform was put in place in 2016, which was interpreted by the workers as a measure to reduce wages and squeeze labour. Workers' income decreased significantly, partly due to the reform, and partly due to the loss of working days and overtime. Many clues indicated that the company was less interested in maintaining its workforce: for instance, it tightened the path of offering contracts to student interns, while recruiting even more students to work on a temporary basis in the factory (Fn 2016; Int1; Int2; Int8). This enabled it to gain labour flexibility from the vocational schools rather than labour dispatch agencies or outsourcing companies; the company also introduced more automated equipment and technology in shops that used to have a lot of manual work. The regular workers with a five-year work contract were concerned that the

company might not renew their contracts. Nevertheless, the danger was more urgent for dispatched workers because their contracts were about to expire soon. There was a rumour that FAW-VW planned to transform dispatched workers into outsourced workers. The outsourced status would be an interim step after which the company would permanently dismiss these workers (Int1; Int14). This would be drastic: over 3,000 dispatched workers had worked in FAW-VW for more than 10 years and were at the age of 35-40 (idem). They needed to keep working to support their families. If they lost their jobs at FAW-VW, it would be hard to get employed again.

Dispatched workers saw their workplace and marketplace bargaining chips falling to zero in the winter of 2016 (Int1; Int2; Int12). They began to think about other levers they had.

3.3 Legal protest with collective mobilisation: associational power and institutional power

While workers worried deeply about their jobs, they were not confident enough to demand changes. One big concern was the extreme power imbalance between the employer and the workers. The local government and trade union have little control but rely heavily on FAW-VW. China's legal system leaves the responsibility of law enforcement to the local state. The weak binding power of the local government over the giant corporation explained why FAW-VW could ignore labour laws for years. The awareness of this political economy led the workers to rule out strikes from the outset. This is evident from the words of a worker representative: "the political environment in Changchun is different from the South (PRD). Strikes are fatal here—it would cause immediate suppression from the government" (Int1).

But the new policies on dispatched labour gave workers confidence and enabled the workers' leaders to mobilise their coworkers. They interpreted this regulation as a signal of the central government's intention to impel further reform of SOEs (Int1; Int12). The 2008 Labour Contract Law already asserted the principle of equal pay for equal work, but it was criticised as being ambiguous and as having driven an explosion of dispatched employment (Feng 2019). In 2013, the Labour Contract Law was amended specifically to address the rampant abuse of dispatched labour. In 2014, the Ministry of Human Resources and Social Security promulgated the

Interim Regulations on Labour Dispatch to limit the percentage of dispatched workers to under 10 per cent. The two regulations clarify that dispatched labour is only applicable in positions that are with a duration of no more than six months, not in the main business of the employer, and in place of a permanent employee in the period of interim leave — companies had to be fully compliant with the new regulations by March 2016.

Workers' leaders emerged from those who had comprehensive knowledge of labour laws. They also demonstrated sophisticated organising skills. From May 2016, a few workers started to set up WeChat groups to mobilise and gather participants. In the instant communication groups, workers' leaders spread the knowledge of Labour Contract Law and analysed the situation and possible results that would result if the workers acted together. Although the WeChat groups had drawn many workers to join in, this did not necessarily mean effective organising. Many workers only took a wait-and-see attitude. The core participants thus took steps to mobilise their coworkers in the same and neighbouring work teams offline. To further enlarge the number of participants, they placed tables outside of different factory entrances to recruit protesting workers and to advertise the meeting after work (Int9). In such ways, the organisers formed a pyramid network led by core activists. The workers created poems and music videos to convey their experiences with discrimination and their feelings of unfairness at work, which stimulated great compassion and a sense of solidarity among the temporary workers (CLB 2017a).

The organising methods deployed during the protest, on the one hand indicated that workers were actually in an isolated situation, in which networks often only existed within the small work teams. The long working hours and two-shift production schedules deprived workers of time for social activities. On the other hand, workers were aware of the general conditions and were able to act on them. Finally, around 1,000 out of the 3,500 dispatched workers participated openly in the protest at the end of 2016. With this solid collective organisation, the workers launched their campaign through legal channels. In November 2016, they filed a report on illegal labour conditions to the official union ACFTU, who then asked the workers to take a case to the local labour arbitration committee. In December 2016 and January 2017 the leaders of the protest engaged in two sessions of collective bargaining with FAW-VW and the agency

company under the mediation of the municipal trade union. During the bargaining, FAW-VW refused to accept that dispatched workers should be paid as much as regular workers. This led workers to escalate their protest within the legal dispute resolution system. From January 2017, over 1,000 dispatched workers requested arbitration from the local labour arbitration committee. However, the committee refused to take their cases. In March 2017, 1028 dispatched workers decided to hire a team of lawyers to proceed against FAW-VW. However, the court did not give any official response to the workers' filing application (CLB 2017; Sun 2018).

It was no surprise that the workers' case was circulated between the trade unions, petition offices, arbitration committees, courts, and government. However, as the workers kept active and continued to organise, their protest was not muted in the bureaucratic process. Instead, the bureaucratic procedure provided a drive for the workers to escalate their struggle. The ACFTU did not deny the problems reported by the workers. The local trade union coordinated two rounds of negotiations between the workers and the company. Although the negotiation did not solve any problems, it increased the confidence of workers in the efficacy of their actions. The protesting workers continued to work in their positions, so they were always able to gather in a big group when making petitions to different government organs. After the negotiations, more than 500 workers held a demonstration in February 2017. When presenting their case to court, they made demands for open-ended contracts from FAW-VW and a compensation amount of up to 1.3 million yuan, calculated according to the disparity in income and benefits with the regular workers since 2008 (CLB 2017). The workers presented with these demands a prospect and incentive for themselves and other dispatched workers who did not participate. The worker representatives stated that they also hoped that the high level of compensation would draw the attention of the public and media ((Int1; Int2).

3.3 The societal power

Social media facilitated the protestors in mobilising societal power. Three worker representatives published their contact information online in order to invite interviews from journalists. They posted about the progress of the protest, condemning the bureaucratic indolence of the trade union and the corruption of the management in order to pursue public support.

According to a workers' leader, workers' live online reporting on their petition in the municipal trade union pressed the union officials to coordinate the negotiations (Int9). International media noticed and covered the struggle after the workers posted their struggle online. FAW-VW took various measures to undermine the protest. It called a vote of the congress of employees and staff, a statutory organisation for employees to exercise their democratic management power within enterprises, to approve the employment policies for the dispatched workers, in order to legitimise the practice (Int4). An enterprise trade union was formed immediately in the labour agency and registered dispatched workers for membership, in order to limit dispatched workers' issues within the agency company (Fu 2017; Int1). The foremen and other shop-floor managers were mobilised to persuade workers to give up their protest. These actions only provoked the indignation of workers, as they saw employee representatives and the enterprise trade union acting against their interest (Int1; Int2). The escalating impact forced FAW-VW to announce 2,400 regular positions for the 3,500 dispatched workers in April 2017 — among these new jobs, only 500 were to be located in Changchun, while the rest were to be dispersed in three other cities. Around 1,500 dispatched workers accepted the offer (Hornung 2017), while 900 maintained their protest for compensation and open-ended contracts. One month after announcing the recruitment, FAW-VW called the police to detain three worker leaders when they organised 100 workers to gather in front of the administrative building of the factory after work to demand a communication with human resource managers, and showed a live webcast (Sun 2018). Workers' social media accounts were taken down. In July 2017, the helpless workers pressured the German joint-venture partner VW and demanded the works council of VW to take responsibility (CLB 2017b, 2017c). The works council of Volkswagen did not respond to the workers in China positively, although they had signed a *Charter on Temporary Work* and made a commitment to limit the use of temporary labour, guaranteeing equal pay in all VW factories around the world. In August 2017, two heads of VW's European and global works councils from the German metal workers' union *IG Metall* sent back a letter asking the workers to report their case to Volkswagen and the Chinese local authorities (Gongchao 2017; LabourNet 2017).

While the manoeuvres of the company split protesting workers and prevented the remaining workers from joining in the protest, they did not end the protest. First, demanding the release of the workers' leader became another focus of action that drove solidarity. Second, because the campaign unfolded under legal procedure, and the formal procedure was still pending, many workers had not given up pursuing better results. Therefore, the time-consuming legal procedure actually facilitated workers in remaining organised and active after the protest was met with difficulties. The local government and trade union coordinated seven more negotiations between the workers and the FAW-VW (Sun 2018). As the protestors constantly combined the exercises of societal power, institutional power, and organisational power, they imposed a great amount of pressure on the employer, which needed to keep other workers at peace and escape from the scandal. In May 2017, another group of temporary workers was inspired to begin their protest (Gongchao 2018b; Int14). In December 2017, the FAW-VW offered 3,000 dispatched workers regular contracts in Changchun, thereby intending to end the dispute.

4. Conclusions

This study reveals that workers can integrate legal, social, and workplace struggles to force management to make economic compromises. The protest at FAW-VW was rooted in the divided employment system based on the exploitation of temporary labour with migrant status. Dispatched workers have had to endure unequal treatment for years, while organisational representation for workers is absent. Through 'legal resistance with collective mobilisation', the protesting workers paved the way for collective workplace bargaining for which the bargaining power lay in the workers' ability to interrupt or slow down the capitalist production process. This is evident in two aspects: firstly, the temporary workers shouldered a large proportion of the core production tasks, their labour being indispensable for the production flow; secondly, their organising strategy could create a model for other discontented workers and inspire more labour strife in and outside of the company. Here, collective action, or the acting of

the associational power, did not take the form of strike as the ‘collective bargaining by riot’ (Chan/Hui 2014) in the PRD, but was organised in a legal dispute concerning the alliance between the SOEs, joint venture, and the local government. Although it is a sheltered form of collective action, ‘legal protest with collective mobilisation’ can still draw suppression and endanger workers’ leaders. In this case, the leader Fu Tianbo was convicted of the crime of gathering a crowd to disrupt public order and was thus excluded from recruitment (Sun 2018).

Generally, Chinese workers’ use of associational power cannot be expressed through trade unions but through various forms of collective mobilisations, such as strikes and collective legal protests. As collective bargaining is based on temporary mobilisation, which is identical with the strikes in PRD, workers’ organisation is not sustainable and the protest falls into one-off bargaining (Pringle/Meng 2018) that produces suboptimal outcomes. Such limitations are evident in the development after 2017 in the FAW-VW case: the former dispatched workers were still paid significantly less after they got regular contracts, but they lost the influence when the recruitment had dismantled the protesting organisation (Gongchao 2018b). Workers again fall back into becoming disorganised and powerless individuals.

The author acknowledges the limitations of this paper. The findings are drawn from a single case study without referring to other cases of temporary labour protest in China. The study does not delve deep into interactions between the state and the protesters because it is hard to get access to the trade unions and government organs. However, the protest pattern has potential significations and thus requires further research: on the one hand, as SOEs, joint ventures, and foreign multinationals have commonly implemented a multi-layered employment system and relied heavily on temporary labour, workers in other workplaces face similar challenges and opportunities. Moreover, the robotisation and digitalisation of production may endanger the job security of temporary and regular employees and escalate workplace conflicts. On the other hand, this study notes that migrant workers have begun to compose the core workforce in SOEs and joint ventures that used to hire urban workers. The workforce composition may transform labour relations on the shop-floor and the individualised protest pattern led by urban employees. Legal regulation on temporary employ-

ment that intends to promote stable and inclusive urbanisation is likely to encourage workers to struggle against the discriminating and dividing employment system. Meanwhile, a repressive government approach may push more workers to mobilise legal protest and forge ahead with workplace bargaining in an innovative manner. Further research is needed to dig into the connections between labour activism and structural changes and examine how the intensified authoritarian restriction on labour organisation and civil society will affect organised labour struggles.

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LIST OF INTERVIEWS

- Int.1 dispatched worker representative 1; 26.07.2017
Int.2 dispatched worker representative 2; 01.08.2017
Int.5 protest participant; 28.12.2017
Int.6 protest participant; 03.01.2018
Int.8 observing worker; 04.01.2018
Int.9; Int11; Int15 dispatched worker representative 3;
21.09.2018; 17.10.2018; 12.11.2018
Int.12 protest participant; 18.10.2018
Int.14 outsourced worker representative. 27.09.2018

FIELDWORK NOTES: taken during and after factory visits and personal interviews, on the employment system of the automotive factories in Changchun, Chengdu, Foshan, and Guangzhou. 2013-2016

ABSTRACT Ausgehend vom Protest der LeiharbeiterInnen im Automobil-Joint-Venture FAW-VW analysiert dieser Beitrag die Machtressourcen der ZeitarbeiterInnen und die Art und Weise, wie sich ArbeitnehmerInnen mobilisieren lassen, um Zugeständnisse der Unternehmen zu erreichen. Die Autorin stellt ein Protestmuster des "legalen Widerstands mit kollektiver Mobilisierung" fest, bei dem sich die ArbeiterInnen durch gerichtliche Anfechtungen organisieren und kollektiv auf ihre betriebliche Verhandlungsmacht setzen. Die Studie regt an, dass weitere Untersuchungen durchgeführt werden sollten, die die Zusammenhänge zwischen den Strategien des Widerstandes der ArbeiterInnen und den Arbeitsbeziehungen in den Betrieben vor dem Hintergrund der sich verändernden Zusammensetzung der Belegschaft, der Arbeitsgesetze und des wirtschaftlichen Abschwungs untersuchen.

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