

FROM MEDIATION TO ADJUDICATION: SETTling LABOR DISPUTES IN CHINA

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As China's economic reforms gradually render traditional forms of labor mediation ineffective, more workers are resorting to the courts.

Introduction

As China continues its economic transformation, labor disputes have soared and have also become more complicated. Government authorities have designed a series of institutions and procedures to handle the increasing labor disputes. In 1987, the government re-created the arbitration mechanism for the settlement of labor disputes within the State Owned Enterprises (SOEs)¹ and then, in 1993, extended the mechanism to other enterprises.² The Labor Law 1994, supplemented by a great number of executive rules and regulations, created a sophisticated hierarchy of institutions and procedures for the resolution of labor disputes, namely mediation, arbitration and adjudication.³ Finally, the Supreme People's Court (SPC) issued an important judicial interpretation⁴, supported by judicial guidance and instructions, to provide detailed rules for the handling of labor disputes.

With the change of corporate governance within the SOEs, the growing importance of the private sector and the further entrenchment of the market economy, labor relations have undergone significant changes in China. Complainant workers have been constantly shopping for a better forum to air their grievance, and seeking a more expedient and impartial channel for settling their cases. This change in labor relations is reflected in a gradual shift in importance from mediation to adjudication as the dominant forum of dispute resolution. All these changes, which are clearly reflected in the labor dispute statistics over the last decade, have compelled the government to rethink labor disputes and their resolution.

This paper gives a narrative account of the trend of labor disputes and labor dispute settlement in China. The discussion is limited to cases brought to the attention of the legal forums, principally arbitration and adjudication. It does not touch upon cases that are either investigated by the government's labor inspection authorities or presented in petitions to the government's general letters and visits offices. The paper briefly intro-

duces the three principal methods of labor dispute settlement in China, and the shift in importance of the above mechanisms in the resolution of labor disputes in the last two decades. It also offers some explanations of the reasons behind the shift.

Enterprise Mediation

The government has stressed the importance of mediation in conflict resolution, and this is also the case in labor dispute resolution. Article 80 of the Labor Law provides: "Employer units may establish internal labor dispute mediation committees. The committee is composed of representatives of the employees, employer unit, and the enterprise union concerned." Under the Regulations on the Handling of Labor Disputes in State Owned Enterprises in the People's Republic of China (Labor Dispute Regulations), the management appoints the representative of the enterprise, the Enterprise Workers' Congress chooses the representative of the employees, and the Enterprise Workers' Union (Union) appoints the union representative.⁵ The mediation committee is set up within the union and the union representative acts as the chairperson of the enterprise mediation committee.⁶

The enterprise mediation committee has the broadest jurisdiction over disputes within the enterprise. A mediation committee, where it is well-established, would take in more disputes unrelated to labor and serves as a general forum for dispute resolution. In the case of a Jiangxi enterprise, for example, the mediation committee settled 177 labor-related cases within three years, but it accepted a total of 2,115 disputes.⁷

The Labor Dispute Regulations stipulate that mediation is based on voluntary participation, and that when mediation is successful, the parties involved should sign a mediation agreement, which "should" be honored by the parties.⁸ Mediation fails if the mediation committee fails to reach a resolution within 30 days, and parties may then initiate the arbitration process.⁹

Prior to 1993, most disputes were handled by enterprises themselves through their internal mediation mechanisms. It was estimated that from 1986 to 1992, about one million labor disputes were handled in China. Enterprise mediation committees mediated a total of 710,000 disputes.¹⁰

However, mediation by enterprise mediation committees has gradually declined in popularity. According to the China

Labor Statistical Yearbook, the reported number of labor disputes that were mediated within enterprises declined sharply from 1996 to 2001.

No. of cases accepted by units for mediation and no. of cases successfully mediated (1996–2001)

Year	No. of cases accepted	No. of cases successfully mediated
1996	118,732	107,439
1997	54,689	45,464
1998	43,219	34,699
1999	51,478	43,837
2000	31,193	27,114
2001	6,374	5,825

(Source: *China Labor Statistical Yearbook (1997–2002)* (Beijing: China Statistics Press)).

The drop in the reported cases of enterprise mediation is a result of the transformation of China’s state economy, the weakening of the bargaining power of workers, and the sharp conflict of interests between workers and their employers in the new economic structure. Enterprise mediation cannot survive in the new political economy.

Under the Labor Law, there is no legal obligation for an enterprise to set up such a committee. It is discretionary. Despite the fact that enterprise mediation is regarded as a “low cost, high efficiency” mechanism for dispute settlement, the extent to which such committees have been established is said to be unsatisfactory.¹¹ Many mediation committees in SOEs were disbanded in the course of reforms, and newly established enterprises have generally been slow in establishing enterprise mediation committees or have simply refused to do so.¹² Indeed, it is actually rare for enterprises to set up a mediation committee.¹³

Those mediation committees that do exist simply lack the credibility and ability to mediate conflict between workers and their employers. The framework for enterprise mediation, as provided by the Labor Dispute Regulations, is Union-centered, and Union leaders play the principal role in organizing and participating in labor dispute resolution. Yet, Union leaders are not the representatives of the workers in the process. Instead, they are, in theory, a third party between employees and their employer and are expected to protect the interests of the state, the enterprises and the workers.¹⁴ In practice, Union leaders and enterprise mediators under them are effectively “captured” by the management. Most Union leaders and mediators are appointed by and accountable to the management, and a large proportion of the Union leaders chairing the mediation committees concurrently serve as the senior administrative personnel of the enterprise concerned.¹⁵ It is thus not surprising that workers treated the mediation committee as “the parasites of the administration” who “breathe through the same nostrils as the general manager.”¹⁶

The reform movement toward a market economy has rejuvenated China’s enterprises, and at the same time has contributed to the creation of managerial despotism. In labor dispute resolu-

tion, for example, the management routinely interferes with the work of the mediation committees,¹⁷ and a mediation agreement can be vetoed by the management at its discretion.¹⁸ In any event, a mediation agreement between the employer unit and the complainant worker, as expressly stated by the (former) Labor Ministry, has no binding legal effect at all.¹⁹

Arbitration

The sharp decline of enterprise mediation since 1997 has been accompanied by a corresponding rise in cases handled by arbitration as complainant employees frustrated with mediation have simply taken their cases directly to the arbitration committees. In late 1997, the number of cases submitted directly to arbitration committees equaled that of cases submitted for arbitration after enterprise mediation failed.²⁰

The government restored the labor dispute arbitration system in 1987,²¹ and the number of cases accepted by arbitration committees has steadily increased since 1989. Arbitration committees accepted 184,116 cases in 2002, representing nearly an 18-fold increase over the 10,326 cases accepted in 1989.

No. of cases accepted and settled by the arbitration committee (1989–2002)

Year	No. of cases accepted	No. of cases settled
1989	10,326	
1990	9,619	16,916
1991	7,633	
1992	8,150	
1993	12,358	
1994	19,098	
1995	33,030	
1996	47,951	46,543
1997	71,524	70,792
1998	93,649	92,288
1999	120,191	121,289
2000	135,206	130,688
2001	154,621	150,279
2002	184,116	178,744

(Sources: *China Labor Yearbook (1990/91; 1995/96)* (Beijing: China Labor Press); *China Labor Statistical Yearbook (1997–2003)* (Beijing: China Statistics Press)).

The government’s published annual statistics on labor arbitration suggest the following characteristics in China’s growing labor disputes:

First, labor disputes are concentrated in the coastal regions, reflecting the fact that they are closely related to migrant workers. At the end of the 1990s, for example, one-third of the labor disputes in China took place in Guangdong Province, and more than 40 percent of the labor disputes in Guangdong took place in the city of Shenzhen.²² The types of disputes that are submitted for arbitration are diverse, covering every aspect of labor relations. But the principal types of disputes are those concerning remuneration, followed by disputes over social insurance, welfare payments and the rescission of labor contracts.

Second, labor relations have become more antagonistic, and the parties involved have become less willing to settle their differences. Under the arbitration rules, a labor arbitration committee is required to conduct mediation before arbitration. Statistics show that over the years there has been a gradual decline of cases settled through mediation by the arbitration committee, and parties have become less willing to compromise through mediation. They prefer to have their cases formally arbitrated.

Breakdown of the number of cases settled by the labor disputes arbitration committees by the method being used (1990–2002)

Year	No. of cases settled by mediation	No. of cases settled by arbitration	No. of cases settled by other methods ²³
1990–1991	10,402 (61.5%)	1,959 (11.6%)	4,555 (26.9%)
1996	24,223 (52.0%)	12,789 (27.5%)	9,531 (20.5%)
1997	32,793 (46.3%)	15,060 (21.3%)	22,939 (32.4%)
1998	31,483 (34.2%)	25,389 (27.5%)	35,155 (38.2%)
1999	39,550 (32.6%)	34,712 (28.6%)	47,027 (38.8%)
2000	41,877 (32.0%)	54,142 (41.5%)	34,669 (26.5%)
2001	42,933 (28.6%)	72,250 (48%)	35,096 (23.4%)
2002	50,925 (28.5%)	77,340 (43.3%)	50,479 (28.2%)

(Sources: *China Labor Yearbook* (1990/91) (Beijing: China Labor Press); *China Labor Statistical Yearbook* (1997–2003) (Beijing: China Statistics Press)).

Third, despite the argument that labor disputes in China are becoming more collective, complainant workers remained as individualistic in 2002 as they were in 1995, as reflected in the fact that the average number of complainant employees per labor dispute has remained roughly the same since 1995. While the actual number of collective disputes may have increased over the years, their percentage has not increased.

No. of laborers involved in the labor disputes accepted and settled by the arbitration committees (1989–2002)

Year	Total no. of cases accepted	Total no. of laborers involved in the cases accepted	Average no. of laborers involved in each case
1989	10,326		
1990	9,619	39,888	2.3
1991	7,633		
1995	33,030	122,512	3.7
1996	47,951	189,120	3.9
1997	71,524	221,115	3.1
1998	93,649	358,531	3.8
1999	120,191	473,957	3.9
2000	135,206	422,617	3.1
2001	154,621	556,230	3.6
2002	184,116	608,396	3.3

(Sources: *China Labor Yearbook* (1990/91; 1995/96) (Beijing: China Labor Press); *China Labor Statistical Yearbook* (1997–2003) (Beijing: China Statistics Press)).

Another interesting finding is the visible gender disparity in complainants. While female workers make up the majority of migrant workers²⁴, they make up only a small minority of the people who take their employers to arbitration. For example, among the 608,396 workers involved in labor disputes accepted by the labor dispute arbitration committees in 2002, only 139,690 (23 percent) of them were female.²⁵ Such a phenomenon is largely due to the lack of resources available for female workers to confront their employers while at risk of losing their jobs. As a result, most agree to resolve disputes with their employers privately, and some may even resign themselves to their mistreatment.²⁶

Finally, arbitral awards predominately favor laborers over employers. The likelihood of winning is also sector specific. Laborers from the private sector, for example, have a better chance of succeeding in their claims before arbitration committees than those from public organs or SOEs.

Results of settlement reached by the arbitration committees (1996–2002)

Year	In favor of Employers	In favor of Laborers	Split Decisions
1996	9,452 (20.3%)	23,696 (50.9%)	13,395 (28.8%)
1997	11,488 (16.2%)	40,063 (56.6%)	19,241 (27.2%)
1998	11,937 (13.6%)	48,650 (55.3%)	27,365 (31.1%)
1999	15,674 (13.5%)	63,030 (54.3%)	37,459 (32.2%)
2000	13,699 (11.3%)	70,544 (58.1%)	37,247 (30.7%)
2001	31,544 (21.0%)	71,739 (47.7%)	46,996 (31.3%)
2002	27,017 (15.1%)	84,432 (47.2%)	67,295 (37.6%)

(Source: *China Labor Statistical Yearbook* (1997–2003) (Beijing: China Statistics Press)).

The fact that cases submitted for arbitration have been increasing does not mean that the arbitration system is effective or fair, however. Parties submit their cases for arbitration because it is the prerequisite to adjudication. Under Chinese law, a court cannot accept a labor case until an arbitration committee has rendered a decision. Indeed, available evidence indicates that arbitration is not working.

The most serious problem with the labor dispute arbitration system relates to the statute of limitation. The Labor Law provides that an application for arbitration must be made within 60 days from the date when the labor dispute arose.²⁷ According to the SPC, the “date when the labor dispute arose” is the day on which the party knew or should have known of the infringement of rights. However, the time limit is not to be enforced rigidly, and an arbitration committee must accept an application for arbitration exceeding the time limit in case of *force majeure* or “other legitimate reasons.”²⁸

The 60-day limitation is unreasonably short for three reasons. First, workers, especially migrant workers who form the vast majority of parties to labor disputes, are often not aware of this limit.

Second, when they become aware of the infringement of their rights, workers tend to approach the employer to solve their differences through consultation and mediation as rec-

commended by the Labor Law. By the time they bring their case to arbitration, the two-month time limit may have expired. At the same time, employers are well aware of this limit and may strategically give employees false hope of settlement as a means of delaying their application for arbitration.²⁹ The Labor Law has no provision for the suspension of the time limit, so in effect, any participation in the consultation and mediation processes threatens the success of an application for arbitration. In that sense, the Labor Law contradicts itself.

Finally, given the close relations between the arbitration committee and the enterprises within its jurisdiction, the arbitration committee may collude with the enterprises in suppressing or ignoring disputes even when workers petition in a timely manner.³⁰

The courts' high rate of acceptance of labor cases rejected by the arbitration committee for exceeding the time limit is the best evidence of the unfairness of this limitation. According to a study by one district court in Jinan City, 76 percent (60 cases) of the labor disputes accepted by the court were disputes refused by the arbitration committee on the basis of exceeding the time limit. Among these 60 cases, the court was of the opinion that 47 should have been accepted.³¹

The arbitration committee does not appear to be fair and impartial, and shows a strong administrative bias. The physical location and composition of the arbitration committees, for example, are especially problematic. Article 13 of the Labor Dispute Regulations provides that "the labor dispute institution of the labor administration department is the working institution of the arbitration committee, responsible for handling the day-to-day matters of the arbitration committee." In other words, this provision locates the office of the arbitration committee within the labor administration department. Researchers in China have pointed out that such an arrangement creates an opportunity for administrative intervention, hence undermining the independence of the arbitration committee and the impartiality of its decisions.³² Local governments are likely to intervene to ensure that arbitral awards favor the employer units so as to prevent "offending" investors and driving them, together with their investment, away from the locality.

The composition of the arbitration committee likewise raises questions over the impartiality of the arbitration process. According to the Labor Dispute Regulations, the arbitration committee is a tripartite institution, composed of representatives of the labor administration departments, government-appointed economic management departments and workers' unions. While the first two parties are government-related, the representative of the workers' union is supposed to represent laborers. The original intent behind such a design was to ensure impartiality in arbitration. However, as workers' unions in China have never been allowed to genuinely represent the interests of the laborers, the implementation of such intent becomes impossible. Even under the amended Trade Union Law, promulgated in 2001, workers' unions are required to "assist the people's governments in their work and safeguard the socialist State power."³³

Adjudication

The number of labor disputes brought to court after arbitration has increased sharply since 1995.

Number of labor disputes adjudicated by courts (1995–2001)

Year	Total no. of labor disputes adjudicated by the courts in China
1995	28,285
1996	37,558
1997	50,124
1998	59,118
1999	73,340
2000	76,378
2001	100,923

(Source: *China Law Yearbook* (1996–2002) (Beijing: Press of China Law Yearbook)).

There seem to be no standard rules for the court's jurisdiction over labor disputes, and the practice tends to vary from one province to another. Under the Labor Law, a court has jurisdiction over a wide range of cases. Indeed, any dispute between employer and employee on a matter relating to labor relations can theoretically be brought to court.³⁴ The SPC, through a judicial interpretation, has limited jurisdiction to the following categories:³⁵

- 1) Disputes that arise between a worker and an employer in the course of implementing a labor contract;
- 2) Disputes that arise between a worker and an employer where a labor relation exists or existed although there is no labor contract; and
- 3) Disputes in which retirees seek from their original employers old-age pension, medical coverage, industrial accident compensation and other social insurance fees to which the original employers did not contribute.

In practice, courts have further limited their own jurisdiction. The most significant limitation on the court's jurisdiction is to shy away from policy-related cases. Just as courts in rural areas are reluctant to accept cases that relate to unlawful taxation and the levying of fees, urban courts refuse cases that relate to redundancies and failure to pay employees resulting from the restructuring of government-led SOEs. The court's stated justification is that such disputes are policy matters and should be settled comprehensively by competent government authorities, as the court may not be competent in this complicated issue. The anomaly is that arbitration committees have formal jurisdiction to accept and consider exactly the kind of SOE-related cases that the courts refuse. Setting aside the question of whether or not it is reasonable, this largely self-imposed constraint by the courts amounts to a cautious exercise of judicial power and a convenient way for the courts to avoid difficult questions.

The courts are generally reluctant to accept labor cases for a number of reasons. Courts in China, particularly in the coastal areas, have been inundated by ever-increasing civil and commercial cases and have little capacity to handle labor disputes.

Labor disputes are regarded by the courts as trivial and tedious and are treated as such. More importantly for some courts, labor disputes do not generate as much income as other cases because court fees have been fixed between a 30 to 50 RMB.³⁶ Chinese courts rely on litigation fees to supplement their limited operational costs.

By and large, the courts would defer to arbitration committees and other competent authorities, such as the social insurance departments. The fact that an existing government department has disposed of matter deters the courts from actively expanding their territory, fearing to “step on the toes” of that government department. The deference to an arbitration committee, for example, is reflected in the fact that a court will not accept a case if the petitioner has withdrawn or abandoned the case after the case has been accepted for arbitration; if a mediation agreement has been reached by the parties concerned during arbitration; or if a party who is dissatisfied with an arbitral award filed a case in court and subsequently withdrew the case with the consent of the court. Even if an arbitration committee refuses to act upon a complaint without any grounds, the court will not accept the case. The court can be involved only after the arbitration committee has actively rendered a decision.

The self-constraint of the courts has its own limit. Labor disputes, especially those involving a large number of workers, can be highly sensitive and political. Where social stability is involved, the courts would be forced to play an active role, to the extent of waiving the pre-requisite of arbitration. There have been a number of such instances in Shenzhen.³⁷ In one case, a factory owner fled when 700 unpaid workers intended to smash the factory’s machinery. Upon learning of this event, the court actively advised the arbitration committee to protect the factory’s property. Finally, upon the request of the arbitration committee, judges froze the owner’s property to pacify the angry workers.³⁸

The sense of justice of individual judges, coupled with their relative institutional autonomy, also contributes to the assertiveness of the courts in labor disputes. Relative to the government labor department, which controls both the arbitrators and the arbitration committees, judges see themselves as more independent and detached, experiencing less pressure to protect and please employers. Facing gross injustice, they will find a way to do justice despite the law.³⁹

The emerging legal profession, combined with the increased awareness of rights on the part of laborers, has contributed to a more direct judicial involvement in labor disputes. Legal rules, both procedural and substantive, are flexible enough to accommodate creative lawyering so that parties could bring labor disputes directly to the courts. For example, lawyers in Shenzhen have re-categorized industrial accidents as general torts, and failure to pay salaries as ordinary debt, thus bringing labor disputes to courts on legal grounds. These lawyers have successfully converted the labor disputes to ordinary civil disputes, thus totally bypassing the arbitration committees. With abundant grievances and aggrieved workers in China, an effective intermediary helps to channel disputes to the courts. Where the press has hailed this innovation as pro-

viding an expedient mechanism to resolve labor disputes, the court in Shenzhen has become cautious and has begun treating this innovative approach as an abuse of court process, forcing many labor cases back to the arbitration committees.⁴⁰

For labor disputes, only the court has the power to render a final decision, and the court has the necessary powers, such as freezing property, that are not enjoyed by the arbitration committees. The judiciary is situated in a privileged position and, naturally, aggrieved parties ultimately bring their cases before it. Despite the legislative hurdle that has been placed before the court to reduce judicial involvement in labor disputes, labor cases are clogging Chinese courts, especially in coastal regions. The number of cases that will be brought to courts is likely to increase at a speedier pace.

Laborers continue to prevail in courts. Statistics released by the SPC showed that from 1995 to 2001, the judiciary had handled 425,726 labor cases, and laborers won in 62.46%, 55.88% and 55.32% of the total labor cases in Shangdong, Guangdong and Heilongjiang Provinces respectively. The SPC also reported that in some courts, such as Ningbo in Zhejiang and Zhongshan in Guangdong, laborers won in more than 90% of the cases.⁴¹

Conclusion

There is gradual transition from mediation to adjudication as the principal mechanism of labor dispute resolution in China in the past two decades. Mediation, despite its claimed virtues, has only limited impact on the resolution of the growing labor disputes. While the arbitration system has been expected to play the key role in resolving labor disputes, it has been generally discredited and is unable to function effectively. Sandwiched between mediation and adjudication, the arbitration committee is simply not a satisfactory forum to settle labor disputes in the new economic circumstances.

Increasingly, the courts are pushed to the forefront to deal with China’s growing social problems, including the tedious yet potentially sensitive labor disputes. Judicial involvement in labor disputes has been a contradictory process, largely reflecting the court’s effort to strike a balance between reducing its own case load, deferring to other government authorities and protecting the rights of laborers. But the court is likely to play a more active role in this process largely due to the political imperative to maintain stability through law, the institutional interest of the judiciary to expand its jurisdiction, aggressive lawyering, and the growing awareness of rights on the part of laborers who are more willing to have their day in court.

1. State Council, Provisional Provisions on the Handling of Labor Disputes in State Owned Enterprises (31 July 1987).
2. State Council, Regulations on the Handling of Labor Disputes in State Owned Enterprises in the People’s Republic of China (6 July 1993) (hereafter Labor Dispute Regulations); Ministry of Labor, Interpretations on Several Questions Concerning the Regulations on the Handling of Labor Disputes in State Owned Enterprises in the People’s Republic of China (23 September 1993).
3. Examples of executive rules concerning the labor dispute resolution mechanism are: Ministry of Labor, Rules on the Organization and Work of the Enterprise Labor Dispute Mediation Committee (5 November

- 1993); Ministry of Labor, Rules on the Handling of Cases by the Labor Dispute Arbitration Committees (18 October 1993); and Ministry of Labor, Organic Rules of the Labor Dispute Arbitration Committees (5 November 1993).
4. Supreme People's Court, Interpretations on Several Questions Concerning the Application of Law in Adjudicating Labor Dispute Cases (22 March 2001) (hereafter SPC Interpretations).
 5. Article 7, Labor Dispute Regulations.
 6. Article 8, Labor Dispute Regulations.
 7. Lu Shaohua and Lui Yanrong, "How we develop the work of enterprise mediation of labor disputes" (November 1997) *Zhongguo Laodong Kexue* (Chinese Labor Science) 26.
 8. Article 11, Labor Dispute Regulations.
 9. Article 10, Labor Dispute Regulations.
 10. Shi Tanjing, "An analysis of China's labor disputes and discussion on the problem of strike legislation" (1999) 6 *Faxue Yanjiu* (CASS Journal of Law) 47, p. 48.
 11. "Preliminary discussion on the application of law and legislative reform relating to labor disputes," in Labor Disputes Research Group (ed.), (Laodong Zhenyi Anjian Diaoyan Cailiao Huibian (Research Materials on Labor Disputes) (2003) (hereafter Research Group), p. 32.
 12. 'Ni Haomei: Should hasten the perfection of the Mediation Law', China Internet Information Centre, 11 March 2004, www.lianghui.org.cn/chinese/zhuanti/2004lh/515060.htm (Visited on 17 July 2004) (hereafter China Internet Information Centre). Guan Huai and Chao Yanchun, "Preliminary discussion on the enterprise mediation of labor disputes" (2000) 4 *Faxue Zazhi* (Law Science Magazine) 11, p. 12.
 13. Sun Weixin and Zhou Peisheng, "Current status of labor disputes in Shanghai and the counter-measures" (1998) 3 *Shanghai Gongyun* (Shanghai Labor Movement) 18–20.
 14. Xu Yaping, "Labor disputes have become more visible" (1997) *Journal of Nanjing University: Philosophy, Humanities and Social Sciences Edition* 131–139.
 15. China Internet Information Centre (note 12 above).
 16. Sun and Zhou (note 13 above).
 17. China Internet Information Centre (note 12 above).
 18. Guan and Chao (note 12 above).
 19. Labor Ministry, "Questions and answers on policies relating to the handling of labor disputes (1993)", Question 5.
 20. Sun and Zhou (note 13 above), p. 3.
 21. Wang Xiao, 'On labor dispute arbitration system of our country', *Tianya Falu Wang* (Tianya Law Net), www.hicourt.gov.cn/theory/article_list.asp?id=1885&1_class=2 (Visited on 18 July 2004).
 22. "Investigative report on the system of labor dispute resolution in our city", in Research Group (note 11).
 23. The statistics does not specify what constitutes this category. According to our interviews with Chinese judges and labor department officials, it presents the cases that are formally withdrawn by complainants or their non-appearance at arbitration sessions.
 24. For example, the Shenzhen Labor Bureau was reported as saying that of the 1.29 million migrant workers in Shenzhen City in 1996, 836,000 were females, which accounted for 68%. In 2001, it was reported that over 70% of the workers in the export value-added enterprises in the Pearl River Delta were female migrant workers and there were at least more than six million such workers in the most developed export-oriented economic areas in China. In 2002, it was even reported that there were almost ten million female migrant workers in cities surrounding Dongguan and Zhuhai. Tan Shen, "The relationship between foreign enterprises, local governments and women migrant workers in the Pearl River Delta" (2000) *Chinese Sociology*, www.sociology.cass.net.cn/shxw/shld/t20040721_2287.htm (Visited on 12 August 2004); Tan Shen, "Leaving and coming back home: Experiences of rural female migrant workers" (December 2001) *Chinese Sociology*, www.sociology.cass.net.cn/shxw/shld/t20040609_2176.htm (Visited on 12 August 2004); Li Xiuyuan, "Concern about female workers: The three kinds of discriminations behind resolving disputes privately", *Zhonghua Nuxing* (Chinese Females), 30 January 2002, www.china-woman.com/gb/2002/01/30/zgfnb/zynx/2.htm (Visited on 12 August 2004).
 25. *China Labor Statistical Yearbook 2003* (Beijing: China Statistics Press, 2003), p. 501.
 26. Li (note 24 above).
 27. Article 82, Labor Law.
 28. Article 23, Labor Dispute Regulations.
 29. He Zhixing and He Liu, "Questioning the statute of limitation for labor arbitration and the system of adjudication following arbitration" (1995) 5 *Hebei Faxue* (Hebei Law Science) 67–68.
 30. *Ibid.*
 31. Research Office, Central District People's Court, Jinan City, Shandong Province, "Investigation and analysis of labor disputes" (2000) 12 *Renmin Sifa* (People's Justice) 26.
 32. Luo Xiangrong, "Defects in the existing labor dispute procedure and their perfection", *Nanma Faxun* (Nanma Legal News), 14 March 2004, www.nanmacourt.com/list.asp?unid=22 (Visited on 16 July 2004); Qian Lian, "Several factors affecting the work of labor dispute arbitration" (2003) 2 *Zhongguo Laodong* (China Labor) 42.
 33. Article 5, Trade Union Law.
 34. Article 2, Labor Law.
 35. Article 1, SPC Interpretations.
 36. For a critical review on the financial motivation behind the court's reluctance to accept more labor cases, see Zheng Shangyuan, *Laodong Zhengyi Chuli Chengxu de Xiandaihua* (The Modernization of the Procedures for Handling Labor Disputes) (Beijing: China Fangzheng Press, 2004), pp. 244–247. At the same time, the low cost of litigation has also encouraged parties, employers in particular, to file frivolous and vexatious lawsuits to frustrate the employees. Note 11 above, p. 31.
 37. Labor Dispute Research Group, note 11.
 38. "For the lawful rights of the workers: how courts actively handled labor disputes", *Zhongguo Fayuan Wang* (ChinaCourt Net), 12 March 2002, www.chinacourt.org (Visited on 12 June 2004).
 39. Interviews with judges from Guangdong, 2004.
 40. Article 3, Opinions of the Intermediate People's Court of Shenzhen on Several Problems relating to Labor Disputes, in Research Group (note 11 above), p. 34.
 41. "The SPC claimed courts showed excellent results in protecting labor rights," *Zhongxin Wang* (China News Net), 11 March 2002, www.chinanews.com.cn/2002-03-11/26/168640.html (Visited on 13 June 2004).