

PROMOTING RIGHTS CONSCIOUSNESS AMONG CHINA'S MIGRANT WORKERS

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Human rights abuses abound in China's labor sector, especially among the poorly regulated employers of the migrant workforce. Non-governmental groups have sprung up to inform and support rights consciousness among migrant workers. But how effective on a practical level is this knowledge for workers ?

Introduction

Deep inside a Beijing alleyway, a woman with fingernails blackened by tar and pants stained with splotches of paint sits down at a table in a small classroom and begins to take notes. Sitting next to her, two teenage girls break into chatter in the dialect of their hometown in Gansu Province. Yellow hardhats in hand, a group of young men shuffle in the back of the room. Lawyer Zhang brings the noisy room to attention when he raises his voice to ask a question: "What rights do you as migrant workers have according to the Constitution?"

This group of mechanics, construction workers, janitors, waitresses, beauticians and domestic workers represents just a handful of the estimated 150 million rural peasants who have migrated to cities across China in search of a piece of the economic boom.¹ Not a single person in the room has more than a middle-school education; one man has never attended school and is illiterate. Yet despite their impoverished backgrounds, they have come to learn about "Migrant Workers and the Law" (*Dagongzhe yu Falu*), a four-part weekly training workshop hosted by a Chinese NGO called the Facilitators (*Xiezuo zhe*).

The participants here represent a movement in China to help migrant workers use the law as a tool to protect their rights and demand fair working conditions. Over the past decade, Chinese advocacy organizations, labor activists, legal scholars and even the government have been promoting the idea of building rights consciousness among workers. The issue of rights is now beginning to figure into the equation of choices and obstacles facing migrant workers as they try to earn a sustainable living in Beijing. But how exactly do they perceive the role of rights and law in their own lives?

Given that 93 percent of migrants work in "informal" jobs

(*fei zenggui jiuye*) that provide no fixed employment status or legal guarantees, enforcing rights protection often proves a difficult task.² Working conditions in the informal sector rely on spoken understandings rather than written contracts, and employers rarely register their workers, evading the detection of official labor monitors. The surplus labor force in China, estimated to be as great as 300 million, ensures that a steady stream of people will always be available to work jobs where conditions do not meet legal standards. In Chinese, the term "floating population" (*liudong renkou*) has become synonymous for the instability and isolation of life as a migrant worker.

It is against this backdrop that grassroots NGOs are introducing the tool of rights consciousness and legal action to impoverished peasants struggling to survive in China's cities. But once the law workshops let out for the day and the migrant workers return to harsh realities that often defy the scope of legal protection, what do they take away and how effective are such initiatives?

An examination of three case studies of migrant women who are involved with the Facilitators and a similar organization called the Migrant Women's Center (*Dagongmei zhi Jia*) provides some insights into the meaning of rights and law on the ground. Their stories illustrate the structural obstacles that often prevent migrants from using law to solve their problems, but also reveal how migrants increasingly view law as a tool to gain leverage and voice in a society riddled with inequalities.

Rights protection within China's informal labor system

Over the past five years, there has been a flurry of activity to promote legal protection for migrant workers at both the community and central government levels. The State Council issued a notice on January 5, 2003 entitled "Concerning the Administration and Provision of Services for Rural-Urban Migrant Workers."³ The notice recommends a series of measures to increase rights protection for migrant workers, including eliminating unfair restrictions on movement within the country, compensating for unpaid wages, improving living conditions and implementing training programs and legal services. In particular, the notice advocates using training and services "to heighten migrants' respect for the law and raise their consciousness in protecting their rights in accordance with law" (*tigao nongmingong zunzhong falu faqi he yifa wei hu quanyi de yishi*).⁴

Although the last statement could be read as discouragement of rights advocacy activities that might threaten the state, subsequent passages indicate that it is more an official endorsement of a movement to build rights consciousness among migrants. On the topic of unpaid wages, the State Council repeatedly urges the “rigorous use of law to protect and expand the legal rights of migrant workers” (*nuli yunyong falu shouxu weihu guangda nongmingong hefa quanyi*).⁵ It also calls for the establishment of legal aid structures where migrants can seek compensation for unpaid wages and other grievances.⁶

Quite apart from the altruistic aspects of promoting justice for a group particularly vulnerable to exploitation, the government has a clear interest in propagating rule of law for migrant workers. So long as migrants believe they have the option to participate in a just dispute resolution system, they are less likely to resort to violence, protests or underground activism. Additionally, the government benefits from the public perception that it is making strides to strengthen rule of law, a critical move for improving China’s image in the face of growing international pressure.

Regardless of the motives of the State Council’s notice, its message coincides with community-level initiatives to improve the living and working conditions for migrant workers through community events, training sessions, newsletters, advocacy and counseling services. Legal training and aid has taken center stage over the past few years, in part due to the fact that international foundations such as Oxfam and the Ford Foundation are committing a significant amount of resources to supporting local initiatives related to legal reform and rights protection.

Established in 1996 under an umbrella organization called the Cultural Development Center for Rural Women (*Nongjianü Wenhua Fazhan Zhongxin*), the Migrant Women’s Center was the first organization in China dedicated to providing services to rural women. They operate from two locations in Beijing: one within a humble cluster of rooms buried in a narrow alley in central Beijing, and the second in an open air marketplace called the Wanzi District Wholesale Market (*Wanzi Qu Pifa Shichang*), where hundreds of migrants work during the day as vendors and rent crowded rooms to sleep in at night. With the exception of the staff director, who holds a bachelors degree in law, all of the staff at the Migrant Women’s Center originally came to Beijing from the countryside to work in low-wage positions in the service sector or construction. A short bike ride away, the Facilitators occupies four rooms in a traditional courtyard, where it offers a similar model of empowerment for migrants through services, training and advocacy.

While grassroots initiatives to strengthen rights consciousness are certainly positive developments in China, the question remains whether raising rights consciousness is more than a fad endorsed by foreign-funded NGOs, government officials concerned with appeasing potentially volatile populations, and Chinese academics exposed to Western thought, and how effective these activities are in actually improving conditions for migrant workers.

One important factor impeding rights protection for migrants is the concentration of migrants in the informal sector, defined as jobs lacking fixed or accredited work places,

regular working hours or salary guarantees or benefits.⁷ Informal sector jobs emerged in China’s recent history following Deng Xiaoping’s economic reform and opening in 1978. The transition from a planned to a market economy changed the meaning of labor and the terms of labor relationships in China, and caused a major shift from government-assigned work units, where workers typically spent their entire working lives, to market-driven employment offering more choices and opportunities but also considerably greater risk.

Informal jobs now play a critical role in supporting the growth of China’s market economy, absorbing pressure placed on the government by a 300 million-strong surplus labor force and feeding the private sector and foreign investment with a steady source of low-cost labor.⁸ According to a report from the Committee Chairman of China Agriculture and Irrigation, Wang Ping, between 1994 and 2000, the number of workers in informal jobs nearly doubled from 44.24 million to 82.63 million in 2000. In 2001, the number of rural migrants holding informal jobs in urban areas was estimated at 76 million.⁹

Even many registered workplaces, especially restaurants, beauty parlors and repair shops, routinely report only those staff holding urban *hukou* (household registration), thereby excluding migrants from access to regulated workplace standards and guarantees. The unstable nature of this work makes it difficult for administrators and advocacy groups to monitor safety and sanitary conditions, or provide opportunities for legal counseling and services.¹⁰

The workers in the informal service sector include janitors, waitresses, domestic workers, beauticians, maintenance or repair workers, some construction workers and market vendors.¹¹ Temporary or seasonal work also often falls into the informal category. Anyone in China will say these are the most “bitter” (*ku*) jobs, because they tend to be “exhausting, unsanitary, dangerous, and subject to extreme temperatures in the summer and winter.”¹² These are the jobs left behind by urban residents who have more employment choices. Coupled with the social prejudice aimed at migrants, the economic incentives for overlooking the mistreatment of workers in the informal sector discourages administrative offices and policymakers from taking definitive action to improve labor conditions.

Regardless of whether the law recognizes rights for workers in the informal sector, the reality remains that rights protection for this group proves exceedingly difficult to enforce in practice.

When migrant workers in the informal sector experience a problem that calls for the intervention of law, they face a series of unique obstacles because the language of Chinese Labor Law explicitly excludes workers in the informal sector from the scope of its protection. Article Two of the General Provisions states: “The Labor Law is applicable to all enterprises and individual economic organizations... established within Chinese territory and the employees with whom they have formed

contractual relations. The law is also applicable to government organs, institutions and social groups, and the employees with whom they have formed contractual relations.”¹³ In short, only workers employed through a written contract with a legal enterprise, government institution, or social group are entitled to labor rights and guarantees.¹⁴

In recognition of the barriers presented by the law’s narrow sphere of protection, on May 25, 2005, the Ministry of Labor and Social Security issued a notice expanding the definition of a legal labor relationship.¹⁵ By stating that a written contract is not necessary to prove the existence of a labor relationship, the notice draws hundreds of thousands of informal sector workers into the sphere of legal protection.

But regardless of whether the law recognizes rights for workers in the informal sector, the reality remains that rights protection for this group proves exceedingly difficult to enforce in practice. In a conversation about the implications of China’s Labor Law for migrants, Professor Liu Minghui observed that “the laws are seldom enforced on the ground.”¹⁶ Long before the courtroom ever becomes an option, the most basic problem facing people in the informal sector is that employers have little incentive to provide working conditions that meet legal standards. As one woman, a restaurant worker, commented during a workshop with the Facilitators, “If I tell my boss not to deduct money from my paycheck, or say that the kitchen needs ventilation, it’s easy for him to say, ‘I can find someone else to take your place.’” The 300 million-strong and growing surplus labor force gives employers an edge in dictating the norms of workplace standards.

Many Western scholars argue that the concept of law and rights is a Western construct alien to the ground-level reality of a migrant worker in China. Steven Frost, Director of Asia Labor News at the City University of Hong Kong, articulated this view when he called for further studies on what workers actually want: “If you ask the workers, what they may want is not access to legal training or rights protection, but instead, they want a block of wood to stick under their feet when they are sitting at that chair all day long, or to put up posters of rock stars on their dorm ceiling. This may seem insignificant to us, but perhaps that is the need on the ground level.”¹⁷

The meaning of labor rights appears especially nebulous in the informal service sector, where isolating conditions may make labor standards more difficult to enforce than in the “sweat-shop” factories that receive the most negative media coverage. Take, for example, the case of a domestic worker who has no written contract with her employer and who works alone in a household that she is typically forbidden to leave. Frost says there may be 200,000 domestic workers—the equivalent of 50 factories—spread across a suburb in Beijing, with minimal opportunities for organizing or administrative monitoring.¹⁸

The Migrant Women’s Center recognizes the challenges presented by the structure of informal labor and aims to tailor its advocacy work in accordance with the specific needs of this group. In December 2004, the center held a national conference on rights protection in the informal sector (Feizhengui Jiuye Luntan: Di San Quanguo Dagongmei Quanyi Wenti Yan-

taohui), and in 2005 opened its second office within a segregated migrant neighborhood in Beijing. Despite these efforts, many migrants who frequent the center still have difficulty making use of its resources and mentorship. The case studies of three migrant women illustrate the special challenges migrants face in defending their rights.

The meaning of rights for three women

Case Study One: Hou Lijie

Hou Lijie, a 19-year-old from Hebei Province, initially sought out the Migrant Women’s Center for support while she was employed as a domestic worker caring for an elderly woman in Beijing. Once she connected with the Migrant Women’s Center, which she learned about through a radio advertisement, Hou drew herself into a community of other young migrants in Beijing. I first met her while observing a weekly drama workshop for migrant women.

Typical of many domestic workers in China, Hou could not leave the home where she was employed because her duties required her to be on call 24 hours a day.¹⁹ The Migrant Women’s Center helped her find a job that granted her more freedom, selling hair and skin products in a small rented room located in a run-down apartment complex on the outskirts of the city. But only five months after Hou became active in the center, she left Beijing to return to her small village in Hebei, where she worked alongside her family in the cornfields, or



Drawings of migrants by the author

sold soda and soap in her family's little shop along a dusty village road.

Hou gave up her dream of making it in Beijing after she fell into debt through a series of exploitative jobs in which her employers refused to pay her and claimed Hou owed money for living expenses. In the first month that I knew Hou, she would work three different jobs, the first two ending without her receiving any pay. An active participant in the Migrant Women's Center, whose mission is to empower migrant workers through knowledge of their rights before the law, Hou still managed to slip through the cracks of the system and leave Beijing with the sense that she had somehow failed.

In the months leading up to her departure, I watched as Beijing beat down Hou's hopes. Hou took on her first job, selling hair and skincare products, under a spoken agreement in which her employer promised she would receive her first pay after working for six months. After four weeks, however, her boss told her the business was bankrupt and let her go. By then she already owed money for rent and could not afford a decent meal.

She next found a position mopping floors seven days a week, 10 to 12 hours a day, in a dank apartment building in a northern suburb more than an hour away by bus. After her fifth day on the job, her boss argued with a guard, and he and all the women working under him were let go, again without any pay. I received a text message on my cell phone from Hou: "I lost another job. Once again I am floating."

During this period, I watched Hou come to the drama workshop at the Migrant Women's Center and exit discretely in the middle of the session to gobble down a plate of fried vegetables bought for her by one of the center's staff, then slip quietly back into the room with a sheepish smile.

Hou eventually stopped coming to the drama class when she found a job as a waitress in a restaurant. Her employer gave her a bed in a small room with the three other young waitresses, sisters from a poor village in Gansu Province. The restaurant had spotty business, and often when I visited Hou, not a single customer passed through, leaving the wait staff to sit around with nothing to do for hours at a time. Still the boss required them to be at work from eight in the morning to past ten at night, with no time off on weekends or holidays. Without a written contract, the employees received 400 yuan per month (the equivalent of roughly \$50), and the boss deducted money as she saw fit for living expenses.

With business slow and her boss rarely around, I was able to spend many hours talking with Hou at work. Some days she brought out her journal and read aloud poems she had written. While the small room where she slept did not have extra space for personal belongings, Hou managed to keep a stack of books at the foot of her bed, including a volume of Tang dynasty poetry and the epic novel *Dream of the Red Chamber*.

"I came to Beijing to develop and improve myself," Hou told me. "I know it may sound impossible to you, but I want to rise up. There's a school that offers computer training just down the street." But other days when I visited Hou, she expressed little confidence in her future. "I wonder what will become of me," she said one day. "Will I just end up a peasant like my family?"

Soon after that, I received a text message saying that Hou would soon be returning to her home village in Hebei. Unable to pay off her debts, and with her father pressuring her to return, Hou abandoned her dreams of developing her mind in a cosmopolitan city and shaping her destiny into something beyond the life of toil experienced by the generations before her. Her stint in Beijing a fleeting chapter of the past, Hou quickly became engaged to a young man with whom she had grown up in the village.

Over the Chinese Spring Festival I took the train four hours north of Beijing to visit Hou and her family at their home in a barren town in Hebei Province. Hou and I talked about the meaning of her move back to the countryside while walking through her village. "I felt ashamed to come back here at first because it was like I'd failed," she confessed. She also worried about feeling lonely after the Spring Festival when her fiancé and other young villagers returned to jobs in Beijing.

Hou's mentor at the Migrant Women's Center, a staff coordinator in her forties whom everyone called Older Sister Gao (*Gao Jie*), saw her personal mission as helping young migrant women use knowledge of their lawful rights to stand up for themselves. On the train ride back from visiting Hou after the Spring Festival, Gao Jie told me why she believes so adamantly in her work helping young migrant women protect their rights. Fifteen years before joining the center, Gao Jie left her hometown in rural Anhui to work in Beijing as a painter on construction sites. Without any outside assistance, Gao Jie brought her employer to court to sue for unpaid wages denied to her for nearly a year. In the end, she only won the equivalent of less than \$100, but she insists that it was the principle of standing up for her rights that gave her a sense of accomplishment. She sees her purpose now as helping young women do the same by, as she says, "... helping them to build rights consciousness so that people recognize when their rights have been violated and will know where to go to correct the problem."²⁰

But despite Gao Jie's encouragement, Hou never said a word in protest over the working conditions that eventually drove her back to a life as a poor peasant. How was it that Hou could be surrounded by people and resources to help her assert her rights to fair working conditions, and yet end up leaving Beijing broke and humiliated by exploitation?

In 2003, the All-China Women's Federation sponsored a study that discussed the issue of rights protection for migrant women and the factors that prevent women workers in China from standing up for their legal rights. A survey of 1,650 migrant women in Xiamen found that only 10.7 percent of the respondents thought to use law as a way to change their circumstances. The report concluded that "in reality, laws and systems for regulating health and safety will only be as effective in protecting women's rights as the women themselves."²¹

The authors of the study suggested that cultural norms for women played a significant role in influencing how women workers responded to the unfair and illegal working conditions: "Due to traditional cultural norms, women have a difficult time taking a stand to protect their rights. They are unlikely to want to interfere with the management of a work unit or take a proactive stance in guarding their rights."²²

Hou may also have felt that taking a stand with her employers would simply result in losing her job. Ultimately, Hou and other migrant women in Beijing have minimal bargaining power. The Chinese Labor Law offers no protection against employer retaliation, and even if it did, laws are simply not enforced in the vast majority of workplaces, particularly those with informal arrangements. Given her weak position in a labor market filled beyond capacity, it is no surprise that Hou accepted her fate as a peasant rather than assert her rights in an effort to make a living in Beijing.

Case Study Two: Zeng Xiaomei

Zeng Xiaomei, a 17-year-old girl from Sichuan Province, is a regular participant in the law-related activities at the Facilitators. I first met her during the four-part training workshop called “Migrant Workers and the Law” (*Dagongzhe yu Falü*) held in March 2005. In contrast to Hou Lijie, whom I never heard engaged in discussion concerning law or rights, Zeng first caught my attention because of a question she raised concerning compensation for overtime pay during a session on wages and working hours.

After an overview of what Labor Law stipulations are relevant to migrant workers, the Facilitators’ staff member leading the session asked for real problems attendees were encountering in their own lives. Zeng told the group that for several years her employer had not been paying her and her coworkers the correct compensation for working on weekends.

In response, the staff member leading the workshop told her, “Your work unit has 30 other employees, right? So gather them together and have a discussion with your boss to see if she’ll put something in writing about your overtime work. With the backing of your co-workers, tell your boss what the regulations say.”

“But I’ve already tried talking with her many times. She won’t give us more money,” Zeng replied.

Without appearing to have heard Zeng, the staff member continued to insist that collective negotiation was the only way to handle the problem. I watched as Zeng’s face glazed over, her eyes wandering around the room. I wondered if she found the answer unrealistic and therefore useless.

Several days later I went to visit Zeng in the small room she rented three floors underground in a high-rise building in a northwestern district of Beijing.²³ Typical of most underground living quarters, Zeng’s hallway was cold, dirty and dark. I fumbled my way down the pitch dark stairs while she glided down with ease. As she led me through a series of winding corridors, I peeked in the doorways of rooms we passed: a family of six huddled on a bed in one room, a rowdy group of young men smoking cigarettes and playing cards in another, their yellow construction helmets and boots tossed on the floor. We emerged from the dim corridor into a marketplace, where Zeng picked up some vegetables to cook for dinner. The small bill she handed to the woman selling cabbage was waved away. “She doesn’t let me pay because we come from the same part of Sichuan and live on the same floor,” said Zeng. In this gloomy underground maze, Zeng had clearly formed a network that gave her support and a sense of security.

Carrying an armload of vegetables, Zeng led me to a tiny, grease-streaked communal kitchen, where a woman in a stylish white peacoat and matching high heels stood over a wok full of boiling oil chatting cheerfully as she fried up the food. Over dinner I talked with Zeng and her three roommates about their work experiences in Beijing. All were from Sichuan and between the ages of 17 and 23, had attained a middle school education, and earned a living typing up book texts for publication, a job called *paishu*. I probed Zeng for details about the overtime question she raised during the law workshop.

“Our boss should have paid us an additional 100 to 200 yuan per month in overtime pay. I know that doesn’t sound like a lot of money to you, but to us it’s a significant amount. She routinely has us work over the weekend, and she does pay us overtime, but not the legal amount.”

I brought up the advice she was given at the law workshop. “They told you to go talk with your employer about the problem together with your coworkers. What did you think about this advice?”

Zeng laughed. “Oh, I’ve already tried to talk with her about it. It’s no use. She’s the boss, she doesn’t listen.”

“Are you afraid of getting fired?” I pushed her.

“No, I’m not afraid, I just know it’s no use. She has her own reasoning,” Zeng replied.

“It sounds as if the advice they gave you at the law training session isn’t very useful. Why do you go?” I asked.

Zeng replied, “I want to learn more. Besides, maybe something will come up in the future where I’ll need the information.”

The conversation suggested a contradiction between the lack of tangible remedies rights consciousness offered Zeng in



her immediate problems at work, and the potential such awareness might offer to her as a tool of the self-development she desired. Zeng faltered when probed on how she used her new-found knowledge in daily life. Even though training sessions at the Facilitators and the Migrant Women's Center stressed the importance of a written labor contract, Zeng and her roommates saw no real benefit in signing one. When I asked them the name of the company they worked for, they just giggled sheepishly and confessed they did not know. "I don't think the company has a name," Zeng said.

An inability to identify one's employer and the lack of a written contract and compensation guarantees are typical of the informal employment sector in China. Against these obstacles, it is no surprise that Zeng had trouble using her knowledge of rights and the law; because her employer operated the business according to her own ad hoc rules, employees such as Zeng remained isolated from China's rapidly expanding legal system.

Yet although Zeng was not making immediate use of her understanding of China's Labor Law, her drive to educate herself about her legal rights indicates that the impetus for rights protection for migrant workers is not merely generated externally, from the international aid programs or government mouth pieces, but reflects a movement on the ground where people recognize law as a tool to strengthen their position.

A second law-related workshop that Zeng attended at the Facilitators further highlights how migrant workers view rights consciousness and legal awareness as a critical tool in their arsenal for survival in Beijing. In June 2005 the Facilita-

tors held an open forum to discuss the case of a migrant worker injured on the factory line. About 15 migrant workers attended, predominantly factory hands or cooks and waiters from nearby restaurants.

Zeng's drive to educate herself about her legal rights reflects a movement on the ground where people recognize law as a tool to strengthen their position.

To open the session, three "volunteers" (the term used by the Facilitators to refer to migrant worker participants)²⁴ stood up in front of the group and silently re-enacted the case. Two young men hovered over an imaginary conveyer belt, moving frantically to keep pace with the invisible machinery as their bodies slumped and eyes fluttered in exhaustion. In the corner, the third actor depicted the factory boss, lazily flipping through a newspaper and sipping tea. Suddenly one of the boys at the belt grabbed his hand in anguish and fell to the ground.

The narrator explained the scene: "Yang Zihao was injured last March while working at an unaccredited factory in Zhejiang. In July he went to the district People's Court for injury compensation, represented by a legal aid lawyer. He came to the Facilitators for help in September. The judgment came in November and he was not satisfied, so he appealed to the Zhejiang Province People's Court. In February, the court ordered the factory to pay 38,000 yuan [roughly \$5,000] as compensation for his medical expenses. But now it's June and he still hasn't received any money. In the process of going to court he has spent more than 20,000 yuan [roughly \$3,000]. He has not been able to work due to his injury, and never received his salary for 40 days he worked at the factory before he was injured. Today we're gathered to discuss this case and make suggestions for how Yang Zihao should solve this problem."

After several hours of discussion, the group agreed that lack of rights consciousness is a fundamental problem for migrants in the workplace. One young woman observed of her experience in a factory: "It was dangerous. One of my friends suffered a serious eye injury. If I were there now I would know what to do, but my understanding of my legal rights was very poor at that time."

An elderly man, now retired, recalled his experience in a factory where his coworkers did not recognize the concept of rights protection. Although his supervisors took little interest in improving safety conditions for employees, he felt that the central problem was actually that the workers refused to organize and demand improved conditions: "We would see people get hurt—women's hair and clothing often got caught in the machines, especially when they were tired from working overtime—but they were not willing or aware enough to organize and pressure the boss. When someone got injured, they would just say, 'Be more careful, go slower.' This makes it very difficult to solve the problem."

After a series of similar stories—a cook facing fire hazards



in a poorly monitored restaurant, a butcher dealing with sanitation issues—the group agreed that workers should build networks among themselves to heighten rights consciousness and organizing capabilities.

The groups' conclusion was precisely what Zeng and her co-workers refused to do—band together as a network of workers schooled in legal knowledge to address workplace conflict. Nevertheless, Zeng took copious notes and listened intently to the testimonials of the other participants.

Zeng's failure to apply her legal training might suggest that like Hou, she is yet another migrant worker for whom the constraints of informal labor strip rights of any tangible meaning. But that does not explain Zeng's diligent participation in all law-related activities at the Facilitators as a means to improve herself. For Zeng, rights may be less about addressing problems than about providing the empowerment and security of reconceptualizing her place in society. Given the structural obstacles of the informal sector, perhaps the most valuable contribution that the Migrant Women's Center and the Facilitators can offer their participants is the perception that they have inherent worth in the eyes of the state, and the knowledge that structures and trained experts are in place if they choose to seek redress for injustice.

Case Study Three: Liu Yingli

In contrast to Zeng, who neglected to apply her knowledge of the law to conflict in her life outside the Facilitators, Liu Yingli brought a case to court with the help of the Migrant Women's Center when she was left crippled by a workplace accident.

Originally from Henan Province, Liu and her husband left their village seven years ago to work in Beijing. With their daughter, Niu Xiaojun, born shortly after their arrival, the couple has floated from job to job trying to make ends meet: they have sold salt, oil, spices, vegetables, and fried eggs and greasy pancakes at breakfast stalls, roasted mutton on skewers by the side of the road, and even opened a small photo store. When I met them, they were renting a small room in the outdoor market of a migrant neighborhood an hour by bus from the center of Beijing. Every day Liu and her husband Niu sold *zongzi* (sticky rice dumplings rolled in a bamboo leaf) and *tang yuan* (rice flour dumplings filled with peanuts and sweet spices) at a stall in the market. Their room was just large enough for a bed and a small coal-burning stove.

The first time I visited Liu, her husband was sitting on a stool in their room, covered in flour and still molding *tang yuan* after working through the night. Since Liu's injury left her with chronic pain in her back and legs that make standing difficult, Liu's husband has had to take on the work of two people.

Liu described the source of her injury: Early one morning in August 2004, she stood at the couple's market stall ready to sell *zongzi*, but noticed that the heavy iron gate at the market's entrance remained closed. When Liu went to push it open, the gate toppled over and pinned her body under its crushing weight. She spent 39 days in the hospital, emerging with a debt of 40,000 yuan (approximately \$5,000) and a crippling pain. An avid reader, her husband came across a newspaper story about how the Migrant Women's Center had helped a

young woman win compensation from her employer after falling four stories while cleaning windows. He and Liu made an appointment at the Migrant Women's Center shortly after she left the hospital.

Zhang Zhiqiang, a former construction worker turned legal counselor at the Migrant Women's Center, reviewed Liu's case. Zhang brings a similar personal experience to his work at the center as Gao Jie: harking from the mountains of Sichuan Province, Zhang has no formal legal training, but taught himself China's Labor Law while working as a construction worker for a company that routinely failed to pay its employees. While Gao Jie struggled solo to win back wages through the court system, Zhang became the leader of a group of workers who collectively brought the construction company to court and won a year's worth of wages. Now Zhang has become a local celebrity in Beijing. China Central Television ran a special on the self-taught lawyer last year, and he can commonly be found on the street with a megaphone orchestrating free legal counseling events such as Street Corner Law (*jietou falü*), one example of how the Migrant Women's Center regularly promotes rights consciousness and legal training for the public. During Street Corner Law, Zhang and the other staff hand out free manuals entitled "Guide to Protecting Your Rights" to as many as 200 migrants per session.

On March 10, 2005, Zhang and a lawyer who volunteers to handle cases from the Migrant Women's Center appeared before the Jingwang District People's Court to argue Liu's case for compensation from the marketplace. As an independent vendor lacking any official contract, Liu had no legal labor relationship with the marketplace and therefore received no protection under China's Labor Law. However, her attorneys argued that the marketplace had failed to guarantee the safety of its public facilities in contravention of Regulation 126 of the Civil Law.

Their first day in court did not go well. The judge criticized Zhang and Zhu for preparing insufficient evidence. "It's a shame you didn't take responsibility for doing your job well," he chastised them in his final remarks. Yet the case remained open; the judge granted Liu's team two more months to gather more comprehensive evidence, after which they could re-open the hearing.

Zhang traveled to Liu's marketplace to interview witnesses and photograph the set-up. The attorneys for the marketplace had argued that they were not liable for Liu's injuries because only specialized staff or guards were allowed to open and close the gate. Zhang felt confident that this argument had no merit; there were no signs restricting operation of the gate, or guards preventing access. Zhang's photographs and witness statements all supported Liu's case. But in June 2005, just before I left Beijing, there had been no further progress on the case.

Given the reluctance of other migrant workers to seek legal redress for unfair working conditions, Liu's family is somewhat of an anomaly. But despite the divergence in action, a theme connects Liu's motivation for going to court with Zeng and others' view of why knowledge of law is important.

"Why did you decide to seek legal help initially?" I asked Liu's husband.

“Because we don’t have power otherwise. We can’t afford to pay the hospital bill,” he replied.

Liu’s family equates law with power and an opportunity to level the playing field. When I asked Liu if she would ever return to her home village in Henan, she replied, “Of course we’ll go back. We’re migrants here. Beijingers look down on us. There’s no equality.”

Conclusion

In contrast to Hou Lijie, who left Beijing in defeat, Liu’s family turned to the law as a means of empowerment, and even Zeng Xiaomei, who did not see immediate use for her legal training, thought knowledge of her rights would strengthen her for future challenges. The effectiveness of training in rights and law cannot be gauged solely by the amount of money courts reward to migrant workers for unpaid wages, or by the number of hours by which employers decrease overtime in response to collective action by employees. While rule of law is still nascent in China, success will be incremental, and must start with the simple fact that a migrant worker comes to a classroom, a two-hour commute each way on her one day off, to talk with others about why Labor Law is relevant to their lives. For some workers, a wooden stool on which to rest one’s feet may still seem more important than the abstract right to minimum wage; but for others, an understanding of law offers the chance to gain leverage in a society marked by increasing disparity of wealth and privilege. By bridging the gap between the masses and the powerful elite who draft legislation, the Migrant Women’s Center and the Facilitators help give migrant workers a voice in shaping the future of rule of law in China.

At the same time, if the Chinese government is promoting legal protection for migrants merely as a means of controlling a potentially volatile group, rights programs must find a way to make rights consciousness a tool for demanding systemic change rather than a harmless ideology that preserves the status quo. Given that the source of the problem is the nature of the informal labor market rather than the laws or resources available to migrants in seeking legal recourse, change must begin by enforcing formalized labor relationships so that no workers are isolated from rights protection.

NOTES

1. Wang Ping, “Jiejue Chengshi Fei Zenggui Jiuye de Zengce Zhuzhan” [Examining Policy for Informal Urban Employment] in *Quanguo Dagongmei Quanyi Wenti Yantaohui* [Third National Forum on Migrant Women’s Rights] (Beijing: Cultural Development Center for Rural Women, 2004).
2. Ibid.
3. Guowuyuan Bangongting Guanyu Zuohao Nongmingong Jincheng Wugong Jiuye Guanli he Fuwu Gongzuo de Tongzhi.
4. Ibid.
5. Ibid.
6. Ibid.
7. Wang Jianjun, “Falu Shijiaoxia de Fei Zenggui Jiuye Dingyi Jiqi Baohu” [Definition and Protection of Informal Workers from the Legal Perspective] (in *Quanguo Dagongmei Quanyi Wenti Yantaohui* [Third National Forum on Migrant Women’s Rights] (Beijing: Cultural Development Center for Rural Women, 2004), 130-135.
8. Wang Ping, op. cit.
9. Ibid.
10. Wang Jianjun, op. cit.
11. The plight of migrant workers in construction jobs has received considerable public attention in China and in the foreign press for violations of workplace safety and defaulted salary payments. In response to the pressure of public concern, the construction industry in Beijing has improved tremendously; many Beijing construction companies now comply with standards to the point that they do not qualify as informal employment. But away from the intense monitoring of the capital, construction projects in small towns and cities frequently experience serious problems.
12. Wang Jianjun, op. cit.
13. Zai Zhonghua Renmin Gongheguo jingnei de qiye, geti jongji zuzhi . . . he yu zhi xingcheng laodong guanxi de laodongzhe, sheyong benfa. Guojia jiguan, shiye zuzhi, shehui tuanti he yu zhi jianli laodong hetong guanxi de laodongzhe, yizeng benfa zhixing.
14. Wang Yiyu, “Fei Zenggui Jiuye Laogong Quanyi de Falu Baohu” [Legal Protection for Workers in the Informal Employment Sector] (in *Quanguo Dagongmei Quanyi Wenti Yantaohui* [Third National Forum on Migrant Women’s Rights] (Beijing: Cultural Development Center for Rural Women, 2004), 17.
15. “Guanyu Queding Laodong Guanxi,” Ministry of Labor and Social Security, May 25, 2005.
16. Interview with Liu Minghui, March 16, 2005.
17. Phone interview with Stephen Frost, February 21, 2005.
18. Ibid.
19. Conversation with Gao Jie, April 2005. Gao Jie and other staff members at the Migrant Women’s Center told me that it is very common for domestic workers not to leave the homes where they are employed because the nature of their responsibilities caring for sick, elderly or small children requires 24-hour shifts.
20. Personal interview January 2005.
21. Jiang Yuedeng, “Chengshi Wailai Funü Laodong Quanyi Baozhang Yanjiu: Laizi Fujian Siamenshi de Baogao” [Research on Labor Rights for Urban Migrant Women: A Report on Migrant Workers from Xiamen, Fujian Province] in *Laodong Fa: Shishi Shizhou Nian Lilun Yanjiu Hui* [Research Conference at the Tenth Year of Implementing China’s Labor Law] (Beijing: Association of Chinese Labor Law Studies, 2004), 410.
22. Ibid.
23. It is common for migrant workers to rent rooms located on several levels of subterranean floors beneath apartment or office towers in Beijing. These rooms have no windows, and the hallways are usually crowded and offer little privacy as workers come and go all hours of the night according to their shifts. Rent usually runs about 200–600 yuan per month (roughly \$24–62), and people can choose to rent a single bed in a common room, or a room with just enough space for one bed for parents and children to share.
24. Both the Migrant Women’s Center and the Facilitators used the word *zhiyuanzhe* (volunteers) to refer to the migrant workers who participate in activities. The word is meant to connote empowerment and encourage a proactive spirit as actors determining their own fate, rather than passive victims of hardship.