



**MARGINALIZING THE LAW.  
CORPORATE SOCIAL RESPONSIBILITY, WORKER  
HOTLINES AND THE SHIFTING GROUNDS OF RIGHTS  
CONSCIOUSNESS IN CONTEMPORARY CHINA**

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**ISSN : 1662-744X**

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## **Preface and abstract**

Based on two years of research in Taiwan and mainland China, this paper argues that the introduction of corporate social responsibility capacity building programs into Chinese civil society has significantly altered NGOs' relation to legal notions of social and human rights. While increased reference to law and legal instruments is common in popular struggles for social justice, the CSR paradigm can lead to very different forms of rhetoric and practice, shifting responsibility for avoiding violations of the law in transnational supply chains to supplier factories and indeed to workers themselves. Furthermore, the urban-based "civilizational project" aimed at teaching new norms of behavior and attitude to the largely rural working class population in contemporary China intersects with Western-sponsored capacity building programs to promote labor-rights consciousness in particular ways, producing loci for the spread of notions such as personal development and family counseling in lieu of rights advocacy.

The article will appear as a chapter in a forthcoming edited volume *Judging the State: Emerging Publics and the Quest for Justice in Contemporary China*, Brandtstädter Susanne, Steinmüller Hans (eds.) (forthcoming).

## **Keywords**

Corporate social responsibility

P.R.C.

Legal innovation

Human rights

Personal development

## **Acknowledgment**

The research for this paper was financed by the Swiss Network for International Studies, whom we thank for their generous support (see [http://www.snis.ch/project\\_corporate-social-responsibility-electronics-manufacturing-industry-implications-soft](http://www.snis.ch/project_corporate-social-responsibility-electronics-manufacturing-industry-implications-soft)).

## Introduction

This working paper reproduces our contribution to a book concerning the increasing centrality of law and legal action in popular struggles for social justice in contemporary China. Through the various examples examined by the contributors, this book demonstrates that this increasing discursive centrality is accompanied by increasing social fragmentation, diversification and contestation, with different collectivities appropriating the rhetoric and mechanics of the law for different purposes. In our chapter, we would like to complicate this picture one step further. We argue that transnational corporate discourse and practice must be more clearly factored into our understanding of Chinese approaches to law and social justice, by following the forms of “legal transplant” (Lin 2009) currently taking place within global supply chains. When these influences are taken into account, we suggest, a contrary movement can be identified, away from the law and imaginaries of the public good, and towards an “ethics” of “responsibility” and “personal development”.

There are many forces behind and ramifications of the rhetoric of “responsibility” in contemporary China (see e.g. Newendorp 2006, Chu 2006, Chahoud 2011, Weikert 2011, Yin & Zhang 2012), and we cannot do justice to this vast and productive semantic field here. What we propose to follow in this chapter are the entanglements of local terms such as “rights”, “responsibility” and “citizenship” with the rise of the corporate social responsibility (CSR) paradigm in international arenas, a paradigm that has paradoxical consequences for the status and social uses of the law. Including CSR narratives and programs within our scope of inquiry broadens our perspective on civil society, drawing attention to the fragmentation of the NGO landscape in contemporary China (Lau 2009), to the rise of corporate-sponsored organizations working in the area of rights and social justice (Hsia & White 2002, Zajak 2013) and hence to the variety of economies, publics and norms involved in determining what is just and what is unjust, what are the causes of these injustices and what should be done about them. It also sheds light on a specific normative effect of this discourse: the tendency to marginalize the state and the legal apparatus, to the benefit of corporate and “civil society” actors (Kamat 2004).

Our argument is based on two years of multi-sited field research on the implementation and effects of CSR policies for regulating labor conditions in the electronics industry in China. Drawing on participant observation and interviews carried out between 2010 and 2012 with corporate CSR officers, social entrepreneurs and white-collar workers in Chinese and international NGOs, located principally in the Pearl River Delta, in Hong Kong and in Taiwan, we highlight the role of corporate-based private governance and its various “soft law” instruments (Rodriguez-Garavito 2005) in framing the question of the rights and responsibilities of blue-collar workers. We adopt an “assemblage” approach (Ong & Collier 2008), in which we link transnational flows of ideas, norms and technologies of governance with local settings, without attempting to apportion the varying degrees of “Chineseness” that this concatenation implies. Clearly, the shifting, diverse and contradictory nature of the law as a tool for promoting social justice is in no sense unique to China; anthropologists have pointed to similar developments in Latin America (Nader 1991, Goodale 2009) and in Africa (Comaroff & Comaroff 2006), drawing attention to the global dynamics that generate these shifts (Griffiths, von Benda-Beckmann & von Benda-Beckmann 2005, 2009a, 2009b). In this chapter, we highlight one particular coming-together of these flows and shifts, in which socio-technologies employed under the rubric of “capacity building” for corporate social responsibility actually work to marginalize the law as an instrument for the pursuit of social justice in the area of working conditions in China.

## A socio-technological approach to rights consciousness – the hotline

To give ethnographic depth and grain to our inquiry, we focus on a specific material-semiotic tool (Law 2008) – worker hotlines – that imposed itself upon us as a discreet but omnipresent actor in our encounters with the field. Our analysis of this actor builds on scholarship on governance and policy-making (Wedel, Shore, Feldman & Lathrop 2005) that directs our attention away from the explicit, formalized logics of institutions and towards their informal workings and effects, and particularly to those seemingly neutral black boxes that are its instruments (Lascoumes & Le Galès 2005). The hotline was born in the 1950s as a material expression of, and solution to, Cold War nuclear tensions (Keating 2009: 12). Hotlines today function as “dedicated channel[s] of communication” (*Oxford English Dictionary*) in all manner of setting, a standard element of marketing, management and oversight toolkits worldwide (Calderon-Cuadrado et al 2009, Bidet & Le Méner 2014). In theory, they imply a dyadic relationship between caller and receiver (the “line”), in which presence (real-time oral communication) and engagement (courteous, helpful or sympathetic reception) are thought to be the appropriate responses to the forms of urgency or sensitivity (the “hot”) that service providers confront (Seeley 1998). In practice, however, hotlines are complex socio-technological networks: they require instruments, they mobilize multiparty interactions and they involve scripts that go well beyond an anonymous conversation between caller and called (Erwin 2000, Le Mener 2011). Their use is often related to notions of “participation” and “ownership” that are now omnipresent in administrative, development and governance discourse; they are thought to give “voice” or to “empower” stigmatized categories of social actors, and to provide channels for reporting in contexts in which information does not flow freely.

Hotlines became a commonplace feature of urban life in China in the 1990s, as a combined result of the introduction of new communication technologies and of the reconfiguration of private space under the Reform and Opening policies of the Deng Xiaoping era (Erwin 2000). First employed by municipalities for suicide prevention and crisis intervention (*ibid*: 150), they were rapidly taken up by talk radio, attracting large audiences with programs focusing on the newly public problems of romantic involvement, sexual health, and changing roles and expectations within the family. Hotlines are currently employed in areas as diverse as rights counseling for women (*Off Our Backs* 1993, Cornue 1999) and gays and lesbians (Cao & Lu 2014), reporting of intellectual property violations (Choukroune 2009) and environmental complaints (Economy 2007), and public debate over regional identity and heritage in a context of rapid urban transformation (Zhang 2006). According to Cheng *et al.*, the first labor rights legal advice hotline in China, the *Shandong Qingdao Xiao Chen Hotline* (山东青岛小陈热线), was created in 2000 by migrant worker Chen Mingyu in Qingdao, offering “services for young migrant workers via legal consultations as well as in exchanges of cultural and life experiences” (2010: 1086-1087).

The diversity of areas in which hotlines are employed is a first hint as to the multiplicity of their objectives and effects. An ethnographic analysis of hotlines, however, goes beyond the question of thematic diversity to focus micro-sociologically on the particular technologies at work (what kinds of telephones, what kinds of receiving and recording devices?), on the social practices surrounding the use of the hotline (what degree of intimacy, what role for face-to-face encounters, with whom, where, when?) and on the structural characteristics of the organizations that run them (institutional form, funding sources, number and socio-professional background of employees, etc.). The worker hotlines we will be examining in this chapter are all motivated by a desire to assist workers in understanding and asserting their rights, and yet they mobilize a wide variety of explicit

and implicit norms and practices. As such, they represent a particularly telling locus for examining the “everyday processes” (Ong 1996) of asserting rights and pursuing justice or, in other terms, of making and perceiving of oneself as a citizen, both in relation to working conditions and in relation to broader issues of belonging, modernity and the good life. Thus, at the most general level our fieldwork corroborates and even expands on one of the principal observations of this volume, as developed in Susanne Brandtstädter’s nimble introduction: “the language of *fazhi* [rule by law] is currently invoked by different types of local actors for widely divergent political and moral ends, entering a wide array of local disputes and conflict”. Like Brandtstädter, we emphasize the very different “orders of worth” (Boltanski & Thevenot 2006, Boltanski 2012), or as we prefer, “*registres du juste*” (Hua & Thireau 2001), that distinguish hotlines operating in the area of workers’ rights and working conditions.

Drawing on our study of seven different worker hotlines, we have identified three ideal-types, each of which presupposes a different conceptions of what is a “right”, what is a “condition”, who is the “public”, in sum, whom should be mobilized and how in order to improve working conditions for factory production in China<sup>1</sup>. The first of these is collectivist in orientation, drawing on a Marxist-socialist conception of industrial relations and of the place of worker contestation in the pursuit of social justice that resonates with the “humanist/Communist” argumentative strategies examined by Hua and Thireau in their seminal study of worker complaints to the Shenzhen City Office of Letters and Visits (信访科) (2001: 1297-1305). The second centers on the concept of rights, and exemplifies a worldview that has much in common both with the law-based argumentative strategies examined by Hua and Thireau (*ibid*: 1306-1311) and with many of the other sites of legal activism examined in this volume (see Cheung, Guo, Hu, Pang, Steinmüller, Zhan and Zhang). The third hotline we examine is the one we wish to emphasis most, for it highlights the presence in China of a set of CSR discourses and practices that divert questions of social justice and rights consciousness away from the law and towards a nebulous ideal of “responsibility”. We will demonstrate how these transnational discourses of “responsibility” converge with local discourses that mobilize notions of “new citizenship” (新市民) and “quality” (素质), sinicizing a potent global paradigm in particular ways.

### **PRD Workers’ Counseling Centre – a socialist-moralist hotline**

We visited the Pearl River Delta Workers Counseling Center (PRD WCC) in the summer of 2012<sup>2</sup>. PRD WCC is housed in an almost invisible office at the outskirts of an industrial zone of Zhuhai; no sign or nameplate at the street or apartment level indicates its location, and during our visit, no workers stopped by. We were warmly received by the founder-director, a vigorous man in his early 50s and one-time migrant worker from Sichuan province, who described his organization, founded in the early 2000s, as one of the older labor NGOs in the area. Installed in a two-bedroom apartment, PRD WCC’s offices consist in a front room which seats two people (two desks, one computer, one telephone) and a

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<sup>1</sup> In order to disguise identities, we have chosen to create composites rather than to describe the precise organizations we visited. In some cases, we have altered the location of the organization or the sex of an interlocutor, and we have combined details found in different organizations within a type. However, each of the details we report was actually observed in the context of the ideal-type we are describing. For more information, please contact the authors.

<sup>2</sup> Both authors conducted fieldwork and interviewing for this project, sometimes together, sometimes separately. Interviews were not recorded for reasons of *rapport* with our interviewees. Our fieldnotes were transcribed and reworked immediately after our visits or interviews, and some of our material was cross-checked by Mr. Shao Di, anthropology student at Sun Yat-sen university at the time who conducted independent interviewing with one of the NGOs in our study. We take this opportunity to thank him here.

back room that serves as the director's office (two chairs for visitors, a couch, a desk, some books in a run down bookcase, calendars and newspaper papering the walls). PRD WCC employs three young female staff with tertiary education, possibly in social work, and benefits from the services of a number of volunteers, including local workers.

Our visit lasted two hours, and consisted almost entirely of a monologue by the director himself, during which he exposed with great verve and an apparent absence of self-censorship his personal vision of socialism, his critique of the poor choices made by the Chinese Communist Party over the course of its history, his conception of the value of his organization and some aspects of PRD WCC's concrete everyday activities. Clearly, the director made virtually no distinction between his personal engagement for and conception of labor rights and the organization itself, with the uncomfortable consequence that it was never clear whom the "we" in his discourse actually referred to. (The two young women who were present during the interview had virtually no opportunity to speak, and did not seem to find this situation unusual.) Furthermore, despite this warm welcome, certain aspects of the organization's operations remained opaque throughout the interview; notably, it was difficult to get a clear sense of how PRD WCC was financed, but it seems that it received modest fees from the workers whom they assisted, and also received payment for services (such as worker trainings) from other NGOs working in the area of labor rights in the Pearl River Delta, as well as from companies. The director had not registered the organization in any way, fearing the complications that this would create: thus PRD WCC was neither listed as a business, nor as a non-profit enterprise, nor as a "social organization", nor as a "foundation", the options generally open to NGOs working in the non-profit sector in China today<sup>3</sup>.

In contrast to the apparently marginal status of PRD WCC, however, was the director's rather impressive international network; indeed, the very first thing he told us was that he had just returned from a visit to Europe, invited by a number of European labor unions to discuss the future of labor rights in China. Highly critical of the institutionalized labor movement in much of Europe and even more so of that of the United States, he nonetheless clearly benefited, socially, politically and perhaps even economically, from his international contacts. And despite its modest size, PRD WCC was, in the words of its director, "terribly busy". The Center engaged in worker education and training, and though the director is not a lawyer, he frequently accompanied workers to court; indeed, during our interview, he clearly took pride in telling us how he harangues local judges with socialist rhetoric, mobilizing a language of honesty in the face of hypocrisy, and seeking to make them lose face. As to the organization's political orientation, their main emphasis, in the words of the director once again, was on bringing workers together (团结), on helping them become conscious of their rights (权力意识), and on giving them whatever other forms of assistance they might need.

Perhaps as a reaction to our status as university-based social scientists, the director spent considerable time explaining to us how he understood the message of genuine socialism. Labor unions, in his view, have become caught in a trap set by capitalism, in which they distinguish white-collar from blue-collar workers and believe in the reality of the "middle class". This is all a distraction, he explained, from the primary distinction on which

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<sup>3</sup> We do not review here the large body of literature on the formal requirements and organizational characteristics of Chinese NGOs (but see Hsia & White 2002; Lau 2009; International Center for Not-for-Profit Law 2012, Cheng et al. 2012), which differ from those of government-organized NGOs (GONGOs) (Spires 2011). It should be noted, however, that the use of this term in the literature does not always correspond to its occurrence in China, where many organizations that qualify under a functional definition as NGOs in fact register as businesses under Chinese law to avoid cumbersome and intrusive relations with the local government.

capitalism is based, that between employers and employees. Only when this distinction is destroyed will the employee class be able to re-experience the pleasure of creativity and autonomy at work (自主劳动). He is thus a strong supporter of Swedish-style workplace democracy, the only way in which workers in the broad sense of the term will be able to regain control and autonomy through labor. Furthermore, he insisted, without grounding in social democratic theory, no real progress can be made, as illustrated by the failure of the Occupy Wall Street movement.

Over the course of our discussion, it became clear that the director took considerable political risks in his work, as his activities could easily attract the attention of the local police, sensitive to the issue of independent labor movements. Not only did his organization advise individual workers about their rights, they also encouraged them to form in-house workers associations and to mobilize collectively. The hotline, while providing a means for confidential contact with workers, was clearly not at the center of his understanding of his mission. Rather, he informed workers of the existence of his organization through pamphlets and brochures, and also by driving a small car through the main streets where factories are located, announcing his services by megaphone or stopping outside factory gates to distribute information. Workers who called were questioned as to the nature of their legal situation, and encouraged to meet with staff face-to-face, in the office or at an outside location. During these meetings, they were advised of their rights and on the procedures they must follow to enforce them.

According to the director, their hotline received twenty to thirty calls a day on a single non-dedicated landline. The young female employees receive the calls and keep a simple registry of contact names and numbers, the time of the call and a brief description of the problem. The director emphasized the fact that no information was entered into their computer, for he worried that it could be stolen or hacked, disclosing sensitive information to the police. (Not incidentally, the organization had no website.) Furthermore, they discouraged the use of e-mail and QQ<sup>4</sup> for communication with workers, and no statistics were kept of the nature of calls received, the names of problem companies or the social or legal status of the callers. While they were not against giving psychological advice to callers, they did not emphasize this aspect of their work, for they believed that psychological problems are the reflection of social problems and are produced by them. Rather they concentrated on legal advice, actively contacting workers to make sure that their cases were advancing.

Despite the director's emphasis on worker autonomy and self-respect, the stories he told about the workers he assisted were strikingly paternalistic, as this excerpt from our fieldnotes demonstrates:

*He gives an example of how they give legal advice to a worker who has been hurt on the job. He says often workers don't know anything about the law, and he has to walk them through each step very concretely. For example, he first asks the worker how s/he is going to prove that s/he really worked for that factory. Does s/he have a contract or any kind of official paper proving that? If s/he doesn't, then he asks – "well what else can you think of that proves you worked at that factory?" "How about my uniform", says the worker? "No good (不行)" says the director, "anyone can put your uniform on, that's not good proof, keep thinking ! How about a fellow worker? Can one of them testify for you?" "No", says the worker, "because they will be afraid of retribution from the factory." "Keep thinking!" And so he keeps working with the worker until they find something that can prove that s/he worked at that*

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<sup>4</sup> QQ is the most widely used chat system in China. It can be used between computers and cell phones.



*factory. And he tells them: “don’t blindly believe in the government, you need to learn to fight for your rights yourself!” (fieldnotes, summer 2012).*

As the interview progressed, the director became more and more brash, and seemed to take inspiration from the early heroes of the Communist movement, those who were not afraid to die for their ideas. Indeed, his organization’s philosophy was, in his words: “ignore wealth, resist evil, fear not death, and love humanity” (不在财, 拒邪, 不怕死, 而爱人). He believed in the utility of moral persuasion and moral condemnation for raising worker consciousness, as this second incident suggests:

*He gives an example from the previous day where he accompanied a worker to court for an incident involving a deposit that the factory had taken from him and not returned. He got into an argument with the guy from the department of human resources and accused him of not doing his job. At some point, the judge said to him: “You cannot insult him in the courtroom”, to which he answered. “I’m not insulting him, I’m just telling it like it is.” (实实在在地说). For him, the important element in this story is that the worker could witness this exchange, could learn that he was a citizen with rights, that he could stand up for his rights, that one can talk back to government officials who don’t do their job. (fieldnotes, summer 2012).*

### **Welcome – a hotline for the promotion of the law**

Welcome is a small but well-established operation run almost entirely by volunteer lawyers. The organization registered in 2004 as a non-profit company (民办非企业单位), a form of registration, explained the director, that allows for more flexibility because it is not necessary to ask for sponsorship by a government administration, and censorship is less direct. Situated in the labyrinthian basement of a Guangzhou hotel, the office consisted of a big room entirely occupied by an imposing conference table, and two small offices, one with an old black phone dedicated to the hotline, the other seating the director. At the time of our first visit, a young woman was typing on a computer, while a volunteer lawyer sitting in one of the small attending offices was uploading photos of their activities on their website.

Workers were informed of Welcome’s existence by word of mouth and through brochures, distributed by volunteers (often other workers) who stationed themselves in factory areas and at the entry gates to plants. The hotline was open during regular working hours, and, according to the director, received 15 to 20 calls a day. Volunteer lawyers answered the phones and proceeded with an initial interview in “in-take” format, gathering the necessary information to know whether and what kinds of legal provisions applied. Workers whose complaints were legal in nature were then encouraged to come into their offices to discuss the proper course of action. This often required that workers better document their complaint, and find the proper door on which to knock in order to lodge it. Volunteer lawyers strictly restricted their advice to the legal aspects of the worker’s situation. During one call we could observe, the lawyer specifically insisted that they were only there to help with legal demands. Most of these legal demands, as revealed by the organization’s archives located in one of the corner of the main room, were related to the absence of work contracts or unpaid wages. The staff helped workers throughout the procedure, representing them in court as *pro bono* lawyers when necessary, but more frequently acting simply as informal mediators between workers and their bosses.

As the director explained, their mission was to protect workers by “informing them and defending their rights”. They had no contract with any factory or brand, in part because companies were reluctant to let them in, but mostly because of their desire to remain

independent. However, they were funded by a Western government, as was often the case with such NGOs. As our field journal states:

*I asked him if they have good collaborations with corporations or plants working in the area of CSR. He told me that it is not the case, that most companies do not really want their workers to be trained about their rights. [...] For him hotlines are a good method because there is no written record. Furthermore, people have become accustomed to hotlines because the government uses them a lot. He does not think that QQ is a good tool because people cannot say the same things. (fieldnotes, spring 2012).*

Welcome's orientation corresponded to a form of legal activism and legal consciousness-raising that has been largely described in the literature (Gallagher, 2006; Brandtstädter 2011). Welcome took the government's resolution to move China from the "rule of men" to the "rule by law" at its word. In line with government programs designed to promote the spread of legal education (普法), Welcome remained strictly within the parameters set by the State. Thus, as many chapters in this volume point out, their conception of the law and the language of "rights protection" (维权) differed in significant ways from the liberal view of right-bearing citizens common in Western political theory. Rather, promoting the law and protecting workers' rights was viewed as a way to participate in the "development" and "modernization" of China, to the benefit of its citizens, and not as a challenge to the Party's authoritarian rule. Ho (2008) has called this form of legal advocacy "embedded activism", emphasizing its largely conciliatory and palliative attitude towards the injustices produced by the Chinese Party-State. Furthermore, as Lora-Wainwright *et al.* (2012) have pointed out, while this kind of activism often takes legal form, it is fundamentally based on local repertoires and experience, on tacit normative codes which allow parties to negotiate solutions for particular problems without the forms of generalization and abstraction (Boltanski's (2012) "*montées en généralité*") that leverage legal solutions into binding legal principles.

Our observations and informal interviews with Welcome staff confirmed the informal nature of the solutions that Welcome negotiated for aggrieved workers, all the while mobilizing the formal vocabulary of law and rights. Most frequently, the lawyers at Welcome did not go to court, and often did not even file legal document; rather they helped workers recuperate unpaid wages and right other workplace wrongs simply by accompanying them to the accused company and exposing the worker's problem to management using the language of the law. One of the volunteers we talked with, for example, showed us a picture of an event that Welcome had organized a few days earlier: in the photo, the unhappy boss of a local factory appears trapped in his own office by a number of workers and the volunteer lawyer herself. While law and lawyers are the props for this theatrical event, clearly it is not the law's formal, binding properties that are appealed to here but rather its legitimacy, in reference to the government's push for socialist morality under law. Singular in its temporality and limited by its own particularism, this event is not intended to promote the development of workers' collective consciousness, as in the cases mentioned by the director of PRD WCC, and even less the creation of independent workers' associations or unions, a point of immense political sensitivity. Indeed, the volunteers we talked with all downplayed the political aspects of their work, and emphasized their formal legal training and their interest in providing legal advice and education for the largely migrant populations who consulted them.

In their account, legal aide could help migrant workers, all too frequently discriminated against on the job, to share in the benefits of socialist modernization and to overcome the

stigmas of poverty and backwardness with which they were afflicted. As mentioned in our field journal:

*The association takes care of mingong [rural adults who have come to urban areas to work in factories]. Its aim is to spread a better understanding of the mingongs' situation and to help them, for example by recovering wages. (...) The organization's original purpose was mutual help – it organized meetings for mingong who felt alone. In the words of the director: "People come from remote provinces and they are very isolated, they do not know anyone in town, do not know what to do or how to find work. The idea is to help them. We organize activities during the weekend; we go and see elder migrants". Today, while they still promote this kind of activity, they mostly act as a legal aid clinic. (fieldnotes, spring 2012).*

### **Moral suasion under the law – the rights-based approach to worker hotlines**

As this brief description demonstrates, Welcome and PRD WCC shared certain characteristics, while differing with respect to others. One clear difference was their respective socio-political statuses: while Welcome was officially registered, staffed by trained lawyers and operated with a certain visibility, PRD WCC existed on the margins of a constantly shifting “forbidden zone” (Stern & O'Brien 2012), neither registered, nor professional, nor, they hoped, visible to snooping government eyes. Another notable difference between the two organizations was that Welcome limited itself rather strictly to legal information and advice, while PRD WCC clearly put more emphasis on consciousness-raising in all forms, both individual and collective, through highly dramatic interventions in court and through information campaigns in factory areas. The volunteers at Welcome saw themselves as moving China slowly towards a system governed by the rule of law, that is, a conception of government in which law and rights served as the basis for the apportioning of power between government and the people. The director of PRD WCC, on the other hand, believed that law was meaningless without collective organization and true workplace democracy; without workers' organizations capable of articulating collective concerns and raising worker consciousness, the law could only lead to the resolution of individual disputes, and never strike at the fundamental causes of the production of injustice.

Despite the different emphases and strategies employed by these two organizations to advance the cause of labor justice, they nonetheless shared a vision distinctly grounded in the law, viewed as a system of norms promulgated by the government that legitimized workers' complaints and underscored their rights to a fair workplace environment. And not coincidentally, in our view, for both of these NGOs the hotline was a mere tool, its use strictly limited to initial contact and the providing of information. Workers were not encouraged to call for personal reasons, and though they were not discouraged from talking about their daily lives, “real” cases clearly represented cases in which a worker's legal rights had been infringed. In sum, both NGOs used the telephone as a simple instrument for establishing initial contact, not as their primary means of communication with workers.

The third hotline we will examine takes us out of the realm of law-oriented Chinese labor NGOs and into the burgeoning field of NGOs, domestic and foreign, operating within the private regulatory regime established by transnational firms in the form of CSR programs and policies. Our findings echo Zajak's observation that the field of corporate governance

in the area of labor rights is increasingly occupied not only by the Chinese state, domestic and transnational businesses, the ACFTU<sup>5</sup> and workers themselves, but also by “labour-support organizations backed by and cooperating with transnational private regulatory initiatives [that] are entering and shaping the Chinese field of industrial relations” (2013: 181). Before going into the details of our example, a few words are necessary to introduce the historical origins and the organizational and conceptual framework underlying the CSR programs of foreign firms operating in China.

### **Private regulation, soft law and the “ethical reconstruction” of global capitalism**

The complex nature of contemporary global production has given rise to an active transnational anti-sweatshop movement that, since the 1980s, has criticized global outsourcing, pointing out that it is a way to avoid strict labor regimes in industrialized states (Rodriguez-Garavito 2005). The anti-sweatshop movement has gained visibility through actions such as “naming and blaming” campaigns, and its presence on the international scene has significantly reshaped the discourse and practices of contemporary capitalism; indeed, in response to public pressure, over the past twenty plus years we have witnessed transnational firms adopting positions that were unthinkable even a generation ago, seemingly embracing the ideals of “responsible capitalism”. High-profile brands have ceded to consumer and NGO pressure by agreeing, at least on paper, that they should be held responsible for production conditions “throughout their supply chains”, thereby tacitly acknowledging that their purchasing and pricing decisions have a direct influence on the conditions under which supplier firms, often located in the “South”, produce for the global market (Gereffi *et al.* 2005; Locke & Romis, 2007). Furthermore, to demonstrate their willingness to “walk the walk”, many have signed on to voluntary corporate codes of conduct intended to impose international norms of human, environmental and labor rights on their suppliers, and have made efforts to guarantee that these norms are enforced through auditing and monitoring procedures, a process that Pun Ngai calls the “ethical reconstruction” of labor relations under global capitalism (Pun 2005b).

China has proved a particularly fruitful terrain both for denouncing inhumane working conditions and for experimenting with CSR programs designed to combat them (Pun 2005a, 2008, Hui 2011). NGOs such as China Labor Watch or Students and Scholars Against Corporate Misbehaviour (SACOM), unions (both national<sup>6</sup> and international<sup>7</sup>), international organizations (such as the International Labour Organization (ILO)<sup>8</sup>) and journalists (Chang 2008) have all drawn public attention to the immoral and/or illegal conditions under which most industrial production takes place in “the world’s factory”. It is now an open secret that workers regularly work longer hours than those specified in the Chinese Labor Contract Law or in ILO documents; that they are frequently not paid on time or at proper overtime rates; that they encounter all manner of other vexations (identity papers withheld, resignations denied, deposits and other entitlements confiscated, etc.); that factory health and safety conditions are not up to domestic or international standards;

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<sup>5</sup> In this article, we do not discuss the All China Federation of Trade Unions, as the ACFTU played no role in the hotlines we examine here. Unions’ place in the overall landscape of industrial relations in China is examined in other work by members of our research team (see, e.g., Liu 2010).

<sup>6</sup> <http://www.aflcio.org/Issues/Trade/China/Labor-Rights-in-China> (last consulted January 23, 2016).

<sup>7</sup> [http://www.ituc-csi.org/IMG/pdf/Chinal\\_Final-2.pdf](http://www.ituc-csi.org/IMG/pdf/Chinal_Final-2.pdf) (last consulted January 23, 2016).

<sup>8</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_travail\\_pub\\_11.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_travail_pub_11.pdf) (last consulted January 23, 2016).

and that child and/or forced labor can be found in some sectors (Chan 2001, Lee 2007a, 2007b, Chan 2009, Chen & Chan 2010).

In theory, application of industry-wide codes of conduct and monitoring of their implementation in supplier firms should already have brought production processes in China into increasingly conformity with the law, but experience shows that such a perspective is illusory. Indeed, in our discussions with the CSR officers of transnational brands, they confirmed that they were well aware of the ineffectiveness of the expensive and time-consuming procedures for auditing and monitoring their supply chains that they themselves had put in place. The World Bank, in its first evaluative document on the question of CSR, came to a similar conclusion, citing problems of inefficiency, confusion, and “audit fatigue” that discouraged “supplier engagement”, along with insufficient understanding on the part of suppliers about the business benefits ensuing from compliance (World Bank 2003). As a consequence, at the time of our fieldwork and still today, the trend was to go “beyond monitoring”, seen as a limited and overly disciplinary approach to governance, and towards “capacity building”, in order to encourage more voluntary forms of compliance with international standards, through “engagement” and “ownership” on the part of Chinese firms and indeed Chinese workers as a whole.

Industry-sponsored “capacity building programs” in the area of labor standards can take many forms. Some firms organize workshops to inform management and line supervisors in their supplier firms of the basics of labor rights and to train them in Western-style management procedures. Others extend these training sessions to workers themselves, hiring mainland or Hong-Kong based NGOs to give day-long classes to workers on what their legal rights are and how to exercise them (SACOM 2009). As an alternative or addition to these rights-awareness training sessions, other firms have developed programs that involve a combination of consciousness-raising and confidence-building. This too can take many forms, including programs that take us quite a distance from the question of labor rights as such, as with the creation of community centers or drop-ins, places where workers can come to relax, inform themselves, receive various forms of counseling and meet other workers<sup>9</sup>.

It is in this context that worker hotlines, often operating in conjunction with workers’ rights training sessions, have emerged as one of the key tools enabling brands indirectly to monitor labor conditions within their supplier firms. The business-based hotline scene is populated by quite a diverse set of “civil society” actors, many of whom we have visited. In some cases, hotlines are run by brands in-house, through dedicated lines available to workers without cost. These solutions are often criticized as ineffective for reporting serious grievances, and few firms we talked with relied exclusively on their own hotline services. Rather, they hired Western or Chinese based NGOs to operate “independent” hotlines for them, giving them various degrees of freedom (and financing) to support their operations. The example we present here represents one of the most professionalized of the NGOs we encountered, and thus serves as an ideal ideal-type for understanding the process of “consultantization” (Zajak 2013: 187) of labor NGOs entangled within the transnational CSR paradigm.

### **Outreach – a hotline for China’s “new citizens”**

Outreach was created in 2007 in response to a call for projects organized by a transnational consultancy firm specializing in the area of CSR. The consultancy was

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<sup>9</sup> The economic promise of this new market for “capacity-building” service provision has been sketched out by Zajak (2013) and is one of the questions we raise in our on-going research on CSR in the electronics industry in China.

looking to set up hotline services at the request of many of its members: large international brands such as Disney, Levi Strauss and Gap seeking new ideas for “capacity-building” programs for their suppliers in China (and their corporate reports back home). Outreach won the bid in large part because of its director, a young Chinese woman trained in business management with experience abroad, and Outreach began operations with initial funding from the consultancy firm.

Our visit to the hotline began with a long discussion with the director. She was loquacious, apparently quite proud of her operation, and explained to us in perfect English that in order to “do good work”, she had willingly given up a potential career in business, including a large office through the windows of which she could see “the lights of the city at her feet”. She believed that her business training abroad helped her in running the association and in marketing its services, because she had a more creative approach to service providing than many of her counterparts trained in social work or law. For example, during promotional activities offered by supplier firms, Outreach organized festivities, contests and entertainment, and distributed flyers and gadgets centering on “fun” which, she emphasized, attracted more workers than dull and complicated explanations of their rights.

The organization was registered with the local authorities under a number of names and organizational forms, which allowed it a certain room for maneuver. Each of the names corresponded to a different type of activity, but by and large the same employees were involved in all facets of the NGO’s work. The hotline itself operated under a separate name from that of the NGO created some years ago but was located in the same office space, a decent but distinctly nondescript building, far from the luxurious offices that were available in Shenzhen. Approximately ten young employees, men and women with various university diplomas (English, international trade, social work) worked in the room dedicated to the hotline, each with their own computer allowing them to receive and send messages via the Chinese “QQ” system that linked portable phone messages directly to their work station.

The hotline worked with a series of dedicated phone numbers that were centralized at the call center. Staff responded to these demands by providing information, but they were also encouraged to take a more pro-active relation to workers, mixing information with expressions of friendship or encouragement. The following description, taken from our field notes, provides an example:

*X contacts various workers whom she sees on line and who have not contacted her for a while. Her messages are short, cheerful and filled with emoticons, as if she were writing to a friend. Like her colleague yesterday, she explains that she feels that she is somehow close to some of the workers who contact her: they have developed a relationship, they know some of the same people. To one worker, she sends a coffee cup emoticon with the message “What’s the weather like in Shanghai? Are you very busy these days?” But she also sends more practical information, like “tomorrow we’re coming to your factory, I hope you’ll come and see me.” When a new person contacts her, she uses not her own name but that of the association and asks how she can be of service. If she knows who’s calling, she’ll say “long time no see, how have you been recently?” She also keeps a list of her “buddies” birthdays, and regularly wishes people well on their “special day.” (fieldnotes, spring 2012)*

In sum, these employees spent much of their time in a multi-party chat with other people approximately their own age who worked in the nearby factories of the PRD and, in some cases, as far away as Shanghai. This generational proximity was not a coincidence; the director explained to us that, in her view, it was important that workers be put in contact

with people their own age, and she deliberately hired young people to staff her organization. It should be added that these positions generally required some form of tertiary education and were thus attractive mainly to new graduates willing to work for a smaller salary (approximately 1'800 RMB per month in 2012) than they could get in foreign-run businesses.

Over the course of our observation, Outreach employees were involved in many conversations, involving a number of topics simultaneously. In the same room, other employees were occupied filling out activity forms. Each call was first registered on a chart, and then classified in one of three categories: green, yellow or red. These colors represented a scale of urgency, with green signifying light cases, yellow potential problems and red, urgent problems that required that the management of the factory, or the brand, be notified immediately. One of the employees explained to us that red would be used for suicide threats or potential strikes. Reports on green incidents were sent to the factory or the brand once a month, on yellow incidents once a week and on red incidents within the hour of the phone call<sup>10</sup>. Over the course of our two days of observation, the vast majority of calls were classified as green.

Moving from their categories to our own, how can we classify the different kinds of calls that we observed? In line with the rights-consciousness focus of other capacity building programs, a certain number of callers raised questions concerning applicable law and regulations (social security benefits, how to terminate a contract, how salaries were to be distributed before the Chinese New Year, etc.). These calls were handled in a way that was at once professional and intimate. The counselors were both willing and able to provide the requested information, often through an exchange that involved clarifying the specific situation that the worker was in. However, this information was generally accompanied by small signs of friendliness – a smiley here, a more casual remark there – making the tone of the overall interaction more private than public. Interestingly, however, workers were not invited into the office to discuss their cases in person; rather, advice was given through a series of QQ or e-mail exchanges without obligatory face-to-face contact.

As mentioned, however, a large number of calls concerned what we would classify as strictly personal affairs. Workers logged on to ask advice on romantic matters, and also simply to chat. Many of these conversations were quite moving, providing a glimpse into the grinding world of factory work. Clearly, the young men and women working for Outreach were also moved by these exchanges, and many of them told us that chatting with these workers and trying to cheer them up lent meaning to their jobs and even beyond. The compassion they expressed for workers' situations was often mixed with a sense of outrage that seemingly respectable brands such as Disney or Levi Strauss should be associated with such exploitative and harsh working conditions

In discussions with the director, it became clear that the charitable or social nature of the exchanges with workers were not an incidental part of the work being carried out, but its defining quality. She repeatedly emphasized the fact that most workers were of rural origins, having migrated to the city to earn money in factories and help support their families back home. Because of (well documented) discrimination against the rural population in China, these workers were, in her words, looked down upon and therefore lacked confidence. It was Outreach's job to help them build up this confidence so that they could confront the challenges of city life. At the most general level, she saw her job as

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<sup>10</sup> The control function of worker hotlines, which provide brands with immediate access to information about what is going on inside their supplier firms, may help to explain their popularity and brands' willingness to fund them, an issue that is explored in *L'écho de l'éthique* (2005).

making competent “new citizens” (新市民) out of implicitly incompetent peasants. Rights’ consciousness in and of itself was, in her view, a narrow and “legalistic” way of seeing what was a much broader problem: peasants’ unfortunate backwardness and low quality (素质). Similarly, she characterized other “law-oriented” NGOs’ focus on wages and overtime as “economistic”, arguing that Outreach took into account “the whole person”, going beyond economics to ask what makes for a genuinely happy life in today’s world. Thus, a paternalistic “civilizing” discourse overrode the more rights-based framework within which her NGO had been founded and which remained the apparent justification for the recourse to hotline services by brands and their Chinese suppliers.

Outreach’s civilizing mission was even more evident in the case of another hotline that they had set up, with the help of a select group of brands, to help migrant parents communicate with the children they had left back in their villages to be looked after by relatives. In association with a professor of psychology from a local university, they had designed their hotline so as to train parents in better listening techniques. As the director explained, most parents had an “old-fashioned” way of thinking about communication, limited to scolding their children for not working hard enough and pushing them to work harder. As a result, the children “left at home” (留守儿童) felt not only abandoned but also misunderstood, leading to even less communication and a vicious cycle in which both parents and children suffered. Training workers to use more “modern” styles of parenting was part of training them to be proper citizens, in her view, and was far more important to the overall happiness of these migrant workers than technical advice about their rights under the law. Indeed, throughout our discussions, the rights-based orientation was characterized as “narrow” and “inappropriate” to real workers’ “mentalities”, while her more broadly psychological approach was portrayed as more in touch with what workers “really need”.

In sum, in the case of Outreach we see that the intimist, communication-based approach to workers’ rights embodied in hotline technologies produces overflow effects that went far beyond building the “capacity” of workers to exercise their rights under Chinese labor law. The hotline format literally privatized workers’ problems or complaints, shifting their attention away from collective or legal concerns to questions of individual happiness and well-being. For transnational corporations and well-meaning Chinese urbanites alike, operations such as Outreach seemed to hold out the promise of taking us “beyond legality”, to a world in which the happiness of workers and management alike was attained through proper forms of communication, in the context of an idealized project in which working conditions and productivity could be improved simultaneously. In this worldview, promulgated by the some of the CSR professionals we interviewed and replayed in a local idiom by NGOs like Outreach, a focus on law and rights is portrayed as “bureaucratic” or “legalistic”. In an odd and perhaps cynical replay of the Confucianization of the law under the Han, players “at all levels of the supply chain” (including workers!) were encouraged to interiorize the norms of responsible capitalism rather than to rely on the external forces of the law. Hotlines of this sort were the concrete sites where this personalized relation to norms took place, where the cold language of rights and duties was translated into the smiley-filled discourse of engagement and well-being.

### **From labor rights to personal development – marginalizing the law**

Clearly, worker hotlines are hybrid instruments, which can be adapted to a variety of frameworks for aspiration and action in the area of social justice. We have approached this variety “from the bottom”, through an ethnographic description of how ordinary and seemingly innocuous operational tools frame the larger questions of what is a right, what is



a wrong, what is a worker, in sum, whom should be mobilized and how in order to improve working conditions for factory production in China. Examined through the lens of Susanne Brandtstädter's introduction to this volume, we demonstrate that different hotline technologies appeal to different figures of the *public*, call for different repertoires of *action* and disseminate different *judgments and narratives* about social justice in industrial production. PRD WCC's ideal public was the courtroom, a place where moral suasion and authority could be brought to bear on companies and government alike, through theatrical performances of the law that sought to raise workers' collective consciousness of the injustices they suffered under the state-sponsored capitalist mode of production. Welcome also drew on the tools of moral suasion and theatricalisation, but in a semi-private sphere, that of the enterprise itself, where management was confronted with the individual or collective complaints of its workers and shamed into taking reparatory action through appeal to the discourse of "ruling the country through law" (依法治国). Finally, Outreach's use of its technologically sophisticated hotline reflected a worldview in which workers' complaints must be handled through one-to-one counseling, taking into account their "whole person" and their desire and need to incorporate the norms of "new citizenship"; in this paradigm, accountability to corporate sponsors was the only form of "publicity" that was given to their action<sup>11</sup>.

As the example of Outreach demonstrates, this shift from law-based to responsibility-based modes of governance in the area of workers rights and working conditions can be read as a calculated move by corporate leadership located in the global North, part of a long-term strategy to avoid regulation and to profit from low-cost, low-enforcement production environments around the world (see Pun 2005a, for a persuasive argument in this direction). The role assigned to the Chinese state in transnational CSR discourse and practice is particularly revealing in this regard. In our interviews with global professionals active in the area of CSR, we found that their projects for promoting responsible capitalism through "multi-stakeholder dialogue" and "capacity building" for the most part simply ignored Chinese government actors. When we asked whether they included local or provincial officials in their meetings, talks and workshops, they tossed off our question dismissively, referring to common knowledge about the omnipresence of legal violations within China, and to a general consensus that the state was both unwilling and unable to do anything about them<sup>12</sup>. Needless-to-say, this discursive framing of the problem of the "irresponsible" Chinese state precludes certain solutions while encouraging others. Notably, it has rendered virtually unthinkable a solution that would consist in global brands insisting that they will not invest in or buy from production facilities located in China unless they can receive government guarantees that relevant laws and regulations will be applied. Rather than calling for Chinese enforcement of Chinese laws and regulations – a "solution" that, under any objective analysis of TNC corporate interests, looks an awful lot like a problem – they set out to establish their own, privately enforced normative framework based on managerial notions of "responsibility", "self-development" and "the unique individual" (Mercure 2013).

However, what goes on in an organization like Outreach cannot be fully explained by reference to the machinations of global capital. Rather, the social and economic transformations that have lead to the emergence of "responsibility-based", as opposed to

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<sup>11</sup> See also Zajak (2013: 189), who observes that "business-oriented" labor NGOs are often expressly forbidden from going public with the information about labor conditions that they collect within their clients' factories.

<sup>12</sup> The statement of a director of the "human rights department" of a U.S.-based TNC, quoted in Pun (2005a: 103), is typical of the attitude we encountered in 2012: "The government is useless here; no labor law is actually enforced. We take up its role to provide labor protections (*sic*)".

“law-based”<sup>13</sup>, NGOs must be understood as an encounter between the transnational CSR paradigm and local frameworks for imagining China’s participation in global modernity. In this “structure of conjuncture” (Sahlins 1985), the notions of “ownership” and “engagement”, omnipresent in global discussions of the need for private regulation through soft law, are appropriated and transformed into state-sponsored and popular Chinese discourses about citizenship (Ong & Zhang 2008), individualism (Yan 2011), responsible subjects (Guiheux 2007) and the low quality (素质) of Chinese migrant workers (Anagnost 2004, Kipnis 2006, Jacka 2009). In sum, “corporate social responsibility” in China is a global assemblage that brings the rhetoric of capitalism’s “ethical reconstruction” into contact with popular and government conceptions of citizenship, population quality, socialist morality and state power. In so doing, it has the potential to undercut, contradict, and profoundly alter the notions of rights, obligations and rules that move Chinese citizens to “engage the law” (Diamant *et al.*, 2005) in their everyday struggles for social justice. As scholars and citizens of the world, we would do well to “learn from our foreign friends”, taking inspiration from these struggles to examine how this same assemblage, in different guises, is modifying conceptions of rights, justice and access to the law in contemporary societies throughout the globe, including our own.

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<sup>13</sup> The main problem with dichotomies is that they are too dichotomous. Specifically, dividing NGOs into “law-based” and “responsibility-based” orientations does not do justice to the time, energy and conviction that these NGOs invest in debating, both within and between organizations, over correct strategies for advancing the cause of workers rights. We thus disagree with Zajak (2013: 187) when she argues that business-oriented NGOs do not have contacts with labor-oriented NGOs. Our fieldwork suggests, to the contrary, that NGOs communicate amongst themselves and via their academic sponsors, and are both savvy and critical about the merits and limits of their respective approaches, and about the competition that structures their field.

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