

U.S.-CHINA COMPARATIVE LABOR RELATIONS, a basic introduction 中美比较劳动关系简介

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Key Labor Relations Players

劳动关系关键方

- Employers 雇主（资方）
 - Government 政府
 - Union 工会
 - Workers 工人
-
- Challenge: How and where do workers find a voice and methods to solve problems?
挑战：工人们如何寻找解决问题的途径和发声的渠道？

Union – Employers – Government

工会 – 资方- 政府

In the U.S. ... 美国

- Advanced Capitalist free market economy
发达资本主义自由市场经济
- Dominance of Capital and Employers
资本与资方主导
- Unions independent of Employers and Government
工会独立于资方与政府

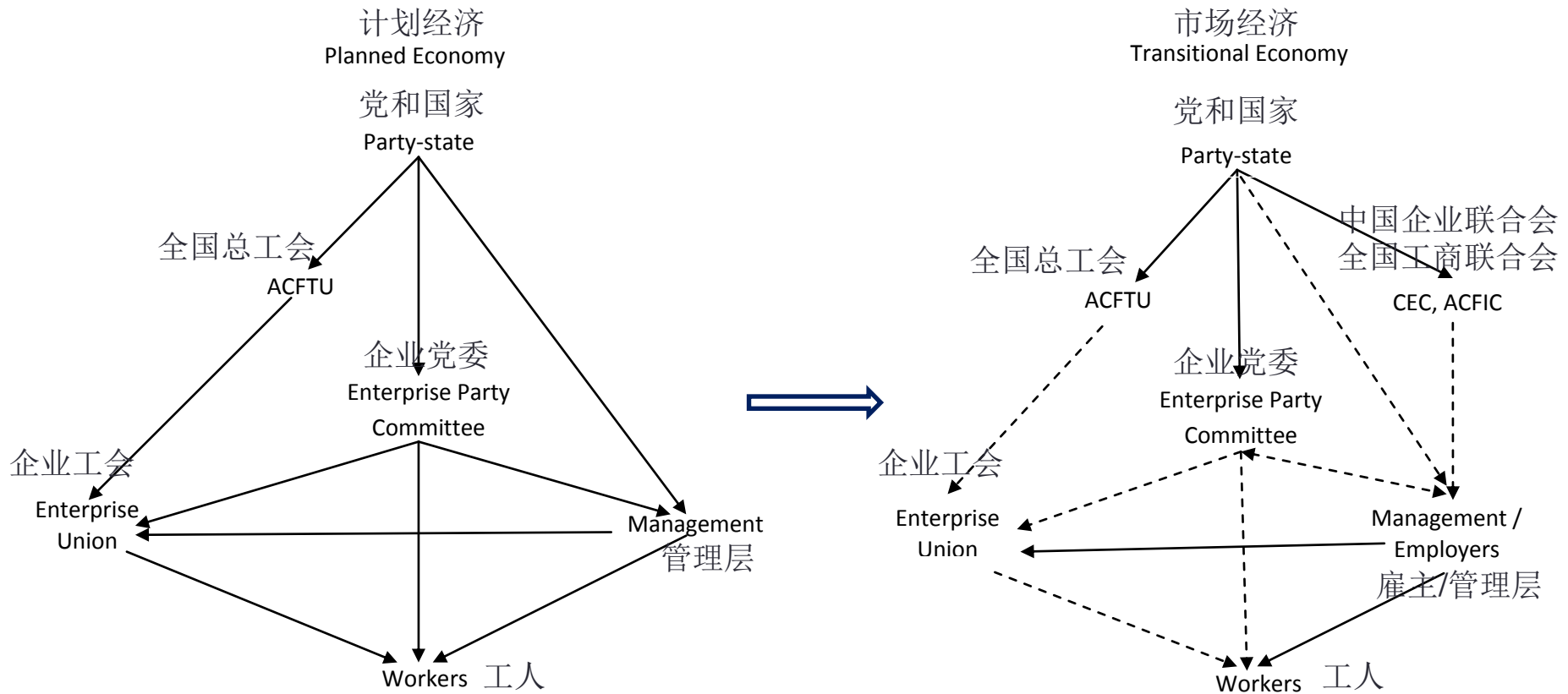
In China ... 中国

- Socialist market economy
社会主义市场经济
- Dominance of Government and Party-State
政府主导
- Inter-related Union, Employers, Government
工会、资方和政府互相关联

China's Changing Employment Relations; Chart, by Prof. Mingwei Liu, Rutgers University

中国劳动关系演进图 – 罗格斯大学 刘明伟 教授

Figure 1: The Changing Power Relationships of Employment Relations Actors



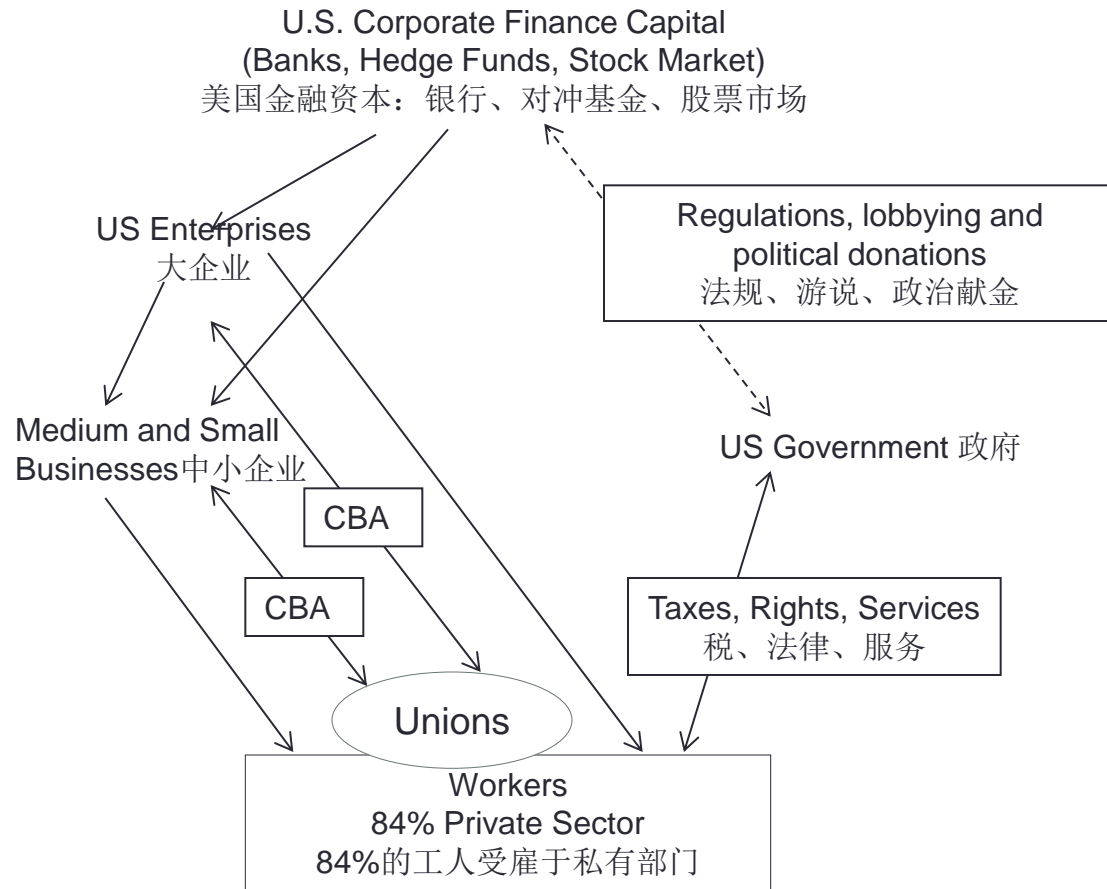
——> Strong authority tie; - - -> Weak authority tie <- - -> Two-way weak authority tie

ACFTU: All China Federation of Trade Unions

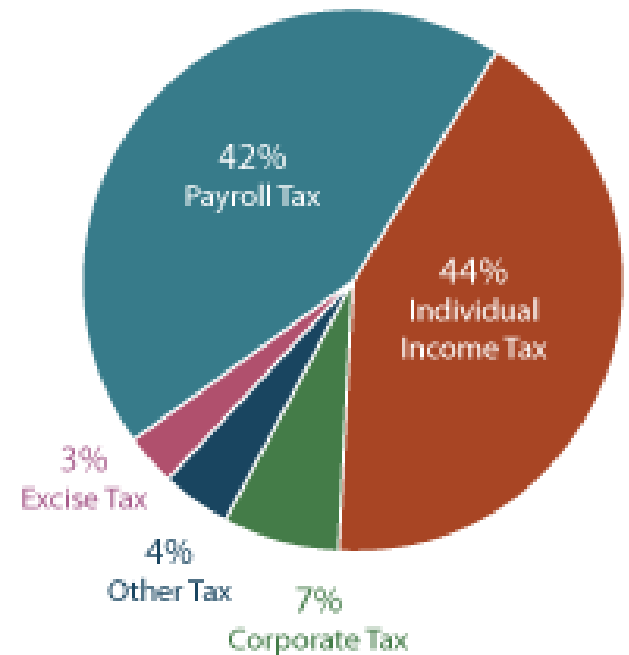
CEC: China Enterprise Confederation

ACFIC: All China Federation of Industry and Commerce

U.S. Chart



Federal Revenues by Source,
Fiscal Year 2009



Source: Office of Management and Budget,
Budget of the US Government FY 2010,
Historical Tables, Table 2.1

Sector Demographics

产业占比

US 美国

- Agriculture 1.8%

农业

- Industrial 22.0%

工业

- Service 76.2%

服务业

China 中国

- Agriculture 36.7%

农业

- Industry 28.7%

工业

- Service 34.6%

服务业

Workforce Demographics

劳动力人口统计

U.S.美国

- Union density 11%
工会密度
- Collective bargaining coverage 13%
集体协商谈判覆盖率
- Workforce=159 million
劳动力总数1亿590万
- Private sector (84%)
私有行业
- Public sector (16%)
公有行业

China中国

- Union density 48% (54%)
工会密度
- Collective bargaining coverage 32% (41%)
集体协商谈判覆盖率
- Workforce=788 million
劳动力总数7亿88万
- SOE, collective, town, mix enterprises = 60%
国有、集体所有制企业
- Private, foreign, individual enterprises = 40%
私有、外资、个体企业

Employers – Capital in the U.S. 雇主-资方（美国）

Private Sector 私有部门

- Small “Mom and Pop” business
个体经营商户
- Medium sized enterprises
中型企业
- Industry or Sectoral Enterprises
大型工业企业
- Vertical Supply Chain enterprises
垂直供应链企业
- Multi-national Corporations
国际化企业
- Finance Capital
金融企业

Employers – Capital in the China 雇主-资方（中国）

Private Sector 私有部门

- Joint ventures
合资企业
- Foreign companies
外国公司
- Hong Kong – Taiwan – Macau companies
香港-台湾-澳门公司
- Finance Capital
金融企业

Employers, cont'd: U.S. Public Sector

雇主: 美国的公共部门

In the U.S. – Public Sector

Federal, State and Local government workers

联邦、州、地方政府雇员

- Proportion of workforce

劳动力比重 = 16%

- Government budget and cutbacks

政府预算

- Privatization – trend to cut down government and contract out services to private companies

私有化 – 公共服务越来越多由私营单位承包

Employers, cont'd – China's Public Sector

雇主: 中国的公共部门

- State Owned Enterprises (SOE's) 14.45%
国有企业
- Collective Owned Units 1.32%
集体所有制
- Mixed Ownership Units 8.5%
混合所有制
- Township and Village enterprises 35.25%
乡镇企业
- Government budgets
政府预算
- Outsourcing, dispatched workers
劳务派遣工人

U.S. Unions...

美国工会

U.S. 美国

- Historically organized by industry and craft workers
历史上由行业工人组织
- Employers and Managers exclusion
雇主与经理阶层被排除在工会之外
- Union leaders come up from the union workers, or from labor activists with labor training—elected by workers
工会领导人由工会工人起步，由工人选举产生
- Internationals and Locals
国际与本地工会（工会分会）
- Federations – AFL-CIO, Change To Win...
联邦

U.S. Unions...

美国工会

Key Union functions 工会的主要作用

- Organizing—recruit new union members
组织
- Collective Bargaining
集体协商谈判
- Dispute resolution, contract enforcement
纠纷解决与合同执行
- Benefits and services
福利与服务
- Labor policy and political advocacy
推动劳工政策与倡导
- Education & mobilization
教育与动员

Unions in China

中国工会

- Workers in SOE's all belong to unions (automatically)
国有企业的工人都在工会
- Private sector and migrants are not automatic union members, need to be organized
私有企业和移民工不是自动加入工会的
- Primary activities are social, cultural, travel, entertainment; also benefits – medical, pension
主要的活动内容是社会、文化、旅行、娱乐；福利主要是医疗和养老
- Collective consultation and bargaining are increasingly concerns of the union today
集体协商逐渐演变成集体谈判

Government 政府

U.S. political system: 美国政治系统

- Two Parties – Democrat and Republican
两党制—民主党，共和党
- Elections and term limits
选举与任期限制
- Executive, Legislative, Judicial branches
三权分立-行政、立法与司法
- 50 states, with local laws
五十个州

China political system: 中国政治系统

- One Party – CCP
一党制
- Centralized planning and policy making
集中规划与制定政策
- Strong supervision of unions, SOE's
对工会实行高度监控；国有企业
- Provincial differences
各省差异

U.S. Government

美国政府

- Basic regulation of labor relations procedures, complaint driven
劳动关系基本条例；由告诉与申诉驱动
- Independent of union and management
独立的工会和管理层
- Labor departments – federal, state, local receive individual complaints
劳工部门 – 联邦、州、地方
- Referee for disputes
纠纷的裁判

U.S. Government

美国政府

- Growing restrictions on collective bargaining and attacks on unions
对集体谈判和工会的限制日益增长
- Social Security and Health Care benefit programs facing budget cutbacks
社会保险和医疗保险面临经费缩减
- Role in setting or regulating minimum wages – federal and states – requires legislative action in an environment of “political gridlock”
联邦和各州设定最低工资需要在政治僵局中采取立法行动

Chinese Government

中国政府

- Strong government control over labor and management
政府对劳动管理很强的控制
- Labor courts are complaint driven – individual cases and complaints
劳动法庭主要是受个人案件的驱动
- Role of Labor Bureaus (MOHRSS)
人力资源与社会保障部
- Role of ACFTU
总工会

Chinese Government

中国政府

- Collective disputes, complaints, strikes
集体争议与罢工
- Evolving collective bargaining regulations
不断演进的集体谈判法规
- Regulation of wages and wage increases
规定工资增长的法规

Labor Contract v. At-Will

劳动合同 v. 自由意志雇佣合同

China 中国

- Labor Contract Law
劳动合同
- Written Contract Required
劳动合同必须书面
- Specific duration
合同必须规定合同期限
- Termination provisions
合同终止条款
- Severance pay
遣散费
- Lifetime Employment (Beijing vs. Shanghai, etc.)
终身合同（北京vs.上海）

US 美国

- At-Will employment
自由意志雇佣合同
- No written contract
书面合同无要求
- Fired at any time for any reason
随时、任何理由解雇
- But there are many “protected reasons”
不过也有许多保护条款

Protected Reasons in US – Examples

保护条款举例

- Discrimination on the basis of: Race, Age (40 years or older), Gender, Disability, Religion...
- NLRA “Protected Concerted Activity” by workers
- UNION membership and collective bargaining agreement
- “Whistleblower” Laws or protection from retaliation
 - OSHA
 - FMLA
 - Sarbanes-Oxley
- 反对因年龄、种族、性别、残疾、宗教等原因进行歧视
- 由全国劳动关系法规定的工人受保护的“一致的行动”
- 工会会员制，集体谈判协议
- 由其他法规规定赋予工人的权利，如职业安全法、家庭与医疗假期法、萨班斯-奥克斯利法案（保护上市公司投资者利益）等。

WAGES – a key topic for comparison

工资 – 两国比较的关键方面

- U.S. – how the market controls wages
在美国，市场决定工资
- Governmental minimum wages
政府规定最低工资
- Wage complaints and disputes
工资投诉与争议
- China – role of government in wages
中国政府在决定工资中的作用
- Role of the private sector market
中国市场的作用
- Wage complaints and disputes
工资投诉与争议