



## **A Civil Society under Assault: A Debate among International Activists**

Ellen David Friedman  
Kevin Slaten  
May Wong



## Ellen David Friedman

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Ellen has been active in the Chinese labour movement for the last ten years, teaching labour studies and helping to found the International Center for Joint labour Research at Sun Yat-sen University in Guangzhou (closed by authorities in October 2014). Prior to this, she spent thirty years as a union organiser for public sector workers in the US, and contributed to the 'left pole' of the US labour movement, primarily through the **Labour Notes** project.



## Kevin Slaten

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Kevin has been researching Chinese labour rights, politics, and civil society since 2008. Until recently, Kevin was the Program Coordinator at **China Labour Watch**. He was previously a Fulbright teacher in Taiwan and a junior fellow at the Carnegie Endowment for International Peace.



## May Wong

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May was at the China Desk for the Asia Monitor Resource Centre (AMRC) for nine years. In this role, she was one of the key people to develop an informal network of labour NGOs in Mainland China in the late nineties. In 2006, she started to work with **Globalization Monitor**, focusing on extensive supply chain research and action and using brands and Corporate Social Responsibility as leverage to support labour rights.

# A Civil Society Under Assault

## A Debate among International Activists

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*In May 2015, the National People's Congress released the **complete text** of a draft 'Overseas NGO Management Law'. According to the draft rules, the main responsibility of supervising foreign NGOs in China should shift from the Ministry of Civil Affairs to the Ministry of Public Security, a step that would make carrying out projects in the country even more difficult than it currently is. At that time, analysts highlighted **several critical issues** of the Law, such as: a vague definition of 'NGO'; an excessive administrative burden within a supervision system that includes not only an official sponsor authorised by the State Council, but also the local branches of the Ministry of Public Security; bureaucratic obstacles to any kind of temporary activity by foreign NGOs in China, even in emergency situations; the ban on establishing branches in other provinces or localities; the insertion of clauses that allow public security organs to enter the foreign NGO's premises anytime to conduct on-site inspections, question the organization's employees, and remove documents and other materials; and the provision of serious penalties for Chinese citizens and organizations that receive funding from unregistered foreign NGOs.*

*Although the Law has not been approved yet—a delay in which **some observers** find some reason for optimism—if enacted in its current form the new legislation will deal a hard blow not only to foreign NGOs in China, but also to those Chinese organisations that work in sensitive fields*

*that today are almost entirely reliant on foreign funding. Labour NGOs are likely to suffer the most from the new rules. As has already been noted in the Briefs and in Ivan Franceschini's column, these organisations are already being targeted by an unrelenting wave of repression, culminating in December last year with the round up of two dozen activists and the prosecution of four of them, among whom is veteran activist Zeng Feiyang.*

*To make sense of the current situation and to put it in the general context of a history of periodic crackdowns against labour NGOs, we have decided to pose some questions to three international activists with extensive experience in the field: Ellen David Friedman, Kevin Slaten, and May Wong.*

*In your opinion, will the Foreign NGOs Management Law have a significant impact on Chinese labour NGOs?*

**Ellen David Friedman:** Of course, it already has, and it is not even a law yet. In China, the law is often ‘advisory’. A law may not be enforced, or be enforced in wildly varying ways, and is coercive as an unpredictable and threatening presence. NGO activists will tell you that the state can—and already does—manage the presence of foreign NGOs in innumerable ways. For example, a couple of years ago, NGOs and other non-commercial ‘units’ were ordered to report on all foreign-sourced funds. Of course this was understood not merely as a neutral inquiry, but a signal. One way to understand this law

is as a sign of intent; a downward notch by the state in tolerating foreign ‘interference’. But actually, in my view, it is not really directed at foreigners but at Chinese citizens. It’s relatively easy for the government to shut the door on foreigners, but the problem remains—workers live miserable lives, lack security or dignity or a future, have no way to make things better, and so will continue to organise, strike, and force employers and the government to negotiate with them. This is not provoked by foreign influence, not funded by foreign foundations, but by a dynamic inherent in the political-economic system. So, yes, if the law passes we can expect further pressure on Chinese labour NGOs and their relationships with foreign funders, but we don’t have to



Eighty-six-year-old Jia Huizhen from Tianjin, China, holds a sign that says: “Release Feminist Sisters Now!” (Photo from ‘Free Chinese Feminists’ Facebook page)

wait for the law to see the government is already increasing repression.

**Kevin Slaten:** Some of the labour activists and labour NGOs who have been most willing to walk the line of what is considered acceptable conduct under the Communist regime have been harassed, forcibly relocated, and now arrested. The repression has ramped up particularly over the past two years. It's important to note that this has all happened before the Foreign NGO Management Law has been officially promulgated. If and when that time comes, it is difficult to imagine what actual new restrictions these regulations would create for labour NGOs. Most NGOs have been operating registered as businesses or unregistered altogether for years. So the authorities have long had the grounds to go after NGOs under the pretence of them operating outside of their organisational purview. Authorities have also carried out repression in the name of 'national security' and 'disturbing public order', which can be used by the government practically at will and without restraint. In this sense, the most significant part of the NGO Management Law for labour NGOs may not be the rules themselves but rather that the Law signals an intention by the government to more greatly restrict NGOs that are not under the thumb, or at least the close scrutiny, of the Party.

**May Wong:** As a Hong Kong labour activist and being treated as a foreign NGO, yes, I think that the law will have a significant impact on Chinese labour organisations because it puts lots of restrictions on the cooperation between foreign and local NGOs. This obviously aims at stopping local Chinese labour groups getting overseas funds and making close contacts with foreign NGOs. For example, foreign NGOs, which fund mainland individuals or labour NGOs activities or recruit local Chinese staff and volunteers, will need to apply for and get an approval from the

authorities. This means that in the future Chinese labour NGOs, which get foreign funds to support workers' rights in China, will take greater risks. Labour activists could face long-term detention or imprisonment; in the worst case, they may be accused of being involved in activities that 'endanger China's national security' or 'harm China's national interests'. The law says that foreign NGOs must work with Chinese registered NGOs. However, most Chinese labour NGOs could not get official recognition as NGOs and thus by law they cannot get foreign funds and work with foreign NGOs. Since it is highly impossible to get domestic funds to support labour rights in China, in the end the law will help to end Chinese labour NGOs.

*What is your take on the latest wave of repression of labour NGOs? Why do you think it has taken place now? Is it an 'unprecedented' move by the Chinese authorities or part of a long-term trend?*

**EDF:** I began working with labour NGOs in China around 2003, and believe I have observed three waves of repression since that time. Each has had some similar features. For example, whenever there is a crackdown, the offices of the NGOs will be visited by various local officials—from the water department, tax department, fire safety officers—and harassed about petty code violations. Often the landlord will abruptly cancel the lease, sometimes illegally, and evict the NGO. It is also very common over these years for government officials to 'drink tea' with NGO staff or activists—to try and learn about their activities and deliver relatively polite warnings. But there have also been much more aggressive interventions by the government, often targeted at foreign funders, which impact on labour NGOs or university programs. In 2010, for example, Oxfam was bluntly forced to close programs at universities designed to expose students to public service experience. And sometimes the repression

is violent—such as the knife attack that nearly killed labour NGO activist Huang Qingnan in 2007—which may have been initiated by bosses, but was done with little fear of state reprisal. So, no, I do not see this wave as unprecedented; far from it. At the same time, the repression is becoming deeper, broader, and more structured—the arrests of human rights lawyers, of the Feminist Five, and now of the Guangzhou labour activists, plus the targeting of foreign funders and other kinds of foreign influence—this appears to be a new stage.

**KS:** The tightening of space for labour NGOs seems to be at the intersection of at least two larger trajectories. One is the broad closing of space for civil society, especially those organisations and individuals who partake in activities that could be construed as challenging Communist Party authority—which includes the ACFTU—either through framing or organisational capacity. 2015 witnessed broad harassment and arrests of feminists, lawyers, Christians, and other activists; the creation of new laws that further strengthen the government’s basis for repressing voices in civil society, including laws around security, the Internet, and NGO management; and a clear intention of the Communist Party to reinstate its authority at every level of society. The other trajectory is the slowing of the economy. This is driven by overcapacity in real estate, infrastructure, and manufacturing, a long-term impending industrial shift as lower tech sectors head out of China, and a gruelling anti-graft campaign putting a drag on local economies which depended in part on a certain level of collusion between business and government. Widespread factory closures, lay-offs, and labour disputes have ensued, threatening a foundational thread of the Party’s modern authority: a roaring economy and jobs. Some labour activists and NGOs exist at the intersection of these two trajectories. They are

generally beholden to ideals that include fairness and justice, not beholden to the Party, which offends the first concern of the Party. The target population of labour NGOs also happens to be the group—workers—which is losing the most during the economic slowdown, which offends the Party’s second concern. Given the framework above, in the long-term, either greater self-confidence on the part of Communist Party or a return of rapid economic development could lead to the re-opening of space for labour NGOs. It is an open question when either of these factors will change anytime soon.

**MW:** The recent wave of repression against labour NGOs is an example meant to show the determination of the authorities to stop labour groups getting foreign funding. The Chinese economy has been slowing down and the export-oriented economy has been deteriorating. There have been lots of factory shutdowns, mergers, relocations to inner China or to other countries and thus many labour disputes and strikes to demand compensation. Labour NGOs in Guangdong have been using the new provincial Regulations on Enterprise Collective Contracts (1.1.2015) to fight for the right of the workers to bargain collectively with factory bosses. The Regulations are not meant to be taken seriously, but labour activists really use them to empower the workers. The authorities fear that if they allow labour NGO to organise workers, the situation may get out of control. From this point of view, the crackdown is a way to stop the growing labour activism before the labour movement becomes stronger. Of course, this is not the first crackdown in China and, before this, the arrest of five women activists last March and the massive detention of lawyers also show that the authorities have changed their policy towards the development of civil society in China. Still, the crackdown is an ‘unprecedented’ move since China opened up its economy in the late

seventies, as it puts a halt on the growing labour activism and the overall growing civil society in mainland China.

*In what way do you think the latest crackdown may change the landscape of civil society and what will it entail for the labour movement more generally?*

**EDF:** In the last century or so, many countries adapted to the sharp inequalities of modern capitalism by establishing legal, enforceable channels for resolution of labour-capital disputes, including regulations for union elections, collective bargaining, arbitration, right to strike, and so on. Most of the progressive voices in China—labour activists, scholars, lawyers, and even a few trade union officials—yearned for that development, and were briefly optimistic around 2007–2008 that this might happen. But it did not. Now there is a dawning recognition that it will not, at least under the current government. So the inevitable result is that there will be continued extra-legal resistance by workers—strikes, sabotage, riots, mass petitions—that will encounter increased state repression. Civil society looks unlikely to develop. This means that it will be nearly impossible for workers to consolidate their knowledge, their experience of struggle, their trust of one another, in any kind of formal organisation; it won't be tolerated within the increasingly totalitarian framework. But, the direct resistance will of course continue, and I expect underground networks will inevitably continue to form—a harsh, but perhaps necessary, training ground for workers excluded from all other forms of self-determination.

**KS:** The crackdown may ultimately be aimed at trying to reassert the authority of the official ACFTU among workers. By 'clearing out' the major potential organisational and principled challengers, the Party has ostensibly given the ACFTU an opportunity to become the hero

for the massive proletariat created by the Communist Party over the past two decades of neoliberal economic growth. To truly gain legitimacy among workers, the ACFTU would need to attain a much greater level of autonomy from the Party and representativeness for workers. But an autonomous union (or unions) would open up the door to a massive potential challenger to the Party, given the organisational potential of the union and the economic and political marginalisation of China's working class. Professor Eli Friedman discusses this predicament for the Party in his recent book, *The Insurgency Trap*. It's worth mentioning that if the Communist Party ever arrived at a point where it was comfortable enough to allow the ACFTU to become more autonomous as a true organisation of Chinese workers, then the resulting political environment would also probably leave space for independent labour activists and NGOs.

**MW:** In the future, Chinese labour NGOs will face a tougher environment, but I am optimistic that these groups will be able to adapt. Even in the recent crackdown, it is possible to discern some positive signs. For example, despite all the dirty tricks played by the authorities, we see that the key detained activists still refuse to accept the false accusations levied against them. This is a good sign for the sustainability of the Chinese labour movement, as it shows that these people have a remarkable commitment to their mission, which is a fundamental to change the landscape of civil society in China. The authorities are well aware that labour activism in China is growing. For example, Meng Han, one of the activists recently detained, was a worker representative in a labour dispute between security guards and a Guangzhou hospital, and had already been imprisoned for nine months in 2013. Roughly at the same time, Wu Guijun, a worker representative in a factory dispute in Shenzhen, was imprisoned for

more than one year just because he took part in a strike. Instead of keeping silent after their release, both workers joined labour NGOs and continued to defend worker rights in South China. These two examples show that workers are more conscious about their class identity and more committed to organizing their fellow workers. Imprisonment does not prevent them from upholding their mission.

*How do you think the labour NGOs can best adapt to the new environment?*

**EDF:** I am not at all optimistic. Of course it is up to those in the NGOs to decide their strategies, but their choices will become starker. If foreign funding is eventually choked off, will they look for ways to get these funds surreptitiously? That is very dangerous, but what are the alternatives? There really are not any domestic sources to fund labour NGOs. And who will carry on this work when NGO activists are surveyed, threatened, arrested, and immobilised? Some NGOs will try to change, and take up projects that are less sensitive—social enterprises, classes, cultural activities—but then the goal of promoting labour rights is lost. I expect that the state will largely succeed in disrupting and terminating the growth of labour NGOs in this period. But, the underlying problems will persist, and workers will still resist. So, out of this ferocious imbalance of power, something new will emerge. We just cannot see its outlines yet.

**KS:** It is not an easy environment in which to operate for people and organisations hoping to truly fight for the long-term interests of China's working class. Labour NGOs have a number of options. They can bide their time by occupying themselves with less risky activities, which are limited in scope and impact. Labour groups can cooperate with local authorities to participate in activities that are in line with official interests, includ-

ing social stability and social services. Both of these paths lead to the continuation of labour's place in Chinese civil society, which is not all negative, even if it falls short of the hopes of political liberals inside and outside of China. Of course, despite the environment, labour NGOs can also choose to cross political lines, actively assist striking workers, and push for reforms through public advocacy. But they choose this road knowing that it carries a likely grave personal cost.

**MW:** The authorities should build up healthy labour relations by allowing space for workers and their elected representatives to resort to the various local collective consultation regulations to negotiate with bosses in order to improve wages and working conditions. They should also allow labour NGOs to support workers' rights whereas the official union remains inactive. I am optimistic that labour NGOs will find new ways to adapt to the new environment. After all, Pandora's box has been let open for a younger generation of Chinese migrant workers to develop their own ways to fight against capitalism for a better life, no matter how difficult the situation may be.