

Individual and Collective Regulation of Labour Relations

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The neo-liberal conception of the labour market and the reform of labour legislation

Proposals for the reform of labour legislation have been central to the reform agenda of international financial institutions, most particularly the World Bank, and have been pressed particularly on the governments of countries which formerly have had socialist or social democratic forms of labour market regulation. This reform agenda is based on a neo-liberal conception of the labour market, according to which labour power is a commodity like any other and the labour contract no different from any other contract to buy and sell a commodity. On this basis the neo-liberal dogma asserts that the optimal regulation of labour relations is that based on free contractual relations between individuals, free of governmental or other collective restraints. Any interference with the freedom of contract in the labour market, as in any other market, restricts the opportunities for individuals to choose the most favourable opportunities available to them. For example, government or trade union regulation of wages prevents those who are willing to work for less than the stipulated wage to obtain employment. Regulation therefore maintains an ‘artificially’ high level of wages for those in employment at the expense of those not lucky enough to have jobs. The removal of regulation will allow wages to reach their market level (fall to their market level), when supply and demand are in balance and everyone who wants to work has a job. Trade unions are not unwelcome, to the extent that they can improve the flows of labour market information, but they should not have any coercive powers or rights to impose collective constraints that impede the freedom of contract.

This neo-liberal argument is based on an abstract model of the capitalist economy that rests on wholly unrealistic assumptions. In particular, the conclusions of the model are valid only in conditions in which all actors have perfect information and/or in which there are perfect markets for all present *and future* goods and services. In such a world everybody would have an equal opportunity to take advantage of his or her talents and opportunities. A talented peasant in Hunan province would have the choice of working as a subsistence farmer or of borrowing money from a local bank at a low rate of interest to finance his or her training as an economist with a view to becoming Chief Economist of the International Monetary Fund. At the same time, the Chief Economist of the International Monetary Fund would decide to lend, through the banking system, to that talented Hunan peasant rather than paying for a privileged education for his or her own wastrel son or daughter. Is this the world in which we live?

In the real world, the merits or otherwise of regulation cannot be settled theoretically, but only by empirical study. In general it can be said that the liberalisation of labour markets unequivocally leads to an increase in wage inequality but has an

indeterminate impact on employment and on economic growth. In favourable conditions, liberalisation may facilitate economic and employment growth, but in less favourable conditions it may intensify recessionary tendencies and facilitate a rise in unemployment.

Labour law and labour relations

Even if the neo-liberal arguments might be thought to be applicable to the liberalisation of commodity and financial markets, labour-power is not a commodity like any other. If I sell a pair of shoes or a financial instrument, I relinquish possession of it and have no further interest in its fate, nor do I have any continuing relationship with its purchaser. The worker does not sell a commodity once and for all, and does not relinquish possession of the commodity that he or she sells. In signing a labour contract, the employee is entering into an ongoing social relation with the employer. The labour contract is only the juridical expression of this ongoing relationship between the employer and his or her employees. Consideration of the appropriate forms of labour legislation have to take full account of their social foundation in the existing forms of the employment relationship.

The fact that the labour contract is the juridical expression of an ongoing social relationship between employer and employees underpins two features of the distinctiveness of the sale of labour power as a commodity that have important implications for labour legislation.

First, this social relationship is one that is marked by an imbalance of power. If I go to market to sell a sack of rice, I can choose freely to whom to sell it and I will accept the best price that I am offered, whether that is offered by a rich and powerful merchant or by a poor worker who wants only to feed her family. But most workers do not re-sell their labour power every day, every week or every month. They are in a relatively permanent relationship with their employer and they are tied to their employer by a range of factors, such as the specific skills acquired in that employment, by their social relationships at the workplace and by their place of residence. The employer, on the other hand, has a much less binding commitment to any particular employee. Even Adam Smith, the father of economic liberalism, recognised the implications of this fact. In all disputes over the rate of wages, quite apart from the fact that the employers, being fewer in number, can more easily combine than can the workers, ‘the masters can hold out much longer ... [they] could generally live a year or two upon the stocks which they have already acquired. Many workmen could scarce subsist a week, few could subsist a month, and scarce any a year without employment’. As Smith noted, ‘We rarely hear ... of the combinations of masters [and what is the World Bank if not ‘a combination of masters’], though frequently of those of the workmen. But whoever imagines, on this account, that masters rarely combine, is as ignorant of the world as of the subject’.¹

Second, although each employee might enter into an individual labour contract with the employer when he or she is hired, the social relationship underpinning the labour contract is not an individual but a collective relationship. The employer hires individual workers to participate in the collaborative fulfilment of certain production tasks within a complex set of social relationships with his or her fellow employees. The employer has to manage the labour force as a collective, to ensure that the efforts

¹ Adam Smith, *The Wealth of Nations*, Volume One, London: Dent, 1911, p. 59.

of individuals are harmonised to achieve the employer's objectives for the whole. Even if the systems of payment and reward that are formalised in the labour contract are highly individualised, the employer has to devise them with a view to achieving the optimal contribution of the individual to the collective effort.²

These two features of the employment relationship *prima facie* imply the appropriateness of protective legislation and the collective regulation of labour relations, although such forms of regulation, which pertain to a greater or lesser degree in all capitalist countries, were not introduced on the spontaneous initiative of governments or employers, but only as the result of hard-fought battles by increasingly well-organised workers. And of course, the neo-liberal offensive to undermine protective legislation and the collective regulation of labour relations is only a response to the achievements of organised labour, mobilised at a time at which the power of organised labour has been substantially reduced by the dramatic increase in employment insecurity that has been a feature of the crisis-ridden development of capitalism on a world scale since the 1970s.

The programme for the 'liberalisation' of labour legislation that has been actively promoted by such powerful international institutions as the World Bank and the OECD has not based itself only on the abstract models of neo-liberal economics, but also on the experience of countries which historically have developed relatively liberal individualistic forms of labour legislation, most notably Britain and the United States, whose economies have supposedly been better able to adapt to rapidly changing economic conditions, liberal labour legislation facilitating the rapid redeployment of labour by allowing the closing down of uneconomic activities and expanding employment in new branches of the economy. The connection between the form of labour legislation and economic performance is remote and, at best, contestable. But even if it were the case that their labour legislation has contributed to their economic performance, this by no means implies that the adoption of similar forms of labour legislation by other countries would have a similar effect.³ Again, this is because labour legislation is only the juridical expression of a particular form of the social relations of employment.

Changes in labour legislation can change the mode of regulation of social relations, but they cannot immediately change those social relations themselves. This is why it is extremely difficult to transplant labour legislation from one system of labour and employment relations to another. The relatively liberal forms of labour legislation in Britain and the United States might be appropriate to the employment relations in those countries, but this does not mean that they are appropriate in France or Germany, which have quite different forms of employment relation and in which employers and employees have correspondingly different expectations. Any particular legislative model is appropriate to the particular social and institutional context in which it has been developed and cannot therefore simply be transplanted to another framework without risk of precipitating substantial disruption and even overt social

² The highly individualised payment systems used in the Soviet Union always proved unworkable in practice precisely because they encouraged behaviour that undermined the co-ordinated efforts of the workforce as a whole.

³ The most dramatic examples of the dismantling of collective forms of labour regulation in the capitalist world have been in Australia, and particularly New Zealand. Although often cited as an object lesson by the World Bank, the impact of deregulation on wages and employment trends has been ambiguous and contested.

conflict. This point has been argued over the years by labour lawyers. As F. Meyers wrote, 'labour law is a part of a system, and the consequences of change in one aspect of the system depends upon the relationship between all the elements of the system. Since those relationships may not be similar between the two societies, the effects of similar legislation may differ significantly as between the two different settings', and the eminent British labour lawyer, Julian Kahn-Freund, argued in a seminal article that 'any attempt to use a pattern of law outside the environment of its origin continues to entail the risk of rejection'.⁴ The radical reform of labour legislation may reflect a radical change in employment relations, but the law is a very blunt instrument that is ill-adapted to effecting the transformation of the underlying social relations. This is why attempts to impose the neo-liberal reform of labour legislation on countries which retain a relatively high degree of legislative protection for workers' and trade union rights have met with considerable resistance not only from worker representatives, but even from employers and national governments.

The legal and collective regulation of the employment relationship is clearly in the interests of employees. However, appropriate regulation is also in the interests of employers and of the national economy. The worker is employed in order to carry out particular production tasks, and the employer depends on the consent, the active co-operation, and often the energy and enthusiasm of the worker to realise these tasks. Comparative experience shows clearly and repeatedly that it is in the long-term interests of the employer to establish a stable employment relation based on a degree of security on the part of the employee, including protection against dismissal, guaranteed rights to payment, to vacations, to sick and compassionate leave, protection from harmful labour conditions and so on. The collective regulation of labour relations, through collective bargaining with the representative of the labour force, ensures that the terms and conditions of employment offered by the employer correspond, within limits, to the expectations and aspirations of the employees, and so fosters harmonious labour relations, a high degree of individual and collective motivation and the effective deployment of the labour force.

The ability of the employer to meet the expectations of the employees is conditioned by the employer's economic situation. It is frequently the case that less far-sighted, and usually less efficient, employers seek to gain a short-term competitive advantage by intensifying the exploitation of their employees. Where labour is relatively scarce, competition in the labour market sets limits to the ability of desperate or unscrupulous employers to drive down wages, intensify labour and impose unsafe working conditions. In such a case, liberal employment legislation, complemented by free collective bargaining, may be consistent with economic and social stability. But if there is a mass of unemployed workers clamouring for jobs the workers are unable to defend their wages and working conditions, while the actions of these employers put competitive pressure on the more far-sighted employers, who are compelled to follow the lead of the more unscrupulous, despite their better judgement. In such a situation, without the legal endorsement of basic worker and trade union rights, the deterioration of labour conditions can reach extreme levels which risk entirely undermining the commitment and morale of the labour force, while laying the

⁴ F.Meyers, 'The Study of Foreign Labour Law and Labour Relations', in S. Barkin et al. (eds) *International Labour Law*, New York, 1967: 243; J. Kahn-Freund, 'Uses and Misuses of Comparative Law', *The Modern Law Review*, 1974, 37:27, both cited in R. Blanpain and C.Engels (eds) *Comparative Labour Law and Industrial Relations in Industrialised Market Economies*. VIth edition. The Hague: Kluwer, 1998.

foundations for future economic and social conflict and political instability.

The regulation of the employment relation requires both collective regulation through free collective bargaining between the employer and the trade union, with the appropriate legal protection for trade union rights, and direct legislative intervention to determine the minimum acceptable labour standards for those employees who do not have the capacity to organise in the face of the overwhelming power of their employers.

Different systems of labour legislation provide a different balance between trade union and legislative regulation of the employment relation, but these are complementary rather than alternative forms of regulation. On the one hand, collective bargaining is most effective when it is conducted on the basis of certain minimum legal standards. On the other hand, trade unions are the most effective channel for the enforcement of labour legislation. Of course, in principle a strong and independent State Labour Inspectorate could secure the enforcement of labour legislation, but experience shows that such inspectorates, where they exist, are understaffed and underfunded, with limited powers, and are vulnerable to pressure from employers and from state bodies. Of course, trade union officials are also vulnerable to such pressures, which is why it is important for trade union officials to be answerable to their members through democratic structures.

This is the framework, I would propose, within which it is appropriate to consider the individual and collective regulation of labour relations in countries which are experiencing radical and dramatic changes in their economic and employment relations. I will elaborate my argument by reviewing the experience of the reform of labour legislation in Russia before concluding with some brief comments on the recently introduced Chinese system of labour legislation.

The Reform of Labour Legislation in Russia

Following the collapse of the Soviet Union, labour relations in Russia continued to be regulated by the 1971 Soviet Labour Code, which remained in force with relatively minor amendments until the adoption of a new Labour Code at the end of 2001. Although wages were set centrally by the planning authorities, the Soviet Labour Code provided minutely detailed regulation of hours of work and working conditions for various categories of employee and gave very considerable powers to the trade union organisation to approve or reject management proposals and to defend the legal rights of individual workers, although there was no provision for the collective defence of workers' interests, for example by taking strike action. Although there was no legislation explicitly forbidding strikes, everybody knew that a stoppage of work could have serious consequences both for the workers involved and for the managers and trade union and Party officials who had allowed such a situation to arise. The role of the trade union in the regulation of the employment relation was not to articulate the collective interests of the labour force, but to monitor the adherence of the employers to labour legislation and regulations, within the framework of the social and labour policy of the Communist Party, which purported to represent the interests of the working class as a whole.⁵

⁵ For a review of the reform of labour legislation in Russia see Sarah Ashwin and Simon Clarke, *Russian Trade Unions and Industrial Relations in Transition*, London: Palgrave, 2003. See also the papers and reports at www.warwick.ac.uk/go/Russia.

The Labour Code, and the mass of regulations which controlled pay and working conditions, provided a legal framework for the regulation of labour and employment relations, but in reality employment relations by no means conformed to the letter of the law. The priority was the plan, and a 'formalistic legalism' could not stand in the way of the achievement of the plan. In practice, therefore, according to the principles of socialist legality, the Party was the judge of the prudence of enforcing the law in any particular case. There was no reason for the Party to protect incompetent or unscrupulous managers from the consequences of violations of labour legislation, but at the same time, there was no way in which the Party could sanction the use of legal proceedings to halt the kinds of systematic and consistent violations of labour legislation which were required to meet the production plan. The law was a resource to be used, ultimately at the discretion of the Party, in support of the realisation of Party policy, a situation which was expressed in the fact that all positions of juridical responsibility, however low their pay and status, were *nomenklatura* posts. This discretionary implementation of the law led to the ironic situation in which the finer points of the law could be debated interminably in individual cases which wound their way up through the legal system, while mass violations of the law (illegal overtime working, working in harmful conditions or with machinery in a dangerous condition, women and young people working illegally on night shifts, illegal rest day working, manipulations of the payment system, subversion of disciplinary procedures and so on) could persist for years without any reference to legal proceedings.

The Soviet Labour Code provided a juridical framework for the regulation of labour relations. The Labour Code provided a procedure for the resolution of individual (though not collective) labour disputes through the Labour Disputes Commission, with subsequent appeal to the courts, but in practice it was very rare for workers to initiate such proceedings. On the one hand, workers had little knowledge of the law. On the other hand, the disputes procedure was dominated by management, while workers did not have the resources to take a case to court. In practice, the trade union and Party organisation monitored the enforcement of labour legislation and, if expedient, took appropriate action, usually in the form of disciplinary or even legal action against a guilty manager. Their priority was not the enforcement of the law (this would be 'legal formalism'), but the need to meet the production plan and secure the social reproduction of the labour collective. Individual grievances were almost always resolved informally between manager and worker with no intervention from the trade union or the law. The priority of the collective regulation of labour relations through bureaucratic procedures over the individual regulation of the employment relation was reflected in the fact that workers did not have individual labour contracts until the 1992 amendment of the Labour Code.

The dismantling of the administrative-command system of economic management, the legalisation of private employment relations and the privatisation of state enterprises implied fundamental changes in employment relations in Russia. Even before the collapse of the Soviet Union, the Russian government came under international pressure to reform its labour legislation, but in practice the amendments introduced in 1988, 1992 and 1995 were largely restricted to providing for the application of the Labour Code to changing property and contractual forms, rather than with making substantive changes to the rights and protection of workers. Thus, for example, it became necessary to define employment on the basis of individual labour contracts and to specify that the Labour Code applied to all those employed on a contractual basis, regardless of the form of property. The main substantive change to

the Labour Code was in relation to the ending of centralised wage regulation, which meant the removal of the clauses concerning the determination of pay norms and the tariff scale, payment systems outside the public sector now being determined at enterprise level and embodied in the collective agreement reached with the trade union. Similarly, the articles concerning the powers of the general meeting and the council of the labour collective (STK), a body embracing both management and employees, which had been incorporated into the Labour Code in 1988, were repealed in 1992 in view of impending privatisation.

The removal of the Communist Party organisation from the workplace meant that responsibility for monitoring the enforcement of labour legislation fell squarely on the trade union. It also meant that legislation could no longer be enforced through administrative/political sanctions but only through the civil or criminal courts. However, the removal of the Party organisation had also deprived the trade union of any foundation for its independence from management, reinforcing the character of workplace trade unions as a branch of enterprise management. Thus, in practice, the legal regulation of the employment relationship continued to be subordinate to its discretionary regulation by management and the trade union according to management's priorities.

Alongside these minor revisions to the Labour Code, more fundamental legislative reforms were the introduction of legislation on trade unions, on collective agreements and on the resolution of collective labour disputes, to provide a legislative framework within which the collective agreement would replace the administrative regulation of the terms and conditions of employment in the emerging market economy. The law on collective agreements, in particular, defined the priority of collective over individual regulation of the employment relation in prescribing that the terms of an individual labour contract could not be less favourable than those embodied in any operative collective agreement.

While the traditional trade unions continued to serve largely as a branch of management in the workplace, the economic reforms of the 1980s, and particularly Gorbachev's attempted wage reform, provoked a growing number of spontaneous strikes, most dramatically in the nationwide wave of strikes centred on the coal-mining regions in 1989. In response to the 1989 strikes, the government introduced a draconian strike law, which legalised strikes for the first time, but made it almost impossible to organise a strike which conformed to the law. Subsequent revisions to legislation have marginally eased the situation, but it is still the case that almost all work stoppages are spontaneous and fall outside the law, so that the organisers and participants are subject to legal and disciplinary action.⁶ Although one can read reports of work stoppages in the newspapers every day, the officially recorded level of strikes is almost zero. The collective regulation of labour relations is, therefore, still on the basis of bureaucratic negotiation between trade unions and enterprise directors as two branches of enterprise management, with the trade union having neither an

⁶ For a strike to be legal it must be in pursuit of a 'collective labour dispute', which is defined as a dispute over the terms of the collective agreement, and elaborate procedures must be gone through, including securing the support of the majority of the entire workforce at a general meeting. This makes it impossible for a part of the workforce to strike in support of its sectional interests. Under the 2001 Labour Code, workers are entitled to withdraw their labour in the event of the extended failure of the employer to pay their wages. This is not defined as a strike.

interest in nor the serious possibility of mobilising the collective strength of the workforce.

The rights provided by the Soviet Labour Code to workers and to their trade unions potentially presented a serious barrier to the development of capitalist production relations in the transition to a market economy. For this reason the Russian government came under immediate pressure from the International Financial Institutions to introduce a radical revision of the Labour Code, and Yeltsin issued a decree in October 1991 urging the speedy reform of the Labour Code. However, since the Labour Code continued to be recognised, as in the Soviet period, more in the breach than in the observance, its reform was an issue more of ideological than of practical significance. The traditional Labour Code may not have been enforced, but it was not empty rhetoric. It did express the aspirations and expectations of workers. Violations of those rights and expectations gave rise to grievances, social tension and sometimes overt conflict. The radical revision of the Labour Code had similar ideological significance. It was one thing for employers to violate workers' rights, it was quite another to give legal sanction to such violations.

The reform of the Labour Code rapidly acquired fundamental ideological significance in the battle between the neo-liberal reformers, who held the upper hand in the Russian government, and the more cautious opponents of radical reform who dominated the Duma and the ministerial apparatuses. However, through the 1990s the battle was largely symbolic, as the neo-liberals proposed reforms that they knew would be completely unacceptable to the Duma, to say nothing of the population as a whole, but which strengthened their neo-liberal credentials in the eyes of their foreign sponsors. In 1997 the Russian government secured an \$800 million Social Protection Adjustment Loan from the World Bank, one of whose conditions was the introduction of a new Labour Code to the Duma by December 1997 (although the government was not required to secure the passage of the new Labour Code),⁷ but the stalemate continued until 2000, when the Duma was faced with three variants of a new Labour Code. The government offered a neo-liberal revision which removed most of the worker and trade union rights in the existing Labour Code, the Russian Communist Workers' Party proposed a revision which even strengthened the provisions of the Soviet Labour Code, while a group of deputies, supported by the trade unions, proposed a modest reform of the existing Labour Code. The government backed down from a futile confrontation at the end of 2000, and a conciliation commission was established which eventually produced a version of the Labour Code which secured a broad consensus.

The most significant feature of the new Labour Code, which came into force at the beginning of 2002, was that most of the protective elements of the old Labour Code remained, with some modifications, but the statutory rights of the trade unions to approve management decisions, for example in the case of dismissal or redundancy, the transfer of workers or the extension of working hours, were considerably reduced.

⁷ The following year, the IMF attached the disbursement of the next tranche of its loan to the same condition, but it would be wrong to see the reform of the Labour Code as being dictated by the international financial institutions (A. Isaev, 'Novyi KZoT pisalsya pod diktovku MVF', *Vesti FNPR*, 1-2 (1999) 62-5). The IMF was requested to include the condition by the neo-liberals in the Russian government to strengthen their hand against resistance to reform in the Ministry of Labour (Mikhail Dmitriev, then Deputy Minister of Labour responsible for the revision of the Labour Code, personal communication, June 1998).

Where in the past approval had to be given, now the trade union views, at best, had to be taken into account. What formerly had been legally protected and bureaucratically enforced worker and trade union rights were now transferred to the realm of collective agreement, within which the trade unions, as presently constituted, had neither the will nor the ability to contest the proposals of management. The onus for the protection of workers' rights was transferred by the new Labour Code from the government and judiciary to the workplace trade union organisation.

The outcome was that the attempt to impose a radically neo-liberal form of labour regulation, based on the provision of the individual labour contract, was thwarted and in its place Russia now has labour legislation in which pared down legal rights are supplemented by collective bargaining within a framework of social partnership. This is not a victory for the Russian working class, or of conservative forces, against a capitalist onslaught. It is a form of regulation of labour relations that is appropriate to the historical development of employment relations in Russia. Formally it provides a framework for the collective regulation of labour relations on the basis of agreement between trade union and employer. The practical realisation of such a form of regulation depends on the development of the workplace trade union as an effective representative of the labour force.

The reform of labour legislation has been well adapted to the increasingly dualistic economy that has been developing in Russia. On the one hand, the more advanced and dynamic sectors of the economy provide wages and working conditions which are much superior to those provided for by the law and in most cases they recognise and negotiate with (more or less domesticated) trade unions to provide a stable working environment (a small number of companies, particularly foreign-owned, have adopted western "human resource management" practices which by-pass trade union representation). On the other hand, small and uncompetitive employers, particularly in the new private sector, pursue authoritarian management practices, providing insecure employment at low wages with poor working conditions, unconstrained by the law or trade unions. The trade unions have largely retained their position in the traditional sectors of the economy, where they continue to perform useful management functions, but the challenge they face is to move beyond the comfortable existence provided by their traditional role to organise workers in smaller and newer workplaces where working conditions and employment practices constitute a serious violation of workers' rights.

China

I am not a specialist on Chinese labour law, so I would not presume to say too much about the Chinese experience, but I think that I do not need to spell out the similarities between the historical experiences of China and Russia. Although the historical development of the legal and institutional framework for the regulation of labour relations is somewhat different, I think that the underlying opportunities and constraints have been very similar. In China, as in Russia, the employment relationship was not based on individual labour contracts, but on the assimilation of the employee into the labour collective. China did not have a Labour Code, but it did have a comparable framework of decrees and regulations which determined the responsibilities of the Party and trade union organisations for the regulation of the terms and conditions of labour and the provision of housing, social and welfare facilities for the labour collective. With the transition to a market economy, and the reduced role of the Party organisation in regulating economic life, it became

necessary to provide a legal framework for the regulation of labour relations. As I understand it, the central issue in the debates around this legal framework concerned the relationship between individual and collective regulation, expressed in the relationship between individual and collective labour contracts. The outcome of this debate was that, as in Russia, provision was made for the regulation of labour relations on the basis of collective contracts, which supplemented the limited legal provisions regarding the terms of the individual labour contract. This means that the law defines a basic minimum standard of wages and working conditions, while regulation through collective consultation provides the opportunity for the trade union to negotiate improved terms and conditions on behalf of the labour force. As in Russia, the enforcement of the minimum legal provisions is problematic. On the one hand, the labour bureaux do not have the resources of the authority to monitor the adherence of small or foreign-owned employers to the law. On the other hand, there is very little effective trade union organisation in such workplaces. As in Russia, Chinese labour law provides the legislative framework for trade unions to engage in collective bargaining on behalf of their employees, but that formal possibility still has to be converted into reality by, on the one hand, extending trade union organisation to the largely unorganised private, TVA and foreign-owned sectors and, on the other hand, reducing the traditional dependence of the workplace trade union organisation on management so that it can effectively represent the interests and aspirations of employees.

Of course, the legislative framework in China differs in two important, and very sensitive, respects from Russia: freedom of association and the right to strike. Soviet legislation did not define the terms under which a trade union organisation could be established, because it was always assumed that no attempt would be made to organise a trade union outside the framework of the officially sanctioned VTsSPS. The first autonomous workers' organisations were established during the 1980s under legislation that had been introduced in Stalin's times for the formation of such things as social and sports clubs. When Yeltsin came to power, with the support of these new workers' organisations, he introduced pluralistic legislation which accorded full trade union rights to any organisation, which could have (and sometimes did have) as few as three members. This potentially chaotic situation did not last for long, and although the right to organise was not curtailed, the procedure for trade union recognition was made more and more restrictive, making it increasingly difficult for the alternative trade unions to function effectively. Under the present legislation, the representative of the majority of the workforce effectively has the right to exclusive trade union recognition, while the strike law makes a sectional strike, which had been the main form of action of the alternative trade unions, illegal, so that the striking workers and trade union organisers can be dismissed and sued for civil damages. The outcome is that Russian workers enjoy the right to freedom of association, but their ability to use this right to set up alternative trade union organisations is severely restricted.⁸ Russian workers enjoy the right to strike, but the organisation of a legal strike, even by the strongest trade union organisation, is almost impossible, so the right to strike is little more than a formality. This, of course, is not to propose Russia as a model for China!

⁸ Although the alternative trade unions in Russia have faded into insignificance, even the President of the traditional Federation of Independent Trade Unions of Russia (FNPR), Mikhail Shmakov, has recognised that competition from the alternative trade unions provided an important stimulus for FNPR to improve its own organisation and effectiveness in defending workers' rights and interests.

