

Preface

Following our investigation of industrial relations and labour law in China, Taiwan and Hong Kong in 2003, published in German by Nomos in 2004, the present book looks principally at the situation in the People's Republic of China and constitutes an all-encompassing analysis of Chinese industrial relations, Chinese labour law and Chinese trade unions. In this publication we refer to a number of sources, including two newly published English-language studies by Peter Nolan and Hilary K. Josephs, German-language studies by Barbara Darimont and Theodor Bergmann, Chinese-language research, as well as the results of the first German–Chinese Conference on Labour Law, held in Guangzhou, which we organised. This study is the first comprehensive publication in the West on labour relations and trade unions in China.

The People's Republic of China has maintained undiminished economic growth for more than 20 years. The political power of China has also grown, almost daily. The West's view of China is not without its irrational aspects. The centuries-old European China-phobia appears to have given way to a China-euphoria. Absent data, facts and background information are still often substituted by speculation, hopes and wishful thinking.

Those interested in the facts must ask, in the context of work, industrial relations and labour law, what has made China's remarkable economic success possible? What role have the unions played in the Chinese economy and politics? The question of the implementation of the law in practice also has special importance in this study.

The study builds on the results of two research trips: (i) a project of the Labour Institute – ICOLAIR (www.ICOLAIR.de) in 2003 within the framework of which the author and his co-worker Ms Kei-lin Ting interviewed numerous advisers, judges, lawyers, academics, social scientists, political advisers, trade unionists and students; (ii) a

project that the author carried out together with his co-workers Ms Kei-lin Ting and Ms Cam-linh Ngo in Guangzhou, on the occasion and under the auspices of the first German–Chinese Conference on Labour Law. The results of this – from a Chinese viewpoint – historic conference are analysed and presented in the present volume. In addition, we carried out numerous interviews and conversations with experts outside the conference. In the present work, I present my own research results while also referring to and analysing other studies.

Legal studies which examine the law in relation to society and the economy are rare. Here we explore new waters, especially regarding China. We have attempted to tackle comprehensively the theme of labour and employment law, and to study the legal questions in their historical, social and economic context. In this way one can avoid analysis that is divorced from praxis and make reliable projections for future developments. Only in this way is it possible to offer any valuable advice regarding ‘doing business in China’. Alongside its scientific orientation, this work can also be seen as a contribution to improving ‘China consulting’. The study is oriented towards employees, insofar as employment law worldwide is geared towards workers’ rights. Without such a perspective, the question of the effectiveness of labour law cannot be properly answered. On the other hand, businesses are well advised to familiarise themselves with labour law for their own economic benefit, and not fall prey to their own wishful thinking. This book is therefore also business-oriented. In summarising the results, we have taken into account the possibilities open to businesses in creating their own ways of working in the People’s Republic of China within the context of its so-called modernisation process and the numerous related uncertainties in strategic areas of the law and politics.

We have not embarked on a new analysis of the equally important subject of work and social structure in Taiwan and Hong Kong. On this we refer the reader again to the abovementioned work *Arbeit in China* [Labour in China] (Baden-Baden: NOMOS Verlag, 2004).

The romanisation of Chinese names and terms is based on the now internationally recognised system of romanisation, Pinyin. In a few cases the older forms have been used (Sun Yat-Sen, Chiang Kai-Chek, Mao Tse-Tung, KMT) when these have been more generally used in books relating to China published in the West. The Addendum contains an English-language version of the Chinese Labour Code as issued by the Chinese Government.

The author and co-workers would be grateful for any criticisms and suggestions from persons working in China studies, but also from legal practitioners and people dealing with industrial relations in China and Western Europe (info@DrGeffken.de).

Terms in normal use in the UK rather than in the USA have generally been

adopted. Some exceptions have been made where the semi-official English translations adopt American terminology, such as 'labour' instead of 'employment' or 'work'.

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