

# Organizing Wal-Mart: The Chinese Trade Union at a Crossroads

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Surprise, surprise, it is the All-China Federation of Trade Unions (ACFTU), the trade union notorious throughout the world for being “useless”, that has taken on Wal-Mart and succeeded in setting up workplace union branches at twenty-two Wal-Mart supercenters in China within four weeks. This has attracted the attention of the Chinese media, all major US newspapers, and the China Labor Bulletin (CLB). CLB is the Hong Kong-based labor NGO headed by Han Dongfang, the worker who emerged for a few weeks during the 1989 Tiananmen Square movement as a labor leader of the Beijing Workers Autonomous Federation. I was invited by Japan Focus to comment on the significance of the union’s action and the CLB report.

It is necessary to contextualize CLB’s perspective. Along with many others, Han Dongfang was imprisoned and then was allowed to go to the States as a result of an intense international campaign. He ended up founding CLB in Hong Kong more than a decade ago, flying the flag of China’s only autonomous trade union. In this capacity Han goes to Geneva every year to attend the International Labor Organization convention for labor. There and elsewhere, he dismisses the ACFTU as an arm of the Communist Party, and attacks it for its impotence, monopolistic position, and suppression of China’s labor movement, calling on the international trade union movement to isolate the ACFTU. Although the Cold War is over, and engagement with the Chinese government is no longer an issue for the “free” world, in international trade-union circles any engagement with the ACFTU remains a major issue. International trade unions are split into two camps: those who support CLB and refuse to recognize the ACFTU, and those that are willing to engage, in the hope that this can gradually help to transform the ACFTU. It is in this context that we should read the CLB posting on the Wal-Mart trade union phenomenon in China.

Holding high the banner of China’s autonomous trade union in exile, CLB’s unchanging position has always been that the ACFTU is unchanging. This is CLB’s implicit message in its report on the attempt of the ACFTU to set up unions inside Wal-Mart. I beg to differ. Has nothing positive emerged out of this Wal-Mart trade union incident? Is the ACFTU a dinosaur that never changes? Alternatively, could there be reformists from within the ACFTU pushing for changes?

After piecing together and analyzing some thirty newspaper reports from various Chinese newspapers, some of which are more sympathetic to the ACFTU, some skeptical, some pro-capital and therefore pro-Wal-Mart, I conclude that there is scope for a more far-reaching discussion of what occurred than is contained in the CLB report. It becomes obvious from the Chinese newspaper articles that in taking on Wal-Mart, the ACFTU has attempted to do something it has not endeavored since the early 1950s, i.e. grassroots union organizing. How the first few union branches came to be

formed within such a short period provides intriguing insights into this new phenomenon. The interesting details covered by the Chinese press show signs that the ACFTU, or at least some local unions, are attempting to change. As to how far this change can progress, we will have to wait and see.

Before all else, it is necessary for us to understand that the Chinese press today is no longer totally under state control. Newspapers on their own initiative cover stories they consider newsworthy. Investigative reporting has improved by leaps and bounds. For more than three years, the media has followed closely the jostling between the ACFTU and Wal-Mart, shaping public opinion. At least some reporters have adopted the tone-why should we Chinese give in to this giant corporation, which comes to China, throws its weight around, and openly defies the law of the land.

### **Setting up Unions from the Top**

Wal-Mart miscalculated in thinking it could use the same anti-union tactics in China that it does around the world. If, like its main competitor in China, the giant European retailer Carrefour, Wal-Mart had welcomed in the ACFTU to establish union branches in Wal-Mart superstores, those union branches would not have challenged management. The process would have been similar to so many other workplace union branches set up by the ACFTU in foreign-funded enterprises-from the top down. The district-level union would have sought management approval and cooperation to set up a union branch. Once an agreement was struck, management and the local union would have decided together on a mid-level PRC Chinese manager to serve as the union chair, without a union election. After the fact, an announcement would have been made to the employees about the formation of a new union branch, or in some cases, no announcement would have been made at all. In Guangdong province, such a trade union chair is often called, anomalously, the Chinese-partner factory manager (zhongfan jingli), though his or her de facto position is usually just that of a company employee of middle-management rank. This means he or she has no power or independence from management. More often than not, this "union" does not even perform the traditional welfare functions it does in state-owned enterprises, where it holds occasional entertainment events, distributes gifts to the entire workforce during major festivals, pays visits to the sick and injured, etc., functions sometimes appreciated by workers. There obviously is no collective bargaining or other actions that we associate with unions.

Innocuous as these so-called union branches might be, many foreign investors still do not want them in their factories. One good reason is that, by law, management has to give to the union branch two percent of the total payroll to support union activities. Part of this sum goes to the upper levels of the union, and part is used for running activities for workers. The other reason is that no matter how subservient a union might be, it is best not to provide any potential through which workers could have representation. For more than ten years, despite yearly quotas set by the ACFTU's upper levels to set up union branches in foreign-owned enterprises, when enterprises refused to cooperate the local trade union would not insist. Under the influence of the local government, the local union often did not want to scare off foreign investment.

But over the past decade the ACFTU has been witnessing a decline in its national membership, as the numbers of state-owned enterprises dropped. The image that China has become a big sweatshop has also been disturbing to union leaders. From 1999 the ACFTU became determined to expand membership in the foreign-owned sector. About three years ago, it selected Wal-Mart as a special target. The ACFTU was taking a leaf out of the global anti-Wal-Mart movement, targeting the biggest and most high-profile company: if Wal-Mart falls into line, other foreign companies in China that refuse to accept unions will have to follow suit.

When Wal-Mart refused to let the ACFTU into its stores, as was normal practice for Wal-Mart internationally, the ACFTU made a series of unprecedented moves. For the first time the ACFTU openly threatened to take a foreign company to court for violating China's trade union law by barring the union. Wal-Mart cleverly retorted that the law says joining a trade union is voluntary and that it is up to the employees to apply. Since none had, Wal-Mart was not violating any law. The ACFTU had never engaged in grassroots organizing. Going among workers to agitate to form a union instead of asking management for permission was alien to ACFTU union officials, and the ACFTU was at a loss as to how to go about it. For a long period it persisted in seeking management's cooperation so that a union branch could be introduced in a top-down fashion. For instance, the local union in Nanjing went to a Wal-Mart superstore twenty-six times in two years but was not even granted a meeting with the store manager. This humiliating experience was repeated many times over in Wal-Mart stores in other cities.

### **Unionizing Wal-Mart from the Bottom Up**

In the end, the ACFTU realized that Wal-Mart employees would need to come forward to apply to set up a workplace union, and that to accomplish this, the ACFTU would have to resort to grassroots organizing techniques. Though widely used by "normal" trade unions elsewhere in the world, the ACFTU had no experience in this. The organizing efforts would have to be kept secret from Wal-Mart's management, just as unions elsewhere often operate in the face of hostile management. The situation in the United States is an excellent example. According to recent Chinese newspaper reports, local union officials sought to raise Wal-Mart employees' consciousness by approaching them after-hours away from Wal-Mart's premises and giving them relevant literature to read, to convince them of the benefits of a trade union branch. According to the trade union law, a minimum of twenty-five signatures are needed for an application to establish a branch. Having secured the requisite number, a district union in Fujian Province sprang a surprise on Wal-Mart on July 29, and declared that a union branch has been founded at a local Wal-Mart superstore. According to local Chinese newspapers, the first five branches, which were announced one after another within a single week, had all gone through this grass-roots organizing process. This was possibly also true for all of the branches that were set up prior to August 16, the day the ACFTU and Wal-Mart executives signed a national memorandum recognizing union representation at Wal-Mart.

Several Chinese newspapers have reported in some detail on how the first Wal-Mart branch was established at the Jinjiang Wal-Mart store in Quanzhou City, Fujian on July 29. Ke Yulong, a 29 year old employee in the meat-packing department, together with two colleagues, thought of setting up a trade union branch at their own Wal-Mart store. They went to the local trade union to enquire about the procedure. Secret communications took place between Ke and a special task force set up by the local union. Under the local union's "guidance," an expression that is used in the law, Ke and his activist colleagues convinced others to join the cause, and a preparatory union committee was formed on July 28 at a meeting held from 11 in the evening to 3 in the morning at the Jinjiang district trade union office, which was, coincidentally, only one hundred meters from the Wal-Mart store. These activities had to take place in the middle of the night because this was the only time employees from both night and day shifts could assemble. This unusual time and the secretive nature of the founding ceremony were firsts for the ACFTU.

At the meeting seven executive committee members were elected, with Ke as the union chair. To underscore their determination and the solemnity of their commitment, the thirty members affixed their fingerprints to the application form, rather like the swearing-in ceremony of China's secret societies of yesteryear. At 6.30 a.m. they declared the union branch formed and sang the Internationale beneath a banner that read, "Determined to take the road to develop trade unionism

with Chinese characteristics!" Filled with emotion, Ke made his opening speech, "All young people since historical times have ambitions. To be one among the first group of trade union members in a Wal-Mart store is the most meaningful achievement of our lives. It is a memory we will forever cherish." The ACFTU later declared the ceremony a "historical breakthrough" in China's labor movement history, and there was a scramble to announce further union branches. The first three branches to be established shortly after Jinjiang similarly resorted to secret founding ceremonies that took place after midnight, and the proclamations of their formation was sprung on Wal-Mart the following day. The rapidity of the union announcements elsewhere suggests the possibility that the ACFTU had taken up the issue as a national project even before the first union was announced.

The moment Wal-Mart was informed of the new trade union branches in its stores, anti-union activities went into high gear. Big meetings were called at which, according to Chinese newspaper reporters, warnings were duly announced that those who join the union would not have their contracts renewed. Wal-Mart also announced that it would not pay the union the two percent payroll union fees. It tried to discredit the ACFTU by accusing it of bribing employees to join the union. Wal-Mart also charged that the workers had not joined voluntarily, in violation of the Chinese trade union law.

But within a week, it offered an olive branch, making a 180 degree turn-around. It tried to co-opt the ACFTU to work together to achieve "harmony." Top Wal-Mart regional executives invited themselves to the local Quanzhou trade union office, where they met with the Quanzhou General Trade Union Deputy Chairman, Fu Furong, the official who had been overseeing the program of helping the Jinjiang union branch. Fu reported to the press that the meeting was cordial but there were still disagreements. He admitted many people were skeptical that the new trade union branches would accomplish anything, and said that the most urgent task now was to "nourish and protect" (kehu) the new unions.

He had good reason to express concern about the vulnerability of the new branches. Chinese newspaper reports have not mentioned any ACFTU or local union officials making reference to collective bargaining or any other means of improving workers' conditions or salaries. Instead, the officials were quoted using phrases such as "cooperation", "working with management", "no confrontation", "win-win situation". The ACFTU has also not stopped reiterating its "trade union with Chinese characteristics" position, promising repeatedly that it will protect workers rights while simultaneously working with management to attain "harmony", a stock expression that echoes today's government slogan to wish away social unrest.

### **Coming to an Agreement**

On August 16 Wal-Mart's top executives in China met with ACFTU officials in Guangzhou and signed a five-point memorandum. My reading of the document is that, over all, the ACFTU is the winner, but Wal-Mart potentially may gain some ground through the composition of the preparatory committees that will be set up to form new trade union branches at its superstores. Each preparatory committee is to be composed of management, district union officials, and employees, although the representatives from management are to be limited to middle-management and are to comprise no more than 20 percent of the committee members. Admittedly, the composition of the preparatory committee could be crucial in influencing the ultimate orientation of the union branch. But it appears the ACFTU is confident that it will retain control of the situation.

Significantly, there will be a multi-candidate election for the union committee, the union chair and deputy chair. Top level management personnel and their relatives are barred from becoming union members. Upper-level union personnel will be allowed to conduct in-house training of employees in

the relevant labor laws and in the employees' labor rights, and to recruit new members. But the memorandum's final point seems ambiguous: Wal-Mart union branches will support management in exercising its management rights in compliance with the law, will mobilize and organize the employees to fulfill their responsibilities, and will cooperate on an equal basis with management in order to allow the enterprise to develop harmoniously (*italics the author's*). This statement can be read as a concession by the ACFTU, but the emphasis on compliance with the law in management practices and sharing equal responsibilities and rights between the management and union may actually give the union an advantage.

This agreement will work to the benefit of workers only if the local unions are serious and strong enough to confront Wal-Mart. If past experience can serve as any guide, it is highly possible that the district unions will not have the willpower and the Wal-Mart union branches will not have the strength to face up to Wal-Mart's anti-union policy. In the past, as we have noted, many district unions have been constrained by local governments to remain passive. The best scenario would be if the employees-and this is a big if-take advantage of the proposed election to select representatives who will truly represent their interests. The grassroots character of the initial unions provides some ground for hope for such an outcome.

The moment the memorandum was signed, the union branches that sprang up at Wal-Mart stores across the country seemed to be founded in a very different manner from the first batch. No longer did the union need to reach out to employees in confidence and persuade them to take an initiative to sign up. Instead, the founding ceremonies were now held inside the store rather than at the local trade union office; and during work hours instead of after midnight. In some stores, more than two hundred signatures were obtained within a very short space of time, and one brand-new union branch already contained 70% of the workforce. According to the reports, they all held democratic elections. But since there are no further details on the election process, it is not possible to know whether there were any grassroots initiatives involved, how candidates emerged, whether they were hand-picked by the ACFTU, and if so, based on what criteria, or whether Wal-Mart manipulated the selections from behind the scenes.

Thirty-plus additional Wal-Mart union branches will be established in the coming weeks or months. Established from above in a formalistic fashion, there is a real chance of their being dominated or manipulated by Wal-Mart. Much will depend on the local union's ability and willingness to cultivate effective trade union activists. Backing from local governments will also be critically important.

### **The ACFTU at a Crossroads**

The memorandum that was signed with Wal-Mart can be expected, henceforth, to serve as the ACFTU's template for setting up trade union branches in foreign-funded enterprises. Under pressure to fulfill quotas set by the national union leadership, district unions are likely to fall back on the previous top-down bureaucratic method in establishing union branches. For instance, in Shanghai union density is targeted to reach 60% by the end of the year, and 80% next year. Zhejiang Province now claims 70% union membership among the employed workforce, and by the end of the year it is scheduled to reach 80%. This will be hard to achieve. Zhejiang now contains 3,000 Taiwanese-funded factories, and two-thirds of these still have no unions. Even the top-down unionizing method will take time, especially now that elections are to be held. Besides, many foreign-funded enterprises will continue to resist having unions, as they have for many years. When confronted with resistance, will the local unions resort to the secretive grassroots organizing method used in Fujian? This is unlikely, but not impossible.

Ground for some optimism lies in an editorial that appeared on the ACFTU website on August 16, the day the memorandum with Wal-Mart was signed: "How Wal-Mart Came to Change its Attitude." The editorial indicates that the grassroots organizing experience might not have been lost on some of union leaders. The editorial is filled with self-confidence: the Chinese union has "cracked the world's toughest problem". Let me quote at length from it to capture the tone:

"Setting up these unions encountered many ups and downs. It did not come about easily. ... It is a major breakthrough in creating something new that will definitely open up a new stage! The positive determining factors in the births of these Wal-Mart union branches were the employees' aspirations, plus legal compliance. The guidance and assistance provided by the upper level unions fostered positive outcomes. It is a big departure from our previous method of setting up union branches by relying on persuading management to give support. Now instead we turn to propagating, inspiring, cultivating and reinforcing employees' trade union consciousness, instigating and mobilizing their aspirations to join the union. Even in circumstances where employers are uncooperative and unsupportive, we still will set up our unions. In reality, in the past few years, in our work to establish trade union branches, particularly in foreign-funded and private-funded enterprises, we encountered much passive resistance from employers. It was enormously difficult. This successful experience in setting up Wal-Mart unions is groundbreaking in that we have discovered a new line of thinking. It not only will influence other foreign and private investors to quickly abide by the law to allow unions to be established, it also brings to trade unionists a new mission. Following the new logic in setting up unions, new adjustments in union work will be needed, be it in methods, in organizational structure, ways of identifying backbone activists, down to how to use union funds....."

The ACFTU is not the monolithic structure it is often portrayed to be. There are union officials and local unions who understand the principles of organizing and are willing to push the limits. But they are constrained by pro-capital forces within the Communist Party, the government and the ACFTU on the one hand, and domestic and international anti-union forces on the other. The ACFTU's confrontation with Wal-Mart has opened up a means for reformers to operate in future, and has set a precedent for Chinese workers to take on their employers and to demand union branches. In past years, many workers in foreign-funded and private firms have lacked support from the union federation. Sometimes they have engaged in wildcat strikes or taken to the streets to demand their rights. Very seldom has it been envisioned that they could use legally-sanctioned means to set up their own union branches, or that they might be given an opportunity to work within the space provided by the ACFTU structure. This might or might not come to pass. It will depend on whether a new union branch is organized in a way that enables it to be representative of workers-as might conceivably have been the case with the first five Wal-Mart union branches-or, alternatively, whether the ACFTU reverts to the practice that union branches in future are again always to be imposed top-down, through prior management-union agreement, and dominated in their operations by a management/union alliance. In short, Chinese unionism possibly stands at a crossroads, and it is not clear what the future portends.

Chinese labor laws are the fulcrum around which the discourse on industrial relations is anchored. The laws are the tools used by all sides to argue their positions. Wal-Mart used the Chinese trade union law to refuse to let the ACFTU set up unions; and the ACFTU in turn used the procedures stated in the law to set up union branches. In recent years, workers too have become accustomed to use the law to fight for rights, demand justice and compensation, as seen in a rapidly mounting number of court cases. According to the clauses of the Chinese labor law, setting up a trade union branch and getting recognition for it is, legally speaking, as easy as ABC (in stark comparison to, say, the procedures set down in the US laws). Given the desire by China's unions to expand membership, if groups of Chinese workers in the coming years use this method to set up trade unions branches and then affiliate them to the ACFTU, it might well provide the workforce with a



voice. Under China's labor law and the present political situation, they may find this politically feasible and more productive than fighting to set up autonomous trade unions as advocated by China Labor Bulletin and some Western trade unions that call on China to permit autonomous trade unions.

But the ACFTU has little experience of grassroots initiative, and many union officials are nervous about activities that are not top-down and initiated and controlled by themselves. Nor are they accustomed to, or comfortable with, having to organizing workers themselves, whatever the precedent set by the recent experience with Wal-Mart. Reformers within the ACFTU want to push in that direction, as the editorial makes clear, but they are themselves untrained and on unsure ground. Trade unions in our own countries have accumulated a wealth of experience in union organization that they can help transfer to the Chinese union's reformers-if our unions become willing to reach out.

Moreover, the importance of these events is by no means limited to China. There is already an implicit common front in the unionization of Wal-Mart. The formation of trade union branches inside China's Wal-Mart stores has created an international precedent. It can provide Wal-Mart workers and trade unions in other parts of the world with a leg up in their own efforts to organize Wal-Mart. To continue to dismiss the ACFTU's efforts is not the wisest tactic.

As a final thought, it is pertinent to comment on what specifically obliged Wal-Mart in China to concede. It was not the independent power of China's trade-union organizing efforts. Before China opened up to private business and foreign capital in the 1980s and 1990s, the ACFTU did not have to face the onslaught of capital, and there was no need to engage in grassroots organizing. Trade union branches automatically existed in state and collective enterprises. The enterprises provided workers with an iron rice bowl including lifetime employment and welfare benefits. There was no necessity for the union to organize. Thus, today the ACFTU has no ideological underpinnings nor any independent capacity or tools to counter capital. Its victory over Wal-Mart depended upon the clauses in the Chinese labor laws and the power of the Chinese state to enforce them.

In some ways, this is in line with the situation in the West vis a vis Wal-Mart. Governments have become the only actors powerful enough to confront and dictate terms to the biggest corporate entity in the world. Thus far, despite the great efforts by American trade unions to organize Wal-Mart employees, not even one union branch has been set up. On the other hand, several state and city governments in the U.S., employing legislative and administrative power, have been acting to rein in the giant and to make it pay a higher minimum wage and contribute to medical care and pension funds. Perhaps, in this one respect, the ACFTU has a point in reiterating its "trade unionism with Chinese characteristics."

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\* From Japan Focus website.

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