



中国劳动关系学院学术论丛
ZHONGGUO LAODONG GUANXI XUEYUAN XUESHU LUNCONG

改革开放30年 中国工人权利意识的 演进和培育

林燕玲 著

中国社会科学出版社



中国劳动关系学院学报

改革开放30年 中国工人权利意识的 演进和培育

张世成 著

中国劳动关系学院学报



中国劳动关系学院学术论丛
ZHONGGUO LAODONG GUANXI XUEYUAN XUESHU LUNCONG

改革开放30年 中国工人权利意识的 演进和培育

林燕玲 著

中国社会科学出版社

图书在版编目 (CIP) 数据

改革开放 30 年:中国工人权利意识的演进和培育/林燕玲著.
—北京:中国社会科学出版社, 2009.9
ISBN 978-7-5004-8134-8

I. 改… II. 林… III. 工人—权利—研究—中国
IV. D621.5

中国版本图书馆 CIP 数据核字 (2009) 第 162851 号

责任编辑 雁 声
特邀编辑 立 早
责任校对 郭 娟
封面设计 大鹏工作室
技术编辑 戴 宽

出版发行 **中国社会科学出版社**

社 址 北京鼓楼西大街甲 158 号 邮 编 100720

电 话 010—84029450 (邮购)

网 址 <http://www.csspw.cn>

经 销 新华书店

印 刷 新魏印刷厂

装 订 广增装订厂

版 次 2009 年 9 月第 1 版

印 次 2009 年 9 月第 1 次印刷

开 本 880 × 1230 1/32

印 张 11

插 页 2

字 数 290 千字

定 价 32.00 元

凡购买中国社会科学出版社图书,如有质量问题请与本社发行部联系调换
版权所有 侵权必究

序

2009 年春天，中国国务院新闻办公室发布了《国家人权行动计划（2009—2010 年）》。这是中国第一次制定以人权为主题的国家规划。该《行动计划》的制定体现出中国政府把尊重和保障人权作为治国理政的重要原则。它不仅明确了中国人权保护的基本内容和近期的实现路径，而且对未来中国人权事业的发展会产生重要影响。工人权利是人权的重要组成部分。伴随《行动计划》的实施和人权教育的开展，全社会的人权意识会得到提高，工人权利意识也会得到进一步的提升。在中国，培育人们的权利意识已经提到国家和社会的议事日程。

从社会学角度看，“权利意识”是对“人应该得到别人和社会的什么样的对待”和“人实际上得到了什么样的对待”的意识。权利意识的对象是权利，但权利意识又不同于法律意识。法律是社会对公民权利的正式认定，法律意识的对象是法定权利；而作为权利意识，个人所认定权利的范围可以在法律范围之内，也可以在法律范围之外。

“工人权利”（workers' rights）又称劳工权利或劳工权益，是指法律所规定的处于现代劳动关系中的劳动者在履行劳动义务的同时所享有的与劳动有关的社会权益。工人权利是一个历史和发展的概念。2001 年 2 月，中国全国人大常委会批准加入的联

2 改革开放 30 年:中国工人权利意识的演进和培育

联合国《经济、社会及文化权利国际公约》中第三部分确认了工人权利。由国际劳工组织制定的国际劳工标准的核心和宗旨,是确立和保障世界范围内的工人权利,也包括中国工人的权利。我国的宪法、劳动法和工会法也规定了工人权利。

如果说,从计划经济向市场经济转轨,是我国工人权利意识形成和发展的重要转折时期;那么,中国加入世贸组织,会成为我国工人权利意识提升的又一个重要契机。“入世”是中国迈向经济市场化和全球化的重要步骤。由于全球化的实质是资本全球化,资本的流动已经没有了国界的限制,因而,资本与劳动的关系,已经打破了原有的平衡,劳动者的权益保障正在面临前所未有的挑战。中国在发展经济的过程中,如果忽视劳工权利保障,由此引发的社会问题恐怕是不容易解决的。

改革开放 30 年来,如果大部分工人(农民工)不能分享到中国经济高速成长的果实,那么,中国就不能真正“实现社会公平正义”。而这既是中国共产党人的一贯主张,也是发展中国特色社会主义的重大任务。时代发展到今天,工人(农民工)问题正在超越社会问题层面,日益扩展成严重的经济问题与政治问题。从这个意义上看,如果忽视工人问题的解决,就会影响中国社会的整体发展;相反,如果重视工人问题的解决,就会促进中国的经济发展和社会进步。

本书关注的是规模庞大的工人群体和他们的内心世界——工人权利意识。对于中国工人问题的研究,从未离开过官方、学界和民间的视野。研究的视角从生存状况到阶层关系,从地位到权利,从行为到命运,从社会行动到社会心理以及发展趋势。其实,对工人权利意识的研究,追随了中国工人的成长轨迹。

本书的研究侧重于描述中国工人权利意识的发展状况,分析工人权利意识提升的原因和社会影响,并力图在此基础上有针对性

性地提供培育工人权利意识的政策建议以及其他相关社会政策。这一研究非常国粹，是中国人在说自己的事。我们立足中国的现实，使用调研中的一手资料，引用中国的调查报告中的数据和中國学者的观点，提出中国式的对策建议。这种做法也许有些偏颇，也许更加现实。

目前，在中国，工人权利意识问题研究是一个崭新的话题。因为前人研究不多，所以，无论是研究内容、研究方法、研究视角都要白手起家。因此，这些研究视角的合理与否可能还需要推敲和时间的验证。总之，工人权利意识还需要更多的学者和相关部门进一步分阶段、分专题进行长期、深入的研究。

Preface

China's State Council Information Office issued a "National Human Rights Action Plan (2009—2010)" in the spring of 2009. This is the first time for China to set down a national planning concerning the theme of human rights. The enactment of this plan reflects the most important principle of the Chinese government, which is to respect and protect human rights in managing state affairs. It not only defined the basic content and the recent realization path of the protection of human rights in China, but also will have a significant impact on the future development of human rights in China. Workers' Right is an important component of human rights. Accompanied by the implementation of this plan and the carrying out of human rights education, the awareness of human rights in our society as a whole will be promoted, with that the awareness of workers' right will be further promoted. China, to cultivate the awareness of people's rights have been put on the national and social agenda.

From a sociological point of view, "rights awareness" means The awareness of "how I should be treated by other people and the society" and "how I am actually being treated". Rights awareness is different from legal awareness. The formal recognition of civil rights by

our society has been demonstrated in the law, and the focus of legal awareness are legal rights; while as the scope of rights awareness, by individuals could be within but also outside of the scope of legal rights and laws.

“Workers’ rights” are social rights and interests having to do with labor relations between workers and employers, obtained under labor law. “Workers’ rights” is a historical and developmental concept. The United Nations’ “International Covenant on Economic, Social and Cultural Rights”, which has been ratified and acceded to by China’s National People’s Congress Standing Committee in February, 2001, has confirmed workers’ rights in Part III. The core and purpose of international labor standards developed by the International Labor Organization, is to establish and safeguard workers’ rights worldwide, including Chinese workers’ rights. China’s Constitution, Labor Law and the Trade Union Law also provides for workers’ rights.

If we say that the transition from a planned economy to a market economy is an important turning point of the formation and development of workers’ rights awareness in our country, then China joining the WTO has become another important opportunity to promote the awareness of workers’ rights in China. China’s entry to the WTO is an important step on the road to introduce market economy and globalization. Because the essence of globalization is the globalization of capital and the mobility of capital has no national boundaries, the original balance of the relationship between capital and labor is disturbed, and the protection of workers’ rights is facing unprecedented challenges. If we neglect the protection of workers’ rights in the process of economic development in China, I am afraid that it will not

be easy to resolve rising social problems.

Through 30 years of reform and opening up, if the majority of workers especially migrant workers cannot share the fruits of China's rapid economic growth, then China will not be able to truly "realize social fairness and justice", which has been consistently advocated by Chinese Communist Party and has been a major task of developing socialism with Chinese characteristics. With time elapsing, (migrant) worker issues have expanded into serious economic and political issues beyond the level of social problems. In this sense, if we neglect the resolving the problems of workers, it will probably affect the overall development of Chinese society. On the contrary, if the resolving to the problems of workers is valued, it will promote China's economic development and social progress.

This book tackles the large groups of workers and their inner world—the awareness of workers' rights. State institutions, academics and the public have always studied Chinese workers' problems. The research perspective ranges from living standards to the relationship between classes, from status to rights, from behavior to destiny, from social action to social psychology as well as development trend. The study of the awareness of workers' rights follows the actual development path of the Chinese workers.

This book focuses on describing the development of the awareness of workers' rights in China, analyzing the causes and social impacts of the promotion of the awareness of workers' rights, and on this basis, trying to provide targeted policy recommendations on cultivating the awareness of workers' rights and other relevant social policies. This research refers only to the situation in China, and its internal de-

bate. We utilize first-hand sources of research, the data of China's investigation reports and the views of Chinese scholars, and eventually put forward their proposals.

At present studying the awareness of workers' rights is a new research topic in China. Because of only few previous studies, the contents, methods, and perspectives of research must start from scratch. Therefore time may judge and verify whether these perspectives of research are reasonable. The research on the awareness of workers' rights needs more scholars and relevant departments to do further long-term, in-depth studies, which should be done in stages and on sub-topics.

目 录

序	(1)
Preface	(4)
引子	(1)
第一章 导论	(5)
一 研究工人权利意识的意义	(5)
二 国内研究现状述评	(7)
三 西方相关理论研究现状述评	(12)
四 研究中的基本概念界定	(30)
五 研究的基本思路 and 主要观点	(42)
六 研究的基本方法	(52)
七 理论创新程度或实际应用价值	(56)
第二章 社会转型时期工人权利意识觉醒和提升的 总体状况	(63)
一 转型时期工人权利意识觉醒和提升的	

2 改革开放 30 年:中国工人权利意识的演进和培育

社会背景	(63)
二 转型时期工人权利意识觉醒和提升的 发展阶段	(69)
三 中国职工状况调查中个案访谈材料分析	(76)
四 中国职工状况调查中各项调查数据综合分析	(85)
 第三章 社会转型过程中两大工人群体权利意识	
发展轨迹及其特征	(96)
一 国有企业的工人和农民工的群体差异	(97)
二 国有企业工人权利意识的发展轨迹及其特征	(99)
三 农民工权利意识的发展轨迹以及代际差异	(111)
四 两大工人群体权利意识的发展轨迹及其特征	(127)
五 工人权利意识的衍生逻辑	(128)
 第四章 工人权利意识在网络中所展现出来的	
发展状况	(154)
一 网络发展与工人维权的新平台	(154)
二 工人通过网络获取有关权利的知识	(155)
三 工人在网络这个平台上主张权利	(165)
四 工人利用网络进行维权实践	(176)
五 工人网络维权的特点及其作用	(179)
 第五章 从权利救济的角度反观工人权利意识的提升	(193)
一 从权利救济机制观察工人权利意识的 发展变化	(193)
二 劳动争议数量持续上升,反映出劳动者积极 主张自己的权利	(194)

三	劳动争议处理受案范围拓宽,反映工人权利 诉求内容更加广泛	(198)
四	工人不满现行的权利救济机制,表明工人具 有强烈的权利要求	(200)
第六章	从工会组织制度改革看工人权利意识的发育 ...	(208)
一	改革开放以来工会组织的发展变化	(208)
二	直选基层工会主席的探索	(211)
三	工会民主选举激发工人权利意识	(220)
第七章	工人权利意识提升的原因分析	(236)
一	市场化改革是工人权利意识提升的土壤	(236)
二	法治化使权利意识逐渐成为社会的 主要意识形态	(242)
三	全球化为工人权利意识提升提供了外部资源 ...	(252)
四	网络化为工人权利意识提升提供了 新型的平台	(263)
第八章	工人权利意识提升的社会意义	(269)
一	权利意识是工人争取自身权益的 内在心理基础	(269)
二	有助于构建和谐稳定的劳动关系	(270)
三	有助于实现平稳的社会转型和建设和谐社会 ...	(277)
四	有助于公民社会的构建和公民素质的提升	(280)
五	有助于依法治国,建设法治国家	(283)
第九章	工人权利意识培育,任重道远	(288)

4 改革开放 30 年:中国工人权利意识的演进和培育

一 工人权利意识培育的必要性	(288)
二 工人权利意识培育的内容和重点	(291)
三 工会在培育工人权利意识中的角色和作用	(297)
四 国家在培育工人权利意识中的角色和作用	(303)
五 社会各界在培育工人权利意识方面的 角色和作用	(307)

第十章 结语	(315)
--------------	-------

参考文献	(318)
------------	-------

跋	(332)
---------	-------

Contents

Preface	(4)
Opening Words	(1)
Chapter 1 Introduction	(5)
1.1 Significance of the Study	(5)
1.2 Literature Review in China	(7)
1.3 Western Literature Review	(12)
1.4 Basic Concepts in Study	(30)
1.5 Basic Thoughts in Study	(42)
1.6 Research Study Methods	(50)
1.7 Theoretical Innovation and Practical Value	(56)
Chapter 2 Overall Situation of Rights Awareness' Awaking and Promotion in Workers during Social Transition Period	(63)
2.1 Background of Workers' Awareness' Awaking and Promotion during Transition Period	(63)
2.2 Stages of Workers' Awareness' Awaking and	

6 改革开放 30 年:中国工人权利意识的演进和培育

Promotion during Transition Period	(69)
2.3 Case Interview Materials' Analysis in the Survey of Chinese Workers' Conditions	(76)
2.4 Data' Comprehensive Analysis in the Survey of Chinese Workers' Conditions	(85)

**Chapter 3 Development Paths and Features of the Two
Groups of Workers' Rights Awareness during
Social Transition Period** (96)

3.1 Differences between Workers in State-Owned Enterprises and Migrant Workers	(97)
3.2 Workers' Rights Awareness in State-Owned Enterprises	(99)
3.3 Development Path and Generation Gap of Migrant Workers' Rights Awareness	(111)
3.4 Development Paths and Features of the Two Groups of Workers' Rights Awareness	(127)
3.5 Derived Logic of Workers' Rights Awareness	(128)

**Chapter 4 Development of Workers' Rights Awareness
in Network** (154)

4.1 Development of Internet and the New Platform of Workers' Rights Safeguard	(154)
4.2 Workers Acquiring Rights-related Knowledge through Internet	(155)
4.3 Workers Defending Rights through Internet	(165)
4.4 Workers Carrying on Rights Safeguard Practice	