

Social Transformation and Normative Change Through CSR Standards? China's Engagement with International Labour Law in Domestic Guidance for the Textile Sector

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Abstract

Drawing on China's international and national Corporate Social Responsibility (CSR) engagement in the field of labour rights, this article discusses prospects for implementation and integration of international law standards through relatively non-politicized market oriented contexts. Contrary to the conventional approach in the West, China has explicitly engaged with CSR through hard law as well as guidance of a mixed regulatory character. In several cases this involves direct reference to international law standards among which some are in line with China's stance in international debates while others less so. Chinese labour law is comprehensive, but implementation lacks behind due to lack of knowledge and weak institutions. In this context, CSR is deployed as a modality to help transform legal requirements into practice in business operations. The article argues that what may look like skirting the law may in fact promote strengthened implementation that supports social transformation and integration of international norms.

Introduction

China's legal developments in the international labour rights field displays important progress in recent decades. In 1997, China signed the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Covenant was ratified by China in 2001. Generally, in the field of labour rights and beyond, official China remains more at ease with social and economic rights than with political rights. The International Covenant on Civil and Political Rights, signed by China in 1998, remains to be ratified. Trade unions in China are members of the state-organised trade union federation.² Accordingly, China made reservations to ICESCR with respect to trade union freedom. China has ratified four of the eight fundamental labour conventions of

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2 *Trade Union Law of the People's Republic of China*, article 2.

the International Labour Organisation (ILO) China has ratified four.³ Early national human rights White Papers emphasized ‘subsistence’ rights (social and economic human rights), and a somewhat defensive stand to the international human rights regime has been less prominent in relation to social and economic rights.⁴ Specific Human Rights Action Plans (issued 2009, 2012 and 2016)⁵ refer to a fuller range of international human rights: social, economic and cultural, civil and political, and and contain specific sections on vulnerable groups and international human rights engagement. While Chinese labour legislation is comprehensive,⁶ implementation is lacking behind partly due to inadequate information and institutions.⁷

Against this background, the level and form of China’s engagement with the Corporate Social Responsibility (CSR) agenda is striking. In Europe and the US, CSR is generally seen to be voluntary business self-regulation on firms’ social and environmental impact and therefore generally distinct from state regulation,⁸ although legal standards drawn from international human rights and labour law often play strong normative role in practice.⁹ By contrast, China’s approach to CSR is explicitly state-driven, clearly demonstrating a trend which has only recently become recognised in the general and especially Western dominated CSR literature.¹⁰ It is strongly informed by public policy objectives¹¹ and works through a combination of official guidance and detailed standards that have a law-

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- 3 ILO list of ratifications of fundamental conventions, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:10011:0::NO::P10011_DISPLAY_BY,P10011_CONVENTION_TYPE_CODE:1,F, accessed 10 April 2016.
 - 4 Kent, Ann (1999) *China, the United Nations and Human Rights*, University of Pennsylvania Press; Sceats, Sonya with Shaun Breslin (2012) *China and the International Human Rights System*, London: Chatham House.
 - 5 State Council (2009) *National Human Rights Action Plan of China (2016-2020)*, Information Office of the State Council The People’s Republic of China, August 2016, available at http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm (accessed 24 January 2017).
 - 6 Ke Chen (2011) *Labour law in China*, Kluwer.
 - 7 Cooney, Sean (2007) China’s Labour Law, Compliance and Flaws in implementing institutions, *Journal of Industrial Relations* 49(5) 673-686.
 - 8 Matten, Dirk & Jeremy Moon (2008) ‘Implicit’ and ‘Explicit’ CSR: A conceptual framework for a comparative understanding of corporate social responsibility, *Academy of Management Review*, Vol. 33(2)404-424.
 - 9 Corporate Social Responsibility – what role for law? Some Legal Aspects of CSR. *Corporate Governance – The International Journal of Business in Society*, Vol. 6, No. 2: 188-202.
 - 10 Gond, J-P, N. Kang & J. Moon (2011) The government of self-regulation: on the comparative dynamics of corporate social responsibility, *Economy and Society* 40(4): 640-671
 - 11 Harper Ho, Virginia E. (2013) Beyond regulation: A comparative look at state-centric Corporate Social Responsibility & the law in China, *Vanderbilt Journal of Transnational Law* 46:375; Gond, J-P, N. Kang & J. Moon (2011) The government of self-regulation: on the comparative dynamics of corporate social responsibility, *Economy and Society* 40(4): 640-671.

like character in China's socialist mix of law and policy.¹² China's first indigenous CSR standard (CSC9000T), issued by the national council for the textile sector, refers to both national and international labour law standards. China's government financially supports the United Nations (UN) Global Compact,¹³ which offers CSR guidance based on international soft or hard law and covers all eight international core labour standards, including those covered by ILO conventions that have not been ratified by China.

This article takes its point of departure in the connection between Chinese law and policy on CSR. This engagement connects with policies on social change and economic growth, which in turn assume increased implementation of labour law standards within China. China's official engagement with national and international labour rights through CSR suggests that the CSR regime offers the government opportunities for dealing with certain issues in a manner which, being driven by external market demands and internal public law and policy implementation needs, is less politically sensitive than the traditional international law and policy human rights debate.

The article proceeds as follows: setting the context, section 2 provides an overview of the issues surrounding labour law, its implementation and protection offered by Chinese labour standards compared to international labour law that forms an important normative source for many social expectations on CSR. Section 3 addresses China's engagement with CSR in terms of law and policy. Section 4 introduces CSC9000T, China's first national CSR production process standard so far, focused on labour standards developed for the textile industry with an aim to be expanded to other sectors. Section 5 is a discussion of implications in an international and national perspective: what China's engagement with CSR in relation to international labour or human rights standards means, and prospects for CSC9000T's approach to promote labour law implementation. Section 6 concludes.

2. Context: Labour law and implementation

Like many other countries, China is facing significant social and environmental challenges in relation to unemployment, improving and developing social welfare and use of natural resources. These inform the local conception of what constitutes CSR

12 On Chinese political-legal regulation, see Keller, Perry (1994) Sources of order in Chinese law, *American Journal of Comparative Law* 42: 711-759.

13 The Global Compact is supported by the following donor countries: Chile, China, Colombia, Denmark, Finland, France, Germany, Italy, Korea, Norway, Spain, Sweden, Switzerland, Turkey and the United Kingdom (UN Global Compact website, *Global Compact Governance*, http://www.unglobalcompact.org/aboutthegc/stages_of_development.html).

and its social and regulatory implications.¹⁴ It also affects the government's usage of a mixture of governance strategies to promote sustainable growth in a context of economic reform and globalisation.¹⁵ Like Chinese state policy, CSR in China focuses on economic development, but improved implementation of labour rights is part this.¹⁶ Observers outside China have long paid particular attention such CSR-relevant issues as child labour, working conditions and general labour standards for products made in China.¹⁷ However, labour standards not only relate to CSR expectations of foreign markets, but also to compliance with China's detailed labour laws and the role that this plays for social change and economic growth throughout China.¹⁸

Insufficient implementation of labour standards not only harms the reputation of China and Chinese business on the global market, but also adversely affects the daily lives of employees and their families, and by implication their contributions to Chinese society. Like some other fields of law in China, inadequate implementation of labour law is claimed to be due to a combination of lack of knowledge of the law, overlapping and unclear law, and institutional weaknesses causing inadequate enforcement and weak

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- 14 Moon, Jeremy & Xi Shen (2010) CSR in China Research: Saliency, Focus and Nature, *Journal of Business Ethics* 94: 613-629; Kolk, Ans, Willemijn van Dolen & Ma Leiming (2015) Consumer perceptions of CSR: (How) is China different? *International Marketing Review* 32(5) 492-517
- 15 Vermander, Benoit (2014) *Corporate Social Responsibility in China*, Singapore: World Scientific Publishing; Lou Jianbo and Guo Xiuhua (2009) *The Core Idea of CSR and Its Practice in China*, in *Studies on Corporate Social Responsibility*, in Lou Jianbo (ed.), *Studies on Corporate Social Responsibility*, Beijing: Peking University Press:78; Blair, Margaret, Cynthia Williams & Li-Wen Lin (2008) The Roles of Standardization, Certification and Assurance Services in Global Commerce, Comparative Research in Law and Political Economy Research Report No. 12/2008, Toronto: Osgoode Hall Law School; Lin, Jolene (2012) Climate governance in China: Using the 'Iron Hand', in Richardson, Benjamin (ed.) *Local Climate Change Law: Environmental regulation in cities and other localities*, Edward Elgar, available at ssrn.com/abstract=1967830.
- 16 Backer, Larry Catá (2015) China's Corporate Social Responsibility with national characteristics: Coherence and dissonance with the global business and human rights project, in Martin, Jena and Karen E. Bravo (eds) *The Business and Human Rights Landscape: Moving Forward*, Looking Back, Cambridge University Press: 530-557]
- 17 Chan, Allan K.K., Po-Keung Ip and Kit-Chun Joanna Lam (2009) Business Ethics in Greater China, 88 *Journal of Business Ethics* 1:1-9.
- 18 Ke Chen (2011) *Labour law in China*, Kluwer; Ho, Virginia Harper and Huang Qiaoyan (2014) The recursivity of reform: China's amended Labor Contract Law, *Fordham International Law Journal* 37(4)973-1034.

governance at the local level.¹⁹ Indeed, insufficient knowledge of and respect for legal standards is a common denominator to many of China's CSR issues.²⁰

Chinese labour law provides better protection for workers than ILO conventions in a number of areas of relevance to common international market concerns with CSR, such as child labour, working hours, and overtime compensation. The minimum age for work is 16 in China²¹ (whereas it may be set as low as 12 in developing countries according to ILO Convention 138). Chinese law sets the limit for normal working hours at 44 hours²² whereas ILO accepts 48. For overtime pay, Chinese law requires up to 300 % normal remuneration²³ whereas ILO law requires an unspecified 'premium rate'. For these issues, a key challenge is therefore not the substantive legal standards, but their effective implementation.

3. Chinese law and policy on CSR

At the level of policy and principle, support for workers' rights accords particularly well with the political basis of China as workers' state.²⁴ Addressing labour standard weaknesses offers an option for China's government and businesses to work with a CSR issue that is of national economic and social significance. Due to the fact that many labour standards are also human rights, it also offers the government an opportunity to target some of the foreign human rights related critique.

19 Cooney (2007) *supra*; Ho, Virginia Harper and Huang Qiaoyan (2014) The recursivity of reform: China's amended Labor Contract Law, *Fordham International Law Journal* 37(4)973-1034; Van Rooij, Benjamin and Carlos Wing-Hung Lo (2010) Fragile convergence: Understanding variation in the enforcement of China's Industrial Pollution Law, *Law & Policy* 32(1)14-37; Chen, Jianfu, Yuwen Li, Jan Michiel Otto (2002) *Implementation of Law in the People's Republic of China*, Martinus Nijhoff.

20 Lu, Xiaohu (2009) A Chinese perspective: Business ethics in China now and in the future, 86 *Journal of Business Ethics* 4:451-461.

21 Labour Law of the People's Republic of China, art. 15 (adopted at the Eighth Meeting of the Standing Committee of the Eighth National People's Congress on July 5, 1994 and promulgated by Order No. 28 of the President of the People's Republic of China); Provisions on the Prohibition of Using Child Labor (promulgated by the State Council, effective April 15, 1991, amended Oct. 1, 2002, effective Dec. 1, 2002).

22 *Ibid.*, art. 36.

23 *Ibid.*, art. 44.

24 According to Article 1 of the 1982 Constitution, "The People's Republic of China is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants."

CSR has been embraced by the government at both central level and some provincial levels as a factor in the implementation of public law and policy related to working conditions, health and social security, and overall development. When China's government revised the Company Law in 2005, a reference to CSR was included. According to the revised article 5, "a company shall comply with the laws and administrative regulations, social morality and business morality. It shall act in good faith, accept the supervision of the government and the general public, and bear social responsibilities." The large town Shenzhen's public procurement rule include CSR elements, and Shenzhen's stock exchange has produced guidelines on CSR for traded companies. The government has introduced regulation specifically referring to CSR in the field of finance.²⁵ Since 2011 the State-Owned Assets and Administration Commission (SASAC) mandates that all Chinese State-Owned Companies (SOEs) publish an annual CSR report,²⁶ a process recognized to potentially promote organizational change by inducing self-regulation.²⁷

Already in 2006 China's government drew on CSR as part of its strategy to bring about former President Hu's policy of establishing a 'harmonious society'.²⁸ The central government authorized the Ministry of Commerce to work with several agencies to develop CSR standards,²⁹ and a number of initiatives have been launched by provincial or local governments to promote both legal compliance and action beyond what is required by the law, for example in relation to labour protection.³⁰ More recently, China's Chamber of Commerce of Metals, Minerals & Chemicals (CCCMC), which reports to the Ministry of Finance and Commerce (MOFCOM), in 2014 and 2015 issued two sets

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- 25 Ministry of Finance (2010) *Application Guidelines No. 4 for Enterprise Internal Control – Social Responsibilities, Guidelines on the Corporate Social Responsibility of Banking Institutions of China* (Ministry of Finance, China Securities Regulatory Commission, National Audit Office, China Banking Regulatory Commission and China Insurance Regulatory Commission, No. 11, April 15, 2010).
- 26 Wang Chengbo (2013) *The Rise of Reporting in China: How State-Owned Companies can dig deeper*, <http://www.bsr.org/en/our-insights/blog-view/the-rise-of-reporting-in-china-how-state-owned-companies-can-dig-deeper>, last accessed 25 October 2015.
- 27 Hess, D. (1999) Social Reporting: A reflexive law approach to Corporate Social Responsiveness. *Journal of Corporation Law*. Fall 1999, 25, 1: 41-84; Gond, J-P and O. Herrbach (2006) Social Reporting as an organisational learning tool? A theoretical framework. *Journal of Business Ethics* 65:359-371.
- 28 China Development Brief (2006) *'Responsibility' standard for China textile industry emerges from EU project*, 1 August 2006, <http://www.chinadevelopmentbrief.com/node/756> visited on 22 March 2016.
- 29 Blair, Margaret, Cynthia Williams & Li-Wen Lin (2008) *The Roles of Standardization, Certification and Assurance Services in Global Commerce*, Comparative Research in Law and Political Economy Research Report No. 12/2008, Toronto: Osgoode Hall Law School:352
- 30 Harper Ho, Virginia E. (2013) Beyond regulation: A comparative look at state-centric Corporate Social Responsibility & the law in China, *Vanderbilt Journal of Transnational Law* 46: 375.

of guidelines³¹ setting specific directives for Chinese mining sector firms. The Guidelines explicitly refer to the UN Guiding Principles on Business and Human Rights (UNGPs),³² which were adopted by the UN Human Rights Council in 2011. China's most recent Action Plan on Human Rights (2016-2020) explicitly urges Chinese enterprises that operate overseas "to abide by the laws of the countries in which they are stationed, and fulfill their social responsibilities in the process of conducting foreign economic and trade cooperation, providing assistance and making investment".³³

China's government is one of a small number of governments which fund the head office of the UN Global Compact Office. Located in New York City, the office is in charge of the day-to-day management and global dissemination of the Global Compact's ten principles on human rights, labour rights, environment and anti-corruption, all based on international declarations and treaties as normative sources. In this China joins company with mainly Nordic and European countries that mostly have relatively good human rights records and which typically have strong political views on political human rights in other countries.³⁴ By actively supporting the UN Global Compact Office, China actively supports the promotion of all ten Principles, including those that refer to labour rights conventions not ratified by China.

China not only supports the Global Compact as a global governance modality but also at the national level. The Global Compact has an office in Shanghai, and in November 2005 the first ever 'Global Compact Summit' to take place outside UN headquarters was held in Shanghai with the support of China's Government. Hosted in collaboration

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- 31 The China Chamber of Commerce of Metals, Minerals & Chemicals (2014) *Guidelines for Social Responsibility in Outbound Mining Investment*, available at https://www.globalwitness.org/sites/default/files/library/CCCMC%20Guidelines%20for%20Social%20Responsibility%20in%20Outbound%20Mining%20Investments%20Oct%202014%20CH-EN_1.pdf (accessed 24 January 2017); The China Chamber of Commerce of Metals, Minerals & Chemicals (2015) *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*, available at <https://mneguidelines.oecd.org/chinese-due-diligence-guidelines-for-responsible-mineral-supply-chains.htm> (accessed 24 January 2017)..
- 32 Human Rights Council (2011) *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect, Remedy' Framework*, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. UN Doc. A/HRC/17/31, 21 March 2011.
- 33 *National Human Rights Action Plan of China (2016-2020)*, Information Office of the State Council The People's Republic of China, August 2016, available at http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm (accessed 24 January 2017).
- 34 The Global Compact is supported by the following donor countries: Chile, China, Colombia, Denmark, Finland, France, Germany, Italy, Korea, Norway, Spain, Sweden, Switzerland, Turkey and the United Kingdom (UN Global Compact website, *Global Compact Governance*, http://www.unglobalcompact.org/aboutthegc/stages_of_development.html).

with Shanghai's Municipal Government, China Enterprise Confederation, the All-China Federation of Industry and Commerce and SASAC,³⁵ the Shanghai Global Compact Summit was not only an event for firms and the UN but a political event in China. In supporting and co-organising it, the national and local governments explicitly supported and encouraged firms to respect the full range of core labour rights and human rights embodied in the Global Compact Principles.

Leading up to the Shanghai Summit, at the occasion of a high-level Global Compact Forum the Vice-Chairman of China's National People's Congress expressed a hope that the Compact's ten principles would be turned into practice and the view that "chief executive officers (...) understand that they had a responsibility to work on behalf of society and the people, and that they should pay more attention to human rights, environment and anti-corruption efforts".³⁶ Underscoring the potential to contribute to social and economic policy objectives, he observed that the Compact's implementation in China would affect the country's development and transition from a central planning system to a socialist market system in which the market plays a fundamental role in resource allocation.³⁷

4. CSC9000T

The CSR process guidance standard SA8000 that was developed by the international NGO Social Accountability International in 1997 has been adopted by a number of Chinese companies. That is thought to be because it is well suited for small and medium sized companies and is widely known and recognised outside China in countries that source from China.³⁸ SA8000 is an auditable certification standard but has been criticized for a practical emphasis on 'ticking boxes' rather than promoting sustained change in production practices.³⁹ Given the need for Chinese businesses to learn about

35 [unglobalcompact.org, UN Global Compact announces Shanghai Declaration](http://www.unglobalcompact.org/newsandevents/news_archives/2005_12_01b.html), http://www.unglobalcompact.org/newsandevents/news_archives/2005_12_01b.html, visited 22 March 2016.

36 Press Release (2004), *UN Global Compact Leaders Summit: Global Compact summit concludes with emphasis on need to fight corruption*, 24 June 2004, UN Doc. ECO/70 <<http://www.un.org/News/Press/docs/2004/eco70.doc.htm>> last visited 15 January 2016.

37 Press Release (2004), *UN Global Compact Leaders Summit: Global Compact summit concludes with emphasis on need to fight corruption*, 24 June 2004, UN Doc. ECO/70 <<http://www.un.org/News/Press/docs/2004/eco70.doc.htm>> last visited 15 January 2016.

38 Lin, Li-Wen (2006) Corporate Social Accountability standards in the global supply chain: Resistance, reconsideration and resolution in China, 15 *Cardozo Journal of International and Comparative Law* 2:321-370; SA8000 certification statistics as of 30 June 2015, <http://www.saasaccreditation.org/?q=node/23> accessed 10 March 2016.

39 Hiscox, MJ, Claire Schwartz, and Michael W. Toffel (2008) Evaluating the impact of SA8000 Certification, *Harvard Business School Working Paper Series* 08-097.

the requirements of China's labour law in order to better implement the law, China's National Textile and Apparel Council (CNTAC) opted for developing its own standard with a stronger focus on learning.⁴⁰

Developed with financial and technical support from the EU, CSC9000T was launched in 2005 as a Chinese CSR process guidance standard. CSC9000T was developed with the cooperation of the China Federation of Labour Unions, which is state-based and China's only trade union.⁴¹ As many other Chinese industry associations, the host organization CNTAC, a national non-profit organization for textile related industries,⁴² is closely associated with the government (including SASAC). The development and implementation of CSC9000T has received support from the National Development and Reform Commission, the Ministry of Industry and Information Technology, and the Ministry of Human Resources and Social Security.⁴³ As a result, CSC9000T may be perceived as government sanctioned even if not directly developed by the government.⁴⁴

So far the CSC9000 standard applies to the textile sector (hence the T in CSC9000T). It was introduced with a general aim to be elaborated for application in other sectors beyond textile. Steps have been taken to expand the standard to the tea industry.⁴⁵

CSC9000T comprises normative and operational principles accompanied by guidance for implementation and a process for self-assessment. The normative principles are based on Chinese labour statutes and regulations as well as international conventions noted to be of relevance to work in the textile sector.⁴⁶ They refer to national and international law on labour and human rights, which include the Universal Declaration of Human

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- 40 China Development Brief (2006) *'Responsibility' standard for China textile industry emerges from EU project*, 1 August 2006, <http://www.chinadevelopmentbrief.com/node/756> visited on 26 September 2015; CSC9000 (2009a) *CSC 9000T Quarterly* Issue 1, Spring 2009, http://www.csc9000.org.cn/PDF/CSC9000T_Quarterly_01.pdf, last visited 26 March 2016.
- 41 CNTAC CSC9000T homepage, <http://www.csc9000.org.cn/en/> visited 26 March 2016.
- 42 International Trade Centre (no year) *CSC9000T At a glance*, available at www.intracen.org/WorkArea/DownloadAsset.aspx?id, last accessed 2 April 2016.
- 43 CSC9000 (2009b) *CSC9000T Quarterly* Issue 4, Winter 2009, http://www.csc9000.org.cn/PDF/CSC9000T_Quarterly_04.pdf visited 26 March 2016.
- 44 Also the EU assisted financially with support under a five-year EU-China Trade Programme with the objective of supporting China's integration into global trade. See China Development Brief (2006) *'Responsibility' standard for China textile industry emerges from EU project*, 1 August 2006, <http://www.chinadevelopmentbrief.com/node/756> visited on 26 March 2016.
- 45 CSC9000 2011 *CSC9000 (2011) CSC9000 Quarterly* Issue 8, Spring 2011, http://www.csc9000.org.cn/PDF/CSC9000T_Quarterly_08.pdf visited 26 March 2016.
- 46 International Trade Centre (no year) *CSC9000T At a glance*, available at www.intracen.org/WorkArea/DownloadAsset.aspx?id, last accessed 2 April 2016.

Rights, the UN Convention on the Rights of the Child, ICCPR, ICESCR, and the UN Convention on the Elimination of all Forms of Discrimination against Women.

The social principles form the main body of CSC 9000T. The majority of specific standards relate to occupational health and safety. Others cover housing/work place accommodation; forced labour; child labour; non-discrimination; cultural and religious rights; remuneration including minimum pay and salary payment; working hours; and the freedom of association and collective bargaining. Of the eight core labour (ILO) conventions, seven are referenced: C29 and C105 on forced labour, C138 and C182 on child labour, C87 and C98 on the freedom of association and collective bargaining, and C111 on non-discrimination. In other words, CSC9000T references the four core conventions that China has not ratified. In addition to the core conventions, the standard references ILO's C169 on indigenous peoples' rights and C184 on occupational health and safety (see fig. 1).

Operational principles guide firms to establish a CSR management system to comply with Chinese labour law. Thus, CSC9000T aims to transform legal standards into management practices. For this purpose, CSC9000T is accompanied by a reporting guideline and a self-assessment form⁴⁷ specifying components of the normative principles. An initial assessment is undertaken by a third party with the objective of understanding the enterprise's current labour law performance and propose corrective actions plans. That is followed by training of staff and regular re-assessment of implementation of the standards.

47 *CSC 9000T Self-assessment form*, http://www.csc9000.org.cn/PDF/CSC9000T_Self-Assessment_ENG_2005.pdf visited 27 March 2016 (Chinese 2008 version available at http://www.csc9000.org.cn/PDF/CSC9000T_Self-Assessment_CN_2008.pdf).

CSC 9000T issue	Reference to international convention
Social/Human Rights	
Housing and sanitary facilities in place	
Gender policies and best practices	
Cultural/religion rights	ILO 169
Conditions of work	
Training on safety issues	
Safety equipments and emergency	
Promotion/enhancement of education	
Gender issues	
Health and safety of women	
Work/Labor Rights as Conditions of Work	
Safety at work	ILO 184
Safe work environment kits	
Training requirements on site	ILO 29 & 105
No forced labor	
No use of physical violence	
Child labor prohibited	ILO 182
Work/Labor Rights as Conditions of Employment	
Condition of employment	
Contract labour policies and practices	
Transparency of employment practices	
Written contracts	
Leave days clearly specified	
Timely payment of wages	
Minimum wage requirements	
Level of wage	
Child labor and minimum age	ILO 138
Equal remuneration (ILO 100)	
Maximum number of working hours set	
Local hiring and purchasing promoted	
Work/Labor Rights - Empowerment of Workers	
Freedom of association	ILO 87
Collective Bargaining	ILO 98
No discrimination at work	ILO 111
Joint committes and unions	

Figure 1: CSC9000T and ILO convention references

5. Discussion

Access to the international market is an important source of income for China's textile and apparel industry, which employs around twenty million workers in several thousand enterprises, affecting the livelihoods of 100 million rural people. The critique against SA8000 for emphasis on 'box ticking' rather than actual change in operational practices constitutes a risk to Chinese producers. This occurs because they may lose business and face reputational damage if their products are discovered to not be in accordance with certified standards claiming compliance with international and national labour law. Implementation of labour law is also a core issue in the national context, not just for formal reasons but because of the substantive concerns for employees and their welfare that inform labour law in all countries. This raises two main questions: the potential implications of CSC9000T's reference to international labour law; and the effectiveness of the 'learning approach' to promote enhanced implementation of labour law.

Some observers describe CSC9000T as a weak version of SA8000 due to the absence of an explicit provision on the freedom of association, living wage allowances and freedom from discrimination on political affiliation or sexual orientation.⁴⁸ SA8000 recommends that employees be given the right to form and join trade unions and bargain collectively. For operations in countries where these freedoms are limited under national law (as is the case in China that recognises the right to organise but limits this to trade unions under the national All-China Federation of Trade Unions), SA8000 recommends that as an alternative, workers should be allowed to freely elect representatives. Others see CSC9000T as a means to assert Chinese control over workers' rights in Chinese production facilities, streamline the multiple CSR codes and auditing procedures applied in the country and improve China's labour standards in the eyes of the global community and thereby reducing calls for protectionism against China.⁴⁹

For the current purposes the key issue is whether the reference to the international instruments is mere window-dressing, or whether it offers signs of sincere engagement with the international standards in a context that is less politicized than much of the international human rights debate on China has been, and in which the international instruments may come to make operational sense in a Chinese context. Senior health

48 Fibre2fashion.com (2011) *Briefing on the Chinese garment industry*, <http://www.fibre2fashion.com/industry-article/market-research-industry-reports/briefing-on-the-chinese-garment-industry/briefing-on-the-chinese-garment-industry6.asp> (last accessed 5 March 2016).

49 Fibre2fashion.com (2011) *Briefing on the Chinese garment industry*, <http://www.fibre2fashion.com/industry-article/market-research-industry-reports/briefing-on-the-chinese-garment-industry/briefing-on-the-chinese-garment-industry6.asp> (last accessed 5 April 2016).

and safety officials have expressed concern at the lack of enforcement of occupational health and safety legislation.⁵⁰ Some of those concerns have been sought to be addressed through the 2007 Labour Contract Law, but the implementation of workers' rights and occupational health and safety standards remains a problem that is recognized by authorities at central level.⁵¹

In September 2014 CNTAC and ILO's Office for China and Mongolia issued a joint report on labour protection of interns in the Chinese textile and apparel industry.⁵² It was noted that China is currently preparing to ratify ILO forced labour conventions No. 29 and No. 105.⁵³ The report found 14,8 percent of interns to be carrying out involuntary and coercive work during their internships constituting a situation of forced labour, with forced labour understood to cover any type of economic performance not freely undertaken or from which the worker is not free to extricate him or herself. Observers on China's omission to ratify Conventions 29 and 105 have tended to associate the relevance with prison labour and China's labour reform system, parts of which have long been controversial from the perspective of international human rights.⁵⁴ The reference to those conventions in the Chinese CSR context suggests that the perception of labour rights problems affecting individuals in the specific context of Chinese industry opens doors to piloting support for international instruments that have not yet been ratified. This would accord with the Chinese practice of testing law reforms in limited contexts before fully-fledged change.⁵⁵

With the exception of trade union freedom that simply does not exist under Chinese law, effective implementation of China's national labour law also for practical purposes means increased national level implementation of major international labour and human rights standards related to workers and working conditions. Active support

50 Blair, Margaret, Cynthia Williams and Lin Li-Wen (2008) The new role for assurance services in Global Commerce, *Journal of Corporation Law*, Vol. 33: 325-360, esp. at footnote 106.

51 Ho, Virginia Harper and Huang Qiaoyan (2014) The recursivity of reform: China's amended Labor Contract Law, *Fordham International Law Journal* 37(4)973-1034.

52 ILO and CNTAC (2014) *Labour protection of interns in Chinese textile and apparel enterprises report*, Beijing.

53 ILO (2014) *ILO and the CNTAC launch a report on labour protection of interns in Chinese textile and apparel enterprises*, Press release, 12 September 2014, http://www.ilo.org/beijing/information-resources/public-information/press-releases/WCMS_306617/lang--en/index.htm (last accessed 5 April 2016).

54 Business Social Compliance Initiative (2013) *BSCI position on prison labour in China*, <http://www.bsci-intl.org/news-events/bsci-publishes-position-paper-prison-labour-china> (last accessed 5 April 2016).

55 Zhang Xin (2006) *International trade regulation in China: Law and Policy*, Hart: 320-321.

of standards that reference ILO conventions on trade union freedoms would seem to counter the assumption that China is simply seeking to shape CSR in its own image. With reservations already in place for the pertinent CESC provisions, there would be no reason for CNTAC to explicitly refer to ILO conventions 89 and 98 as international standards informing CSC9000T. Engagement with political labour rights in contexts that are seen as business-oriented and as relating to public policy objectives rather than as human rights *per se* offers a testing ground similar to other forms of piloting reforms. The national public policy and economic gains may be generating political willingness to test a softer stance on the issue than that which has been adopted vis-à-vis international critique.

For the potential of CSC9000T to assist Chinese firms in implementing national labour standards and, by implication, many corresponding international standards, it is important that the government at central and local levels as well as individual businesses and their international relations and observers retain focus on the importance of transforming the law in the books into effective implementation in business practice. Given documented problems with auditing systems due to cheating and falsification of records,⁵⁶ the focus on learning rather than certification may not necessarily be the weaker or less effective alternative for inducing change. Because of the implementation problems and sometimes limited understanding of labour law, some Chinese companies perceive that approach as conducive to more sustained change than a certification approach.⁵⁷ In this respect, the potential competition between SA8000 and CSC9000T may also serve as a driver. As long as business opportunities, at least on significant parts of the global market, are connected to documented respect for CSR standards, the better known and certifiable SA8000 remains a strong card for Chinese businesses seeking international business relations. The learning approach of CSC9000T may enable businesses to undertake the necessary reforms and therefore effectively assist them in living up to the requirements for SA8000 certification. Given the current the level of understanding and knowledge of labour law, and acknowledged weaknesses of the formal monitoring system, the learning approach may indeed be the optimal approach. In the longer term when learning has evolved, effectiveness will likely need to be supported by stronger enforcement measures, including effective sanctions by the market as well as legal institutions.

56 Fibre2fashion.com (2011) *Briefing on the Chinese garment industry*, <http://www.fibre2fashion.com/industry-article/market-research-industry-reports/briefing-on-the-chinese-garment-industry/briefing-on-the-chinese-garment-industry6.asp> (last accessed 5 April 2016).

57 Compare Blair, Margaret, Cynthia Williams and Lin Li-Wen (2008) The new role for assurance services in Global Commerce, *Journal of Corporation Law*, Vol. 33: 325-360 at 352.

6. Conclusion

Drawing on China's legal and policy engagement with CSR and the country's first and so far most comprehensive national CSR standard, CSC9000T, this contribution has discussed whether China's engagement with labour rights in the context of CSR offers prospects for enhanced implementation of labour rights in a context with weak institutions, and for labour rights traditionally deemed to be sensitive in view of their human rights connections.

China's engagement with the UN Global Compact indicates that China's mixed relationship with international human rights does not keep that emerging economy from endorsing rights that are sensitive in a political context if they occur in another and less political context, such as business practices.

China's approach to CSR deploys a combination of legal regulation, policy and guidance for firms, developed by organisations with connections to the political system. Like its international counterpart SA8000, the Chinese CTC9000T standard refers to both national law and international labour standards, albeit with some differences. Increased respect for labour standards has much to contribute to China's economic and social development as well as global market access. Addressing labour standards offers an option to work with a CSR issue that is of national economic and social significance.

By applying CSC9000T, China's textile industry is experimenting with CSR from the perspective of learning and establishing a CSR process standard tailored to China's polity and the particular challenges and developmental as well as market opportunities connected to enhanced respect for labour law. Through the close connection between labour standards and human rights, CSC9000T offers an opportunity for the industry as well as the government to address issues that go beyond the market. Referring to international law instruments related to fields which have met with considerable hesitation from the political perspective related to China's official implementation, CSC9000T offers not only Chinese businesses CSR opportunities, but also offers China a path towards increased implementation of both national and international law.

Overall, China's CSR approach appears to offer opportunities for implementation of labour rights as well as engagement with certain sensitive issues in a de-politicised manner that may contribute to improved understanding and appreciation in practice, starting in the work place.

