

Preface

Knowing the problem from afar

This book is about the lived experience of occupationally sick workers in China, but has its origins in Hong Kong. Located in southeastern China, Hong Kong is a city of 1,104 square kilometers, 8,941 times smaller than China proper, 8,712 times smaller than the United States, and 230 times smaller than the United Kingdom in terms of land area (Map 1). The city had been under British colonial rule since 1842, was handed over to the People's Republic of China in 1997, and then became its Special Administrative Region (SAR).¹

I was first introduced to the problem of occupational disease in 2004 in Hong Kong by a personal acquaintance, Shek Pingkwan ("Pingkwan" hereafter). A child of 1970s' colonial Hong Kong, I had never heard of any sizable local occupational disease outbreaks. It was Pingkwan who alerted me to the plight of pneumoconiosis-stricken workers in the lapidary factories of the Pearl River Delta (PRD) region of Guangdong province (Map 2). I came to realize the numerous predicaments that Chinese sick workers face in their process of gaining diagnosis, undergoing treatment, and pursuing compensation. Thus, it is Hong Kong, Pingkwan, and the year 2004 that constitute the context of this book.

These factors – Hong Kong, Pingkwan, and the year 2004 – deserve further attention as a reflexive approach to anthropology upholds that how the researcher is positioned in relation to his/her informants, and how the two parties perceive each other are determinants to the way the resulting ethnography is represented (Robertson 2002). In my case, it is essential to let readers, as suggested by King and King (2011), glimpse how the personal interactions to be presented in subsequent chapters may be culturally choreographed by me, the author, as someone who was born in colonial Hong Kong, and like the majority of post-handover Hongkongers, has come to self-identify as both Hongkonger and Chinese.² The contextualization of the vantage point of this book is thus a prerequisite for readers to question "the relative status of interviewer and participant, and social norms about what is appropriate or inappropriate" in various ethnographic situations which involved a Hong Kong male researcher probing into the subjectivities of peasant workers in China, and how these factors may have interacted and influenced the empirical data collected (King and King 2011: 1478).

Pingkwan (born 1949) has been concerned about labor rights since November 1979 when his brother, a worker on a construction site, was killed in an occupational accident in Hong Kong. In total, the accident killed two workers and seriously injured five others. Pingkwan, who was an ordinary factory worker, was actively involved in negotiating with the employer about compensation for the families of the victims. The yearlong process of pursuit, however, only resulted in the meager compensation of tens of thousands of Hong Kong dollars. During the process, Pingkwan was assisted by the Hong Kong Christian Industrial Committee (CIC), which was then the key labor NGO in Hong Kong. After his brother's accident, Pingkwan became a volunteer for the Association for the Rights of Industrial Accident Victims (ARIAV), which was established in 1981. Being a sub-unit of the CIC, ARIAV focuses on helping workers afflicted by occupational injury to fight for their rights. From being a volunteer in 1981 to a full-time worker of CIC in 1994, Pingkwan witnessed fundamental changes in the structure of Hong Kong-based labor NGOs, which extended their work from Hong Kong to China, especially the PRD area.

When China initiated its economic reform in 1978, the PRD started attracting immense industrial capital from Hong Kong. Statistics show that from 1983 to 2000, Hong Kong occupied almost fifty percent of foreign direct investment in mainland China (National Bureau of Statistics 2000). Capital from Hong Kong and Taiwan established tens of thousands of factories, which had created numerous job opportunities for peasant workers, who were often labeled "cheap labor." According to former CIC worker Choi Yukyuk, since the CIC's strategy was to "follow the capitalists," it began to turn its focus from Hong Kong to factories in China, which were established by Hong Kong-based capital. She recalled that "the workers of CIC were deeply shocked, even though they were well-experienced labor organizers [in Hong Kong] when they saw the [extremely poor] working environment in Chinese factories."³ However, there were two tragic fires in PRD factories in the early 1990s that sharpened the mission of Hong Kong-based labor NGOs in China.

In 1991, a fire broke out in Qingye Factory (which produced raincoats) in Silong (now called Dongguan) and killed seventy workers. At that time, Pingkwan was also a garment factory worker in Dongguan. A couple of years before, he had followed his employer when the latter moved his factory from Hong Kong to China. Since Qingye was geographically located near to his own factory, Pingkwan became for the first time involved in helping Chinese peasant workers obtain compensation. He said that unlike Hong Kong, there were no labor-related regulations in China at that time, and the amount of compensation for dead or injured workers merely relied on the conscience of the employer. Eventually, the employer only offered a small amount of compensation to the injured and the dead, ranging from 7,000 yuan to 25,000 yuan.⁴ Two years later, another fire broke out in Shenzhen at the Zhili factory. The fire, commonly known as the "Zhili fire," took the lives of eighty-seven workers and seriously injured forty-seven others. Both factories were established through Hong Kong capital.

Pingkwan reached the scene the day after the Zhili fire. He visited the hospitals in Shenzhen, met the victims, organized them, and fought for compensation. Feeling that the CIC needed a full-time worker to do liaison work for the victims of the Zhili fire, Pingkwan quit his original job and took up a full-time post at the CIC in 1994. Since the Zhili Toy Factory was a supplier of the well-known Italian brand “Chicco,” the Zhili fire turned out to be the first time that Hong Kong NGOs had worked with Western trade unions and consumer groups, and pressured “Chicco” to provide compensation for the victims (Chan 2013: 9; see also Tsui 2013). Pingkwan said that “Chicco” eventually yielded to the pressure and compensated the workers by an amount of 300 million lira (around US\$ 180,000) distributed to about 130 victims. However, in order not to acknowledge direct responsibility for the Zhili fire, “Chicco” simply called the compensation “humanitarian aid.”

The aftermath of the Zhili fire marked the invention and consolidation of different strategies on the part of Hong Kong-based NGOs to protect the rights of Chinese workers.⁵ Consequently, Hong Kong-based labor NGOs have been playing an active and vital role in supporting and strengthening the labor activism in China, by engaging in direct organizing, campaigning, and advocacy for the rights of migrant workers and regulating the violations of foreign investors, particularly those Asian, exporting capital from Hong Kong and Taiwan (Chung 2010). The CIC, in particular, changed its strategy from factory-based to community-based so that workers were contacted, educated, and organized outside the workplace. CIC workers would visit workers’ dormitories, or conduct simple body checks on the street in order to meet factory workers. Local centers were set up to raise the workers’ awareness of their legal rights in the workplace. It was due to this community-based strategy that occupationally sick workers were brought to the attention of the Hong Kong-based NGOs in the late 1990s. In 2005, the CIC was split into two NGOs: Worker Empowerment (WE) and Labor Action China (LAC). While WE emphasizes the educational approach to help equip workers with knowledge related to labor law and occupational safety, LAC adopts a case intervention approach to help occupationally sick workers pursue compensation. Since 2005, Pingkwan has been working under LAC, and specifically on intervening in protecting the rights of occupationally sick workers.

The spinning-off of LAC from CIC in 2005 was also prompted by the surge of pneumoconiosis cases among gemstone/jewelry workers in Guangdong province being diagnosed in 2004. With the help of a Chinese lawyer called Zhou Litai, Pingkwan obtained a list of around 350 workers who were suspected of suffering from pneumoconiosis. All these workers had been working in a factory called Lucky Gems & Jewelry Factory Ltd. (“Lucky Gems” hereafter) in Shenzhen. Zhou Litai was a well-known lawyer handling occupational injury cases in Guangdong province, but was relatively inexperienced in occupational disease cases. Zhou and his group of lawyers then decided to pass the cases on to Pingkwan. It was 2004 which marked the beginning of the intervention of Hong Kong-based NGOs in protecting the rights of Chinese occupationally sick workers. This also marked

the year when I began to focus my attention on the problem of occupational disease in China.

In fact, sizable occupational disease incidents identified in Guangdong province in 2004, e.g., the pneumoconiosis outbreak at Lucky Gems in Shenzhen, and the cadmium poisoning outbreaks at two battery factories in Huizhou and one battery factory in Shenzhen (cadmium poisoning will be discussed in Chapter Three) can be attributed to the legal developments pertinent to occupational health and safety (OHS) since the early 2000s. On October 27, 2001, the National People's Congress (NPC) passed the *Law of the Prevention and Treatments of Occupational Diseases*. This law together with the regulations which stipulate the detailed standardized procedures of diagnosing occupational disease and assessing its severity, *Management Regulations for Diagnosis and Assessment of Occupational Diseases* (issued by the Ministry of Health (MoH) on March 28, 2002), were both effective as of May 1, 2002. Two more regulatory documents were later approved to revise and specify the classification of occupational diseases and the calculation of compensation benefits. These two laws were *Work-Related Injury Insurance Regulations* (issued on April 27, 2003 by the State Council); and *Regulations on the Classification of Work-Related Injuries* (issued on September 23, 2003 by the Ministry of Labor and Social Security (MoLSS)). Both regulations were effective as of January 1, 2004.

The progress referred to above in the legal framework pertinent to the OHS system could be considered a belated one in China: there had been more than a decade of a legal vacuum for the employer to provide a safe environment for workers since the famous southern tour of Deng Xiaoping in 1992, which brought about rapid marketization of the Chinese economy. But in any event, by the beginning of 2004, the legal framework for occupational disease workers was in place for those affected to fight for compensation via the legal route.

A local factor which made 2004 a tipping point for occupational disease cases in Guangdong province was the outbreak of the epidemic of severe acute respiratory syndrome (SARS) in south China. Commonly called "atypical pneumonia," SARS was a viral respiratory disease of zoonotic origin caused by the SARS coronavirus. In a report to WHO on February 11, 2003, the MoH stated that the SARS virus was found in Guangdong province and had killed five and infected three hundred others (Lo 2013). On February 21, 2003, a Chinese doctor who had treated SARS patients in Guangdong booked into the Metropole Hotel in Hong Kong to attend a wedding. Suffering from respiratory failure, the doctor was admitted to a Hong Kong hospital the next day. The SARS virus then spread to other guests at the hotel and the local Hong Kong community (Voigt 2013). Infected guests, who did not know they had the virus, continued their journeys around the world, spreading the SARS virus and causing 8,096 infections and 774 deaths in thirty nations. In Hong Kong, a city of seven million, SARS infected 1,755 people and killed 299.⁶ Since one of the major symptoms of work-related pneumoconiosis and cadmium poisoning is infection of the respiratory system, which is similar to SARS, almost half the sick workers I met in the field admitted that they had had their first medical checkup during 2003, which was in one way

or another related to the disturbing news of SARS that they had heard about from Hong Kong.

All of the above provides the background against which Pingkwan obtained the list of hundreds of gemstone workers suspected of suffering from pneumococcosis in 2004. Starting from this point, he began his work of giving legal advice to sick workers and boosting solidarity among them.

In my own case, I first met Pingkwan in 1999 when both of us served as volunteers and executive committee members of another NGO concerning social security issues in Hong Kong. Moved by his stories about how the sick Chinese workers struggled for survival and compensation, I began to toy with the idea of conducting a study on occupational disease in China at the close of 2004. However, it remained merely an idea for some years. During that time, I was immersed in another “life-and-death” struggle myself – my PhD (1998–2005), which was followed by yet another painful struggle, that of obtaining a tenured academic position at my university (2006–12). In fact, with the promulgation of important laws and regulations in protecting the rights of occupationally sick workers, I thought at one point that my study on occupational disease might not be needed. I thought that the situation of the sick workers and their families would be improved with the better legal protection and growing civil society that was developing in China. However, very soon, as I embarked on to my fieldwork from 2010 onward, I realized that I was totally wrong and my optimism was merely grounded in naivety.

Black humor

My fieldwork involved about twenty visits ranging from days to weeks to different places in three provinces (Guangdong, Hunan, and Sichuan), and one special municipality (Chongqing) of China (Map 1). My fieldwork visits – both to rural and urban areas – were interspersed unevenly over five years (February 2010–November 2015). Mainly ethnographic in nature, my fieldwork was designed to explore the lived experience of occupationally sick workers in a context where the legal framework which is supposed to protect their rights has been operating for over a decade. Before proceeding to the chapters which contain the stories of these sick workers, I would like to preface this book by saying something about these sick workers, and at the same time, allowing readers an earlier glimpse into certain key features of their post-illness lives. It was not an easy task, however, as the subject matter I deal with is by nature distressing. In revisiting my field notes and re-listening to the audio records, I found it still possible to share with readers three fieldwork anecdotes that will have bearing on the theoretical discussions of this book.

On June 8, 2011, I remember that it was a hot day in Huizhou. I was surrounded by five former battery-factory women workers diagnosed as having excessive cadmium. We were virtually crammed in a room which was a residence of one of the sick workers. One by one, the tearful women shared with me their stories of physical suffering and struggles for compensation. In the process, I was

deeply moved, and on the verge of shedding tears myself. Then one informant said that years of suffering and struggles had resulted in successfully pressing the court to rule in favor of the workers in 2007. Based on the court's adjudication, the employer was required to give each worker with excessive cadmium no less than 300 yuan per month in order to strengthen the worker's health. But in reality, the employer only offered calcium tablets and milk powder every month, which were said to be worth 300 yuan. However, the sick workers quickly found that the calcium tablets were of low quality and simply unpalatable. But the worst was yet to come. More than a year of drinking the milk from the milk powder gave them kidney stones. This milk powder was associated with the melamine scandal of September 2008. At that time, several famous national brands of milk powder produced by the Sanlu Group, one of the world's biggest dairy producers, were accused of using dairy products contaminated with melamine – a toxic substance which increases the level of protein only during laboratory testing but itself carries no nutrient value. The WHO had already warned consumers that melamine easily forms crystals in the human body that could give rise to kidney stones.⁷ The melamine scandal directly caused the death of six children, the Sanlu Group was forced into bankruptcy, and the court sentenced two men to be executed and nineteen others to long jail terms. Over 300,000 children in China were made ill from milk powder contaminated with melamine.⁸

So I realized that after years of struggle the women who had excessive cadmium levels after suffering from body pain, severe body discomfort, miscarriage, social discrimination, and various forms of suppression had ended up with nothing but more symptoms: pain on urinating and urinary incontinence.

The next anecdote I want to share also involved the case of cadmium poisoning. On August 28, 2012, I met Fengping (born 1963) in Hong Kong. Diagnosed as suffering from excessive cadmium levels, Fengping was well-known among Hong Kong-based NGOs as she had come to Hong Kong several times to protest against her former Hong Kong employer. Fengping had been working in a battery factory in Huizhou for sixteen years before being fired at the close of 2009. When I met her, she came to Hong Kong both to attend a conference organized by a Hong Kong-based NGO and for a body checkup.

Fengping told me yet another angle of the story. Unlike all other workers suffering from cadmium poisoning and excessive cadmium levels I had met, Fengping was an engineer rather than a frontline worker at the battery factory. She told me that she did not pay much attention to the workers' struggles at the outbreak of the cadmium poisoning episode in 2004 as she thought that the disease would never affect her. Two years later, she was totally shocked when doctors told her that she was suffering from chronic kidney failure (renal atrophy). Fengping believed that her kidney failure was caused by the exposure to cadmium in her working environment. She then told me how she was fired by the factory, and how her financial situation had been deteriorating since she had fallen ill. Showing sympathy on account of her poor health, I asked her what medication she had been taking. To my surprise, she said that she had not taken any specialized medication for years; she said, "I feel very pleased not to have taken the medicine

prescribed by the doctors.” Bewildered by what she said, I asked her the reasons behind this. She then could not contain her delight in telling me that if she had taken the medicine all these years she would have died from cancer caused by the drug whose capsules were tainted with chromium – a carcinogenic substance – in the poison capsule scandal of April 2012. The scandal resulted in the shutting down of eighty illegal production lines in Zhejiang, Hebei, and Jiangxi provinces, detaining forty-five people, arresting nine, and seizing more than seventy-seven million capsules tainted with chromium (Reuters 2012).

Apart from the fact that the medication would have caused more health problems instead of solving them, Fengping also told me that her finances would have been even worse if she had listened to the doctors’ advice; she said, “The employer refused to offer any compensation, and the medication was very expensive. You know, should I have taken the medicine, my financial situation would have been a lot worse than now.” I still remember how “funny” that scene appeared. All along, for more than one hour of the interview, Fengping looked depressed, but when she spoke of her “smartness” in not taking the medicine, she smiled and her eyes sparkled.

The final fieldwork anecdote I would like to detail came from a home visit I paid to Juhong, a sick worker suffering from final-stage pneumoconiosis in rural Hunan. On July 5, 2011, I – accompanied by my fieldwork assistant Mengguo – walked through many mountainous paths and arrived at the dilapidated cottage where Juhong and his family lived. Mengguo was excited about the visit as both of them had worked as gemstone workers at Lucky Gems. However, it had been more than seven years since they had last seen each other. When we met, Juhong had been bedridden for four months. His life depended on the use of oxygen tanks twenty-four hours a day and talking was difficult for him due to his breathing difficulties, so the forty minute interview could not have been completed without the help of his wife. After the interview, I talked to his children, and two neighbors who were curious about the new faces in the village. Thinking of talking to another sick worker living in the same village, I uttered some encouraging words to Juhong and his wife. I took out two one-hundred banknotes and put them into the palm of Juhong’s wife’s hand. And then, supposedly, we were to leave. At that moment, I just got completely stuck and could not find the right words to say to end the visit. I found that to say “goodbye” (*zaijian*, 再見), or “take care” (*baozhong*, 保重) meant that “we would see each other again,” or that Juhong “would get well soon.” But everyone in the cottage at that time clearly knew that this was not going to happen. Years of illness had already cost Juhong all his household savings, including the small amount of compensation he received from his employer. The family was in serious debt. The social security system in the rural area only offered him a minimum livelihood protection (MLP, *dibao* 低保) of 80 yuan per month, which was only equivalent to the cost of oxygen tanks that were enough to support his life for four days. When we met Juhong, his illness had reached the terminal stage and, apparently, every heavy breath was a countdown signaling the remainder of his days. So, I just kept asking myself: “What is the most appropriate way to finish off such an interview?” I could not find the right words out of my more

than a decade's long fieldwork experience in China. My hesitancy led to a couple of minutes of silence. Sensing the awkwardness, Mengguo broke the impasse by saying: "Well, we have to leave now." Patting Juhong's shoulder, Mengguo said to him loudly: "Just let everything go naturally (*yiqie dou shenqi ziran le*, 一切都顺其自然啦)!" Taking this as a cue to leave, I made my exit.

I had mixed feelings as I left their home. On the one hand, I felt it was strange that Mengguo's final words were "Let everything go naturally." This might mean that things would go as they would be meant to go, but, in that particular context, it was understood as a euphemism for saying: "My dear friend, whatever happens, including death, take it easy." I felt huge sadness for Juhong, his wife, and children for obvious reasons that I think I do not need to elaborate here.

The above episodes might be able to prompt the question: *why the passing of laws to protect the rights of occupationally sick workers since the early 2000s has been seemingly unable to help the socially marginalized obtain a better quality of life?* As we have just seen, wider problems in society, such as the problematic quality of food and medicine, and the lack of social protection in rural areas would simply add further difficulties to existing problems.

Can the law help?

Bearing this in mind, I asked the above question of Wang Keqin in Beijing on March 19, 2015. Wang Keqin was the founder of a Chinese NGO "Love Saves Pneumoconiosis" (LSP, 大愛清塵). Set up in 2010, LSP is by far the biggest and most influential NGO in China concerning pneumoconiosis-stricken peasant workers. LSP has helped thousands of sick workers in terms of subsidizing their medical treatment and offering bursaries for their children's education. Wang Keqin said that LSP currently had over 6,000 volunteers all over the country.

Wang Keqin pinpointed three conditions that sick workers must fulfill before they could seek confirmation that they had an occupational disease. The first prerequisite was that the sick worker must have signed a labor contract with the employer. Second, the sick worker must present evidence which indicated that he or she had been working in a high-dust or highly polluted environment. Third, the employer must apply for occupational disease confirmation procedures on behalf of the sick worker. However, Wang Keqin said that less than five percent of the peasant workers had signed a labor contract with their employer, based on a report conducted by the Chinese Social Academy of Social Sciences in 2008. To the best of his knowledge, he had not heard of even one employer taking the lead in initiating occupational disease confirmation procedures. He described these prerequisites as moronic as it would be unlikely that any employer would be proactive in confirming the harm he or she brought about to the worker. Consequently, cases where the sick worker had finally won a lawsuit or reached a settlement with the employer with a compensation equivalent to what was stipulated by law, according to Wang Keqin, were only "less than five percent."

The next day, I met Huang Leping, who is the Director of Beijing Yilian Legal Aid and Study Center of Labor ("Yilian" hereafter). Huang Leping is a

well-known human rights lawyer in China. He established Beijing Yilian in 2007 to provide legal aid to occupationally injured and sick workers experiencing financial hardship. Huang Leping said that Yilian was an NGO which had the mission to advance labor rights in China by improving the legal framework. I then asked him the very same question I asked Wang Keqin and shared with him Wang's answer. In response, Huang Leping showed no surprise at Wang Keqin's suggestion of "less than five percent." Huang Leping pointed out that the key problem of the existing OHS system was the non-existence of a centrally financed fund at the provincial level that was dedicated to helping occupationally injured or sick workers before they obtained compensation from the enterprise. Without such a fund, it was the responsibility of the worker to negotiate with the employer and go around various state departments in order to prove his or her illness. Each encounter with an institution would mean that the sick worker faced an institutional hurdle, and it would mean one more layer of difficulty in obtaining the legally stipulated compensation.

During the interview, Huang Leping revealed to me that the establishment of the provincial fund for occupationally injured and sick was "almost approved" (*chayidian jiu tongguo*, 差一點就通過) by the Standing Committee members of the NPC in December 2011 when they discussed the revisions of the *Law of the Prevention and Treatments of Occupational Diseases*. Huang Leping was one of the legal experts who helped formulate the proposal, and observed the whole process at the NPC meeting. Since the proposal fund was supposedly financed by the central government without affecting the budgets of provincial-level governments, many members who represented different provinces did not show disagreement of the proposal. A few members, including the former vice-chairman of the National Federation of Trade Unions, even spoke in support of setting up the provincial fund. However, the approval of the proposal would have big financial implications for the Ministry of Finance. Huang believed that this was the main reason that the member representing the Ministry of Human Resources and Social Security – the key policy stakeholder in formulating laws and regulations protecting workers' rights – had remained silent about the proposal. The representative of the Ministry of Civil Affairs then suggested that civil affairs departments at the provincial level could offer financial support to the sick workers if their labor relationship with the employer could not be confirmed. This alternative proposal was then passed, which contributed to Article 62 of the *Law of the Prevention and Treatments of Occupational Diseases* (revised in 2011) which states that "Where the employer of an occupational disease patient no longer exists or the employment relationship of an occupational disease cannot be confirmed, the patient may apply to the civil affairs department of the local people's government for medical assistance, subsistence support, and so on."

Huang Leping was disappointed about the decision as he knew that the provincial-level civil affairs departments would not have adequate funding to support the medical needs of occupationally sick workers. He was pessimistic that his proposal would be reconsidered in the future, as he said: "The political environment has changed. At the time our proposal was considered, Wen Jiabao was

the Premier. Wen Jiabao really wanted to do something to help marginal groups in society. But, now, it is completely different.”

Back in Hong Kong, I posed the question to Pingkwan, and shared with him the views of Wang Keqin and Huang Leping. Pingkwan had been working with gemstone and jewelry factory workers in Guangdong province where the contract system was more formal than in small private enterprises in the inland rural area. Thus, most of the sick workers that were seen by Pingkwan had signed a labor contract with the employer. However, Pingkwan said that the dispute with the employer over the occupational disease diagnosis usually dragged the victims into a marathon of bureaucratic and legal procedures which might last for years. When I asked for his opinion on the “less than five percent” claim, he agreed with it. He said: “Just take the list of the 350-odd gemstone workers I obtained in 2004 as an example, only [...] five workers did follow the whole of the legal procedures and obtain law-stipulated compensations at the end. [...] So, they are right, the ‘success rate’ was less than five percent.”

Knowing that different NGO experts in the field unanimously agreed that only “less than five percent” of sick workers are protected under the current legal framework, I am, however, not satisfied with the way these experts seem to imply the rights of the sick workers would be protected if the labor contract as a prerequisite were removed, a centrally financed provincial fund were set up, or if the regulatory procedures were simplified. However, I believe that from the lived experience of the sick workers, from a bottom-up perspective, there are other reasons that explain the ineffectiveness of the current legal framework. Bearing this doubt in mind, I thus formulate the first objective of this book as follows: *Why do the passing of laws and improvements in law seem unable to bring about adequate protection for the rights of occupationally sick workers? Based on the lived experience of these workers, what extra light can I shed on understanding the reasons apart from those provided by different NGO experts?*

Responses to marginality

What can occupationally sick workers do if few receive legally stipulated compensation? One should note that occupationally sick workers are usually poorly educated and come from poverty-stricken peasant families. In my fieldwork, I did meet a small number of sick workers whose disease was less severe and whose education level relatively higher. These workers could change occupation through smart use of their compensation. They set up lucrative businesses or found other jobs, such as sales assistants and security guards, which were less physically demanding than working in factories. A few even became staff of NGOs who helped other sick workers fight for compensation. But, for the vast majority, it was impossible for them to “return” to normalcy, not only in terms of physical health but also economically, socially, or culturally.

For example, big factories in the coastal area now require all newly recruited workers to pass a health check which helps the employer to screen out those already suffering from occupational disease. Sick workers were able to circumvent

the medical screening by working in small factories with less rigorous recruiting procedures; however, their health conditions usually hindered them from performing well and doing overtime. For the pneumoconiosis-stricken coal miners in the inland regions, their disease even prevented them from playing their gender roles as “men.” For example, they could no longer, or at least, not as much as before, work in the coal mines, which offered a stable and substantial income to their families. At home, many men could no longer shoulder physically demanding agricultural tasks as they could before. In short, occupational disease inevitably marginalizes sick workers, and their efforts to resume their pre-illness levels of economic, social, and cultural competency are usually in vain. So, what could they do?

Existing scholarly and non-scholarly discussions on the way occupationally sick Chinese workers deal with their social marginalization usually portray relatively exclusive and extreme illustrations of the actors’ responses. Either they emphasize the agentive nature of the workers who tend to enact collective actions and rightful resistance of “no choice but to fight” (Leung and Pun 2009; GM 2009); or they lay stress only on the institutional hurdles faced by victims who feel helpless on “the hard road” to fight (CLB 2005, 2010, 2013). Based on single-disease, single-location studies these discussions bar observers from gaining a panoramic view of the spectrum of heterogeneous responses towards marginality, ranging from being bedridden and critically ill, to passive retreat from society, to petition to higher administrative levels, to legal action, and to rightful resistance. The present book, however, covers the two most common occupational diseases in China – pneumoconiosis and heavy-metal poisoning, which led me to contact four types of workers – battery-factory workers (female), lapidary-factory workers (male), Japanese-mat workers (male and female), and coal miners (male) – as well as some of their family members, relevant NGO workers, healthcare workers, legal professionals, and volunteers in three provinces (Guangdong, Hunan, and Sichuan) and two special municipalities (Chongqing and Beijing), as well as Hong Kong. My fieldwork also covered sites both in the urban and rural areas. This book thus is able to provide – from a bottom-up perspective – a spectrum of responses to marginality and how these responses have been associated with underlying social, economic, and cultural factors. It is against this background that the second question of this book is formulated: *What are the responses enacted by different groups of occupationally sick workers? What are the factors leading to these heterogeneous responses and under what circumstances? Which response to marginality is considered by each sick worker group as the preferred, and most desired, and why?*

The actor–power interface

By identifying different responses to marginality, this book does not stop at the descriptive level to merely concentrate on examining the conscious, practical-evaluative, and projective (re-)actions in response to social marginalization. Rather, this book is committed to go beyond the conscious, discursive level of analysis; it explores the fabric of the taken-for-granted, unspoken assumptions

of the everyday life which shapes the attitudes and the structures of preference of individuals. However, one should be reminded in the context of contemporary China that any response to marginalization on the part of sick workers due to the inadequacy of legal protection will immediately place them as objects and targets of the established authorities, and more especially, of the power of the state.

Since the communist party gained supreme power over China in 1949, different generations of leaders have refused to follow a tripartite separation of power considering legislative, juridical, and administrative authorities as independently distinct power entities countervailing each other. For example, Mao Zedong emphasized that China was led by the working class – under the leadership of the Communist Party – in the form of a people’s democratic dictatorship based on the worker–peasant alliance (Mao 1986: 687). To Deng Xiaoping, China’s socialist democracy was never guided by the tripartition of powers as in democratic Western countries (1987). Both Jiang Zemin and Hu Jintao stated explicitly that China should stick to its socialist democracy, and to imitate the political system of Western countries was not beneficial to maintaining national governance, ethnic solidarity, and social stability (Jiang 1997; Hu 2004). Xi Jinping, the current leader, even suggested a “collaboration of the three powers” (*sanquan xiezu*, 三權協作) such that “legislative, juridical, and administrative authorities should support each other” (*Apple Daily* 2013).

With such a strong and consistent political ideology to place the legislature under single party rule, it is logical that all the laws in communist China are formulated, implemented, and understood explicitly or implicitly by all stakeholders as having the ultimate goal of keeping state power unchallenged. In contemporary China, one should note that only a small proportion of judges receive formal legal training, and half do not even have a university degree. Wu (2013) makes this point succinctly:

China has a lot of judges – most estimates say about 200,000, or roughly twice the number of lawyers. Until recently, relatively few Chinese judges had significant legal training: reports in mid-2005 stated that, for the first time more than fifty percent of judges were university graduates. A decade earlier the figure was just 12 percent. In the past, many judges were retired military officials or government cadres. (2013: 517)

The 2015 Zhou Yongkang corruption scandal marks further how far the legislature is enmeshed with state power in China. Zhou Yongkang was one of the most powerful figures in the country, one of the nine Standing Committee members of the Politburo while Hu Jintao (2002–12) was leader. In charge of the country’s legislation, litigation, and public security, Zhou was arrested in December 2014. He was convicted on a number of corruption charges, including bribery, abuse of power, and revealing state secrets. In June 2015, he was sentenced to life in prison. Official reports indicated that Zhou accepted 731,000 yuan in bribes while his family members received bribes valued at 129 million yuan (Forsythe 2015). However, experienced China observers unanimously believe these official figures

for the bribery were seriously underestimated. Various sources suggest that the assets seized from Zhou's family members and associates were worth at least 90 billion yuan (approx. US\$14.5 billion or £8.7 billion) (*The Telegraph* 2014; Wu 2015; Sieren 2015). All the above factors encourage a legal environment that favors powerful bureaucrats and wealthy businessmen who are able to use power and money to determine adjudication outcomes.

Under these circumstances, one should be able to understand that when an individual expresses dissatisfaction towards the enforcement of a particular law, or a particular court judgment, he or she will be seen in one way or another as politically unfriendly to the power of the state. In the case of occupationally sick workers, since the current system is likely to produce aggrieved sick workers who feel that the legal system is not able to protect them, they are prone to respond to the system by expressing dissatisfaction. Once this happens, the sick workers are likely to be placed in a position vis-à-vis the existing power structure in their post-illness lives. Therefore, while the present book covers a wide range of issues related to occupational disease in China, it possesses a specific empirical focus on the lived experiences of occupationally sick workers at the *actor-power interface*. Thus, by observing the reasoning and calculations behind how the sick workers enact a wide spectrum of responses to marginality in contexts where the anti-government sentiment is routinely suppressed, this book endeavors to examine how the exercise of power over the workers features a particular governmental rationality and how it reflects their everyday experience of marginality. This leads to the third and final question which this book poses: *How does the empirically rich, experience-near account of the responses to marginality at the actor-power interface reflect the current mode of governance in China? How does this mode of governance impact on the future of the marginalized situation of the sick workers?*

My approach

As the objectives of this book suggest, my approach to explore the post-illness experiences of occupationally sick workers will go beyond the boundaries of conventional labor studies which lay stress on OHS policies, industrial regulations, workplace measures, and the institutional hurdles faced by sick workers in pursuing compensation. More precisely, this book's perspective is to consider these occupational sick workers as a form of estranged life located within a specific context of power relations. In the literature, studies of occupational disease and its connection with distributions of power have been mainly examined from three approaches.

A *historical* approach to occupational disease, which is usually supplemented by ethnographic methods, emphasizes the emergence and growth of particular occupational diseases, including black lung disease, silicosis, asbestosis, and lead, radium, and beryllium poisoning, as a consequence of a historical process (Dembe 1996: 4). This approach's central concerns are how specific economic, political, and social factors at particular times exerted critical effects on the scientific and medical understanding of occupational disease. In *Deadly Dust* by David

Rosner and Gerald Markowitz (2006), the authors argue that occupational disease is a “condition of modern industrial society” (2006: 11), and the history of silicosis reflects the “dramatic growth and decline of America’s industrial might” (2006: 230). The perception of the nature of silicosis, and its responsibility as a cause of industrial disease thus have been changing across time. In *Miners’ Lung*, Arthur McIvor and Ronald Johnston (2007) explore the experience of coal miners’ lung diseases and the attempts at voluntary and legal control of dusty conditions in British mining from the late nineteenth century to the present. The workers’ oral testimonies help elucidate a characteristic “machismo” work culture and socialization inherent in their work, and explain why their ideas about the disease have changed over time.

A *contestability* approach is premised on the fact that, unlike other diseases, occupational disease in modern society brings with it a liability problem, that is, “who is responsible?” Therefore, the “underlying cause” of an occupational disease is usually controversial and becomes an issue of contestation among different stakeholders (Morello-Frosch et al. 2012: 7). Steve Fox’s book *Toxic Work* (1991) published in the early 1990s unveiled the contestability of a case of occupational poisoning outbreak which had afflicted 250 high-tech workers (mostly Hispanic women). The book captured six years of legal and medical investigation into the post-illness lives of these workers, and revealed how the testimonies of expert medical witnesses for both sides could shape the plaintiffs’ stories in particular ways.

The issue of contestability in occupational disease has been closely connected with a series of institutional changes in OHS policies during the 1970s in the United States, including the establishment of the American Industrial Health Council, an advocacy group created by several major chemical companies in 1977 (Patterson 1987; Jasanoff 1990; Proctor 1995). Officially, this council’s aim was to study occupational exposure and draw up a list of proposals for the Occupational Safety and Health Administration (OSHA) in the United States, and to improve federal policy on the identification and regulation of carcinogens (Boudia 2014: 103). In developed countries, the contestability of occupational disease has developed from a sectoral debate in the workplace, to specific controversies in domestic and global contexts “related to medical and environmental health science, the politics of public health prevention, and regulatory decision making” (Morello-Frosch et al., 2012: 7).

The final approach to occupational disease, also the least researched one, is the *medical anthropological* approach. Focusing heavily on the lived experiences of the sick, medical anthropology underscores an emic (insider) perspective of understanding disease that recognizes how cultural beliefs define sickness, health, and recovery (Kleinman 1980). Emerging as a sub-discipline of medical anthropology, *critical medical anthropology* focuses on how social, political, and economic factors are interwoven into the cultural fabric of understanding of health and illness (Singer and Baer 1995; Sargent and Johnson 1996). Previous queries along this line included the analysis of the “body politic,” which features how power is exercised through embodiment and corporeality in specific contexts (Scheper-Hughes

1994), and the extended meaning of the concept of “having a disability” from an individual, physical fact, to understanding it at the social and political levels (Oliver 2009). Quintessential to this approach is King and King’s (2011) study of male workers in Northeast Thailand who had experienced a severe spinal cord injury at a time when they were both breadwinners of their family and active participants of a modernizing state. The study illustrates the complex ways the informants make sense of their illness when different social and cultural factors interact with the opportunities, challenges, and constraints of a country’s transition to modernity.

With less emphasis on an historical approach, my approach in this book is led essentially by contestability and critical medical anthropological approaches, in such a way that the lived experiences of sick workers are placed under a particular domination–subordination analytical conceptual focus. Rather than considering power exercised on the sick workers as a form of governance emanating from a center, this book adopts a bottom-up perspective in understanding the sick workers’ experience of power, and how their responses to established authorities may improvise or maintain the existing power relation from the bottom up. As will be argued in detail in subsequent chapters, the bottom-up approach to understanding the experience of power has been informed and inspired by a relatively new strain in anthropology known as anthropological studies of governmentality. This corpus of studies lays emphasis on the politics which is involved in the formation of individuals’ “desires, aspirations, interests and beliefs” in accordance with a governmental rationality (Dean 1999: 11); hence, the formulation of programs and interventions which are supposedly humanitarian and therapeutic in nature to improve the quality of the population. Seemingly precarious, these programs and interventions have significantly informed governance, and the ways of living that people adopt vis-à-vis ailing public institutions have been based on previous anthropology studies of governmentality (e.g., Abélès 2009; Anand 2011; Biehl 2007; Biehl and Locke 2010; Fassin and Pandolfi 2010; Feldman and Ticktin 2010; McKay 2012; Nguyen 2010). Attention to the soft power that shapes attitudes and structures of preference has presented new ethnographic quandaries which, as pointed out by Biehl and McKay (2012: 1211), engage us to “think through the ambiguous political subjectivities that crystallize amidst the blurring of distinctions between populations, market segments, target audiences, and collective objects of intervention or disregard.” The emphasis on the bottom-up perspective of this book has further been reflected in my first proposed title of this book. *Sick Life Governed* – rather than *Governing Sick Life* – confers a focus that scrutinizes the art of government from the perspective of the sick workers rather than that of the powerholders.

Plan of this book

This book is composed of seven chapters. Entitled “Facts, theoretical gaze, and journeys,” Chapter One begins with the story of Zhang Haichao (1980–), who is indisputably the most well-known occupationally sick worker in China. His drastic move to undergo a thoracotomy to prove his occupational illness in 2009

constituted a painful accusation against the loopholes of the existing OHS system in protecting the rights of occupationally sick workers. Next, certain key fundamental facts about occupational disease in China will be introduced, including official statistics, the problem of underreporting, the features of the major occupational diseases, and the current legal and regulatory frameworks of the OHS system. How these frameworks have developed over the past decade will also be highlighted. The theoretical framework which guides my analysis of the lived experiences of occupationally sick workers in subsequent chapters will be detailed under five concept-discussion sections. Finally, my fieldwork journeys, my methodology as well as the sampling bias that my fieldwork has incurred will be outlined.

Chapter Two is called “Sick workers as *homines sacri*.” This chapter argues that the social estrangement of Chinese sick workers can be understood as an instantiation of Agamben’s notion of *homo sacer* – the ultimate biopolitical subject whose life is located outside “normal” political, economic, and cultural practices. The major argument is that sick Chinese workers as *homines sacri* exist in a “zone of indistinction” in which they are constantly and disturbingly caught in between the public and private, the productive and unproductive, and the culturally normative and culturally deviant. One consequence is that the problem of occupational disease is rendered largely silent and unintelligible in the public realm insofar as the specific set of social regulations and power relations have created such a “double ambivalence” among the sick workers. The chapter further suggests that such experience of “double ambivalence” on the part of the sick workers is closely connected with the common use of “stability maintenance” measures on the part of the state to suppress the resistance of aggrieved sick workers by illegal and violent means.

Chapter Three – “Cadmium-poisoned women: contesting for sick role status” – marks the first of three consecutive chapters focusing on the content-rich stories solicited from occupationally sick workers. The chapter will begin with a description of the outbreak of occupational poisoning in 2004 in two battery factories in Huizhou which led to hundreds of female workers becoming afflicted with excessive cadmium levels, or cadmium poisoning. Illustrated here are the sick workers’ experiences of social estrangement which was mainly due to a lack of understanding from their significant others, and also their experience of violence in the process of the uphill struggle for compensation. Owing to the contested nature of cadmium poisoning, the workers’ stories shed light not only on the contemporary state power that emphasizes the silencing of victims rather than adherence to the rule of law but also on the workers’ desire to be granted the sick role status so as to be protected by the legal system which has failed to protect the rights of many.

Chapter Four is entitled “Pneumoconiosis-afflicted workers: toward rightful resistance.” Suffering from workplace-induced pneumoconiosis, the sick workers concerned were mainly originally peasants, and later employed as factory workers at gemstone or jewelry or Japanese-mat factories in the wealthy coastal regions. By unraveling different trajectories in their post-illness lives this

chapter explores their experiences of social marginalization. It reveals that only a small proportion of victims managed to re-adapt to society; only a handful were able to transcend their marginality and became activists protecting the rights of other sick workers. Most of the time, the impact of the disease on the body and the family household was so severe that the affected individual needed to struggle against a sense of social estrangement, if not helplessness, in everyday life. However, in comparison with workers suffering from excessive cadmium level or cadmium-poisoning, or coal miners who are afflicted with pneumoconiosis in inland regions, sick workers in the lapidary industry in the coastal regions have been fortunate. Relatively more of them have been successful in pursuing compensation via the legal route. But, none of those whom I talked to during my fieldwork could obtain legally stipulated compensation without enacting certain forms of rightful resistance.

Chapter Five – “Coal miners: the compromising citizenry” – focuses on dozens of inland provincial peasant workers who worked as coal miners in small privately owned mines and subsequently developed pneumoconiosis. Their stories prompt me to take a brief detour to a corpus of studies known as “rightful resistance” which emphasize peasants’ use of existing legal and political resources to right the wrongs done to them and the law as a narrative frame to assert their claims in protests. Next, the chapter shows that the image of a “restive citizenry” by which peasants – as rightful resisters – struggle valiantly to defend their own rights has been increasingly questioned by scholars who find either that the wronged peasants do not get angrier or that their rightful resistance is eventually muted. The stories solicited from the sick peasant coal miners showed an unwillingness to pursue their rights through the courts or enact rightful resistance if the courts or other formal institutions fell short in delivering the promised rights. In examining how sufferers consider what is the “best way” to obtain compensation, the chapter sheds light on one response pattern observed at the actor–power interface, which is what I shall call the “compromising citizenry” response pattern through which the sick workers recognize the legal and formal procedures as somehow legitimate, but at the same time consider bribing state officials as a prerequisite to protecting their legal rights.

Summarizing what has been observed in the previous three chapters, Chapter Six pioneers the idea of law as a technique of governmentality operating to marginalize millions of Chinese sick workers through shaping their attitudes and structure of preference. Based on the empirical findings identified, I argue that while the occupationally sick workers genuinely do not trust the law and bureaucracies to protect their rights, they understand that being subject to legal protection is the only hope that their demands can be heard. Thus, they need to engage in myriad struggles, ranging from quarrels with officials, to protests against state authorities, to petitions to higher authorities (*shangfang*, 上訪), to appeals to the media, to the bribing of judges, officials and/or professionals, and even to obtaining faked diagnoses indicating more severe illness. The three major types of preferred ways of seeking compensation solicited from different groups of occupationally sick workers, namely, the craving for sick role status, rightful resistance,

and compromising citizenry, can be considered as struggles for obtaining “legality.” These accounts of struggle reflect not only how the sick workers make sense of the existing legal system but also how law as a governmentality technique is used to shape the victims’ desires, aspirations, interests, and beliefs, through which they are governed and also govern themselves. The chapter concludes that the government mechanism and victims’ quotidian experience are inextricably interconnected and have been contributing more to proliferate than oppose constituted power.

The concluding chapter, Chapter Seven, begins with a schematic summary of how far the three objectives outlined above have been addressed. Entitled “The future of Chinese marginality,” the chapter points to my observations that the sick workers’ struggles in everyday life have been operating in a way that effectively entails the existing governmentality and masked social contradictions. This is to argue that to frame law as a governmentality technique provides a useful means in which to understand the operation of contemporary Chinese state power, in particular the ways in which modern biopolitical power is enmeshed with and embedded in traditional power models based on sovereignty. In this way, it is possible to give consideration to important questions that underlie the domination–subordination analyses in contemporary China which have not been given sufficient attention: What are the characteristics of governance of the self which constitute the basis of governmentality in contemporary China? What is the significance of acting at a distance in relation to governmentality and to the fabric of everyday life? What roles does personal reflexivity play in maintaining governmental mentality, hence reproducing existing power relations?

Notes

- 1 By the terms of the Nanking Treaty signed in 1842 between the Chinese Qing rulers (1644–1912) and the British governments, Hong Kong Island was ceded to Britain after the First Opium War (1839–42). After the Second Opium War (1856–60), the Qing government signed the Treaty of Peking in 1860, and the Kowloon Peninsula was ceded to Britain. In 1898, the British government leased the New Territories for ninety-nine years based on the Convention for the Extension of Hong Kong Territory. According to the Sino-British Declaration signed in 1984, both the Chinese communist and British governments agreed that the Chinese government would resume sovereignty over Hong Kong, including Hong Kong Island, Kowloon Peninsula, and the New Territories, from July 1, 1997 onward.
- 2 In 2012, I collaborated with two colleagues and conducted a comprehensive study on national identity among secondary students in Hong Kong. The study was commissioned by the Central Policy Unit of the Hong Kong Special Administrative Region Government. Based on a sample of 1,445 students, 75.1 percent self-identified as having both a Hongkonger and a Chinese identity. Such a normative pattern of dual identities applied to Hong Kong-born (72.6 percent) and especially China-born respondents (Ng et al. 2012).
- 3 Interview with Choi Yukyuk, March 7, 2012, Hong Kong.

- 4 At today's rates (December 15, 2015), one British pound is equivalent to 9.79 yuan, and one US dollar to 6.45 yuan. The value of the yuan, or renminbi, against these two major currencies was about twenty percent lower twenty-four years ago.
- 5 For example, a factory-based strategy was developed to educate workers about occupational health and safety (OHS) issues and their legal rights. Another strategy was called the "name and shame" strategy and emphasized campaigns aimed at consumers. Since many international brands outsourced their production to Chinese factories, Hong Kong-based NGOs first conducted extensive investigations into the loopholes of OHS precautionary measures in different types of factories, such as toy, shoe, and textile factories, and disseminated the information to consumers through protests, publishing reports, public media, and collaborations with international consumer movements.

The "name and shame" strategy was effective as new NGOs were subsequently established in response to the need of international brands to have a partner to conduct the "social audit" or workers' training so that they could meet the corporate social responsibility expectation of consumers. These NGOs include The Chinese Working Women's Network, Dagongzhe Centre, China Labor Support Network, and Labor Education and Service Network. These NGOs also set up their own centers in China aiming to provide a place for workers to gain awareness of their rights.
- 6 A summary of probable SARS cases in different places with onset of illness from November 1, 2002 to July 31, 2003 can be found on the WHO website: www.who.int/csr/sars/country/table2004_04_21/en/.
- 7 See the WHO website: "Questions and answers on melamine," www.who.int/csr/media/faq/QAmelamine/en/; last visited on March 17, 2016.
- 8 In January 2009, the Chinese government revealed that a total of 296,000 children had fallen ill from consuming milk products tainted with melamine (BBC 2010). Western media generally believe that the actual number of children affected was over 300,000. Eventually, the government ordered twenty-two dairy firms which were implicated in the melamine scandal to compensate hundreds of thousands of families to the tune of 1.1 billion yuan (BBC 2009). However, more than two hundred families petitioned the Supreme Court demanding higher levels of compensation.