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Backgrounder

Labour Law, Trade Unions, and Workers' Actions in China Today

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BACKGROUNDER – Labour Law, Trade Unions, and Workers’ Actions in China Today

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In the foreword of the most recently published **Annual Survey of Violations of Trade Union Rights** of the International Trade Union Confederation (ITUC), it is noted that the year 2009 marked the sixtieth anniversary of the International Labour Organisation Convention on the Right to Organise and Collective Bargaining. (ITUC: 2010) Like Canada, India, Iran, the Republic of Korea, Mexico, Thailand, the United States, and Vietnam – China has not signed the Convention.

Background

The “Trade Union Law” was adopted in China in 1950. Through this legislation, workers may only be represented by the All China Federation of Trade Unions (ACFTU). In other words, workers are not free to form or join trade unions not falling under the umbrella of the ACFTU. The Trade Union Law also permits ACFTU officials to form a local union in an enterprise without entering the workplace or making contact with workers of the enterprise. Similarly, the Law allows the ACFTU to exercise financial control over all its constituent unions. In 1982, the right to strike was removed from the Trade Union Law. Rather than the term “bagong”, or strike, the revised Trade Union Law refers to “tinggong”, or “work stoppages”, and “daigong”, or “go-slows.” (ITUC: 2011)

Given the intense pace of production and export of goods from China – particularly in the southeastern province of Guangdong – as well as low wage levels and poor working conditions, workers are organizing themselves and conducting work stoppages. The outcome of these job actions can be significant. For example, a work stoppage at the Honda factory in the Nanhai district of Guangdong, in June-July 2010, resulted in a 70 per cent wage increase. The increase was about double the amount of increase offered by management at the beginning of the two month work stoppage. (Chen: 2011)

Work stoppages are occurring both with and without the participation of the ACFTU. According to Chen Weiguang, Chairman of the Guangzhou Federation of Trade Unions and Vice Chairman of the People’s Congress of the city of Guangzhou, cadres of the ACFTU are being educated to represent workers rather than “play the middleman” between workers and employers. (Chen: 2011)

Following a work stoppage at the Honda factory in Nanhai, a wave of work stoppages occurred in 2010 involving tens of thousands of workers. (Chen: 2011) In the city of Guangzhou, a major centre of auto component production, workers in more than 60 factories conducted work stoppages.¹ In the public sector, 700 teachers demonstrated in March 2010 in Yunfu city of Guangdong. (ITUC: 2011) The teachers were protesting a salary increase legislated only for teachers employed by the municipal government. Less reported in the English language are the situations and struggles of nurses and other predominantly female workers in China.

¹ For an in-depth analysis of workers’ struggles and consciousness in China, see Minqi Li’s “The Rise of the Working Class in China” (Monthly Review volume 63, no. 2, June 2011)

Recent Developments in Labour Legislation

In 2007, the “Contract Labour Law” was passed in China, after an unprecedented level of public consultation and debate. Not only citizens of China, the ACFTU, and Chinese employers, but also international investors participated in the public consultation. The European Union Chamber of Commerce in China (EUCCC), and the American Chamber of Commerce in Shanghai (ACCS) – the two largest organizations representing international investors in China – submitted recommendations and opinion papers to the Legal Affairs Committee of the Standing Committee of the National People's Congress. (Institute for Global Labour and Human Rights: 2007)

The Contract Labour Law is significant in that though intended to recognize the rights of temporary, or contract workers – a labour form on the rise in China, as in other countries – the Law that was ultimately passed contained far fewer rights protections than the initial draft. Some key differences are outlined below.

- The initial draft of the Contract Labour Law provided that if an employer did not enter into a formal written contract with a temporary worker, permanent employment would be assumed. The enacted Law allows employers between one month and one year to enter into formal written contracts with temporary workers. (Institute for Global Labour and Human Rights: 2007)
- The initial draft of the Contract Labour Law necessitated union-employer negotiations to determine policies around workplace procedures, health and safety, and termination of employment. It included an obligation for employers to reach a consensus with unions on large scale lay-offs of fifty or more employees. The enacted Law requires employers to simply consult with union or employee representatives around workplace policies. Regarding mass lay-offs, the enacted Law only requires employers to inform and explain the decision to make workers redundant thirty days prior to the lay-off. (Institute for Global Labour and Human Rights: 2007)
- The initial draft mandated various rights for workers employed through temporary employment agencies. Such workers, for example, were entitled to a contract directly with the company employing them following one year of employment through a temporary employment agency. Employers hiring through temporary agencies were also obliged, in the initial draft of the Contract Labour Law, to deposit 5000 RMB per contract employee in a special account for use where temporary agencies fail to pay workers. This is a substantial amount given that in 2007, the average monthly salary in manufacturing in China was 1740.33 RMB. (International Labour Organisation: 2010) The enacted Law obliges temporary employment agencies to enter into contracts with workers of two years in length or more, and the provision obliging employers to pay into a fund to guarantee remuneration of workers has been wholly eliminated. (Institute for Global Labour and Human Rights: 2007)

Sources

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