

UPR Submission Regarding Labor Rights in Vietnam

By Tran Quoc Hien

1. I am Tran Quoc Hien, a human rights defender and a member of United Farmers and Workers Organization (UFWO). Due to my efforts to organize free and independent labor union, I was sentenced to 5 years in prison. After release from prison, I continued my labor organizing work and was about to be arrested when I fled to Thailand to seek refugee protection from the international community. Following are my contributions to the upcoming Universal Periodic Review of Vietnam.
2. Vietnam's labor unions, all placed under Vietnam General Confederation of Labor (VGCL), are organizations directly under the control, management and direction of the Vietnamese Communist Party (VCP) via the State system. Workers in Vietnam do not have the freedom to form their own labor unions.
3. The 1992 Constitution, Article 10, asserts that: "Labor union is a socio-political organization of the working class and of the workers that in conjunction with State agencies, economic organizations, social organizations, cares for and protects the rights and interests of cadres, workers, civil servants and other laborers; participates in managing the State and society; participates in the review, monitoring of the activities of State agencies, economic organizations; educates cadres, workers and civil servants and other laborers to build and defend the fatherland."
4. Article 1 of the Labor Union Law No. 12/2012/QH13, passed by the National Assembly in its Session XIII, 3rd meeting, on 20 June, 2012, asserts that: "Labor union is a broad socio-political organization of the working class and of the workers formed on a voluntary basis, and a member of the political system of Vietnam's society, under the leadership of the Vietnamese Communist Party.
5. The above provisions in Vietnam's Constitution and laws clearly indicate that the VCP is the agent that regulates and controls all activities of VGCL and affiliated labor unions. Vietnamese workers view this labor union as part of the State. The workers may either join it voluntarily or not. All activities to form a labor union independent from VGCL are considered illegal.
6. According to state data, in 2011 there were 51,4 workers 15-years or older. The government directly manages all labor unions formed in state-owned enterprises, corporations, economic or manufacturing consortiums. The government also pushes for the formation of labor unions in private or foreign-owned enterprises so as to control all workers outside of the state factor and to increase the collection of dues, insurance fees (social security, medical care, and unemployment) from labor union members – the employer pays 23% and the worker 9.5% per month. These dues and fees are deducted from the worker's salary.
7. There is no transparent report on revenues and expenses from the labor unions or government. The benefits available to worker are primarily rhetorical or for show. For example re-training and job placement assistance for laid off workers are ineffective. Most workers have to find new employment on their own.

Outlawing the formation of free and independent labor unions

8. The government suppresses efforts to form free and independent labor unions and imprisons labor union organizers.
9. On 31 October 2006, the United Workers and Farmers Organization (UWFO) was founded, with the purpose of defending the rights and interests of farmers and forming an independent union for workers. However, in November 2006, four members of this organization were arrested and sentenced to prison terms: Doan Van Dien (4 years 6 months), Tran Thi Le Hong (3 years), Doan Huy Chuong and Phung Quang Quyen (18 months each). Then on 12 January, 2007 Tran Quoc Hien, UWFO spokesperson, was arrested and then sentenced to 5 years in prison and 2 years of house arrest. Another member, Le Tri Tue, was brutally persecuted. He managed to escape to Cambodia to seek protection from the UN High Commissioner for Refugees (UNHCR) but then disappeared. The UNHCR requested the Cambodian government to investigate into his disappearance but received no response.
10. On 13 May 2008, Doan Huy Chuong was released. He continued with his labor union organizing. In February 2010, he was again arrested along with Nguyen Hoang Quoc Hung, Do Thi Minh Hanh after their efforts to organize a strike by over 2,000 workers of the My Phong shoe manufacturing company in Tra Vinh. Doan Huy Chuong and Do Thi Minh Hanh were sentenced to 7 years while Nguyen Hoang Quoc Hung to 9 years. They were reportedly tortured, beaten and mistreated while in detention and then in prison.

Typical Strikes Since 2009

11. According to data from the Minister of Labor, War Invalids and Social Affairs (MOLISA), there were 218 strikes in 2009, 422 in 2010, 857 in 2011, and 334 in the first six months of 2012. In recent years, the number of workers joining the strikes has increased significantly. However, the government characterizes 95% of them as illegal strikes because they did not comply with regulations imposed by the State. In reality, labor unions are affiliated organizations of VCP and paid by enterprise owners; consequently they cannot fairly and effectively defend the rights and interests of the workers, or resolve disputes between workers and employers. Most dis-satisfied workers have no other recourse than conducting a strike.
12. Enterprise owners often must pay bribes to corrupt government officials on top of the required insurance fees. They pass these costs on the workers through exploitation of their labor, denying them their rightful interests.
13. Strikers often demand salary increases, decrease in the number of work hours, improvements in quality of meals, medical care; they also fight arbitrary firing, unfair regulations, violations of human rights, discrimination, etc. The government often uses the state-controlled media to paint the strikes as illegal activities that cause losses to the employers. Whenever a strike happens, labor unions routinely stay away from it and from legal complications. In the eyes of the affected workers, these labor unions are irresponsible.
14. Following are examples of compelling consequences of workers' strikes.
15. On 23 June 2011, a female worker died and six others got injured during their strike at Just Special Material Co. in Ha Noi when a company truck driven by a security guard did not stop when the strikers blocked its path.

16. On 18 April, 2011 free-lance reporter Le Thanh Tung covered the strike at Japanese Marumitsu Company and took photos to be posted on the internet about the on-going strike of 2,500 workers. Security guard and the police arrested and detained him for two days. He was since summoned repeatedly to the police station for investigation.
17. On 11 July , 2012 a worker of H.I.P.C, a foreign company, asked for leave when she experience stomach pain. The manager did not approve her request. She later fainted. Some 400 of her co-workers held a strike to demand better treatment.
18. On 26 March, 2013, workers of Chinese-owned Zhan Yi Company in the Tan Duc Industrial Zone, Long An Province, reported to the People's Committee that a company manager of the company assaulted the strikers.
19. On 13 April, 2013 during a strike at Dona Biti (Binh Tien Dong Nai) Company in Tam Hiep District, Bien Hoa City, an altercation between the strikers and the security guards broke out. A security guard used a baton to hit the strikers, causing head injuries to one striker who had to be hospitalized.
20. On 3 June, 2013 at the garment company CP 8 Ho Guom in Cam Hoa, Cam Tu Hamlet, Cam Thuy District, Thanh Hoa Province, hundreds of workers held a strike after their supervisor verbally abused them.
21. The government-controlled labor unions took no action to defend the workers' interests or mediate between the strikers and their employers in any of the above incidents.

Recommendations

We respectfully offer the following recommendations to the Vietnamese government:

22. Labor union staff should cease to take salaries from the employers so as to avoid conflicts of interest.
23. The government should allow the formation of free and independent labor unions, should not arrest or hinder labor union organizers, and immediately release those being imprisoned.
24. The government-controlled VGCL should regularly inspect companies that employ large numbers of workers.
25. Government officials should stop harassing in order to demand bribes from the employers, which would lead to further exploitation of orkers to make up for the loss in revenue.
26. The government should be transparent with the dues wand fees collected from workers and report the financial statements of funds such as social security fund, medical fund, unemployment assistance fund, labor union funds, etc.

In addition, we recommend the United Nations and the International Labor Organization (ILO) to examine and assess the labor conditions in Vietnam, make recommendations to the Vietnamese government, and monitor its execution of international conventions and agreements relating to the rights of workers that it has signed.

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