

ASIAN LABOUR UPDATE

PUBLISHED BY ASIA MONITOR RESOURCE CENTRE LTD © HONG KONG © ISSUE 76 © JULY 2010–SEPTEMBER 2010

Service Workers



in Asia

ASIAN LABOUR UPDATE

ISSN 1815-9389

Issue Number 76
July-September 2010

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Printing & Layout in Hong Kong by
Clear-Cut Publishing & Printing Co.
A1, 20/F, Fortune Factory Building
40 Lee Chung St, Chai Wan, H.K.

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ASIAN LABOUR UPDATE (ALU) is a quarterly news bulletin on labour issues in southern and eastern Asia. It is prepared and published by the Asia Monitor Resource Centre Ltd (AMRC), a non-profit, pro-labour, non-governmental organization based in Hong Kong.

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* Note: ALU has the convention of using British spelling but in articles about Taiwan and Japan, names of laws and labour organizations are kept with the original American spelling of 'labor'.

ANNOUNCEMENT

We welcome our new Research Coordinator: **Fahmi Panimbang!** Fahmi, who is Indonesian, previously worked for Sedane Labour Resource Centre (commonly known as 'LIPS'), a long-time organizational partner of AMRC.

We also welcome a new intern, **Surendra Pratap**, from India. (See Guest Writers In This Issue on p. 3.)

ERRATA from ALU Issue No. 75

p. 2 Contents:

- The correct title of the article on p. 10 should be 'Corporate Social Responsibility: A Vehicle for International Solidarity?' (It should have a '?'.)

- Dr Jeong-Ok Kong is a **Representative** of Korean Institute of Labour Safety and Health.

p. 10: The author's name is missing from the article, and listed only on the Contents page; it should be 'Hilde van Regenmortel'.

p. 18: The author's name is missing from the article, and listed only on the Contents page; it should be 'Doris Lee'.

We apologize to the readers and to the contributors.

Cover Photo: Cabakura (bar hostess) workers rally for their rights, in the heart of Kabuki-cho, Tokyo's entertainment district. *Photos: Shimizu Naoko*

Organizing service workers in Asia needs fresh attention

‘Buy my beer?’ *In a hip-hugging uniform with a high hemline and the familiar logo of a famous German beer brand, Chantal invites the customers to drink the brand of beer she is promoting. Working in some of the toughest working conditions with low pay, no job security and facing sexual harassment almost every day, here is the new face of exploitation, where the global supply chain has managed in new ways to entrap and exploit the most vulnerable workers from the villages of Cambodia. Chantal’s work promoting beer sales reflects many dimensions of service sector work in Asia: reliance on women, mobilizing women’s appearance/emotional work to boost sales, dispersed workplaces, job growth in a non-unionized part of the workforce, and final profits to multinational corporations. Organizing workers in the expanding service sector in Asia strongly merits closer attention. This issue shares instances of service worker organizing in Asia.*

Asia is perceived as the manufacturing base for the world, especially China; yet in the past ten years, both as a portion of GDP and of the workforce, the service sector has been growing. Asian countries, having embraced the ‘export-led’ model of growth, in general have followed

the ‘theory of progression’ by building their economies from basic agriculture and mining to manufacturing and finally evolving to the service sector – with some exceptions like India, which seems to be moving into the service sector aggressively, almost skipping the ‘manufacturing phase’.

The service sector is often referred to as the tertiary sector (layered above the primary, agriculture and mining; and secondary, manufacturing) and involves the transport, distribution and sales of goods from producers to consumers, as well as the provision of services. The service sector also covers the essential services that nations provide to their citizens like health care, education, transportation, etc. The work in the service sector tends to be polarized into high-skill, high-pay (professional) work, such as medicine, law or information technology, and low-skill, low-pay work – for example, cleaning, domestic work, sales promotion, or security – with low-pay work often being assigned in large scale to a migrant workforce with limited civil and labour rights. At times of economic crisis or industrial restructuring, workers who get laid off (of whom women tend to be the first) are often relegated to low-wage service work; they form the large pool of ‘ready-to-be-disposed workers’. The low-pay workers

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tend to remain invisible, while the more visible high-status service workers who are professional or securely employed in the public sector tend to represent the sector as a whole, in the public. This contributes to the situation that blue collar (manual, manufacturing) workers are targets of organizing, but white collar (non-manual, office/intellectual work) workers are perceived as having little to complain about and less need for organizing. This perception holds true in Asia also, and is one reason why service sector workers in Asian economies are often neglected by the labour movement; manufacturing and other sectors still attract most of the labour organizations in organizing work in the region.

The service sector now actually forms the major part of economy in most industrialized countries, both in terms of percentage share of GDP (more than 70%) and employment share (more than 50%). In Asia, also it already accounts for the major share of the GDP for the industrialized countries like Hong Kong, Japan, South Korea and Singapore, and also employs the majority of their workforces. The ILO estimates that by 2015 the service sector will not only be the main source of job creation in Asia, but will also become the largest sector, representing about 40.7% of the region's total employment.

Fueled by the search for higher profits than the manufacturing sector has been providing, companies see the service sector as a 'gold mine', especially in the developing countries, and are eager to 'exploit' this untapped market and exert their control. Some countries that have protected the service sector, especially the 'essential services' (e.g., provision of water, electricity, gas and medical care) have been urged to open it up to allow free trade under the WTO (GATS). Governments withdraw from formerly public sector services including utilities and medical care, and in the name of growth and efficiency, often also to pay external national debt, governments privatize and outsource more and more of what used to be public sector work. Subsidies to public facilities such as education and housing are also attacked, and people must pay more from their pockets, not supported by the government, for the 'privilege' of education, and wages must pay for more costs of living which used to be publicly supported. In the education sector, this means students become compelled to work in order to be able to afford their education. This also leads to the formation of a bulk reserve of cheap irregular young workers to be employed in the service sector such as the retail and fast food industry; this is clearly seen in many Asian countries already. This slashing of public sector jobs also has directly impacted the level of unionization in Asia as a majority of service sector unions had significant membership from the public sector.

While government industrial policy plays a factor in Asian countries' swing to focus on services, as well as

privatization, the sector's growth is also fueled by aggressive entry by multinational companies and agencies into formerly 'local-only' services, such as domestic work, health care and security guard services. G4S, the private security company, has more than 600,000 workers worldwide in 100 countries, and is itself the second largest global employer and largest private security firm in the world. Such 'globalization' of local services is also often accompanied by commodification and Taylorization of the work.

In this issue we focus on the organizing work of service sector workers. In the East Asian countries and regions of Taiwan, Hong Kong, South Korea and Japan, the phenomenon of young workers with rapid turnover in the retail, sales and promotion sectors, leads to a need for organizing that in approach is far different from what traditional unions in those countries have used. Furthermore, as in the case of Cambodian beer promotion women and Japanese cabaret hostesses, the workers may have separate workplaces and different employers, and be unable to exercise the traditional concept of collective bargaining. In Hong Kong, sex workers also organize around their rights, but the issues that unite them are, for the women sex workers, safety from attacks, and for both male and female sex workers, creating or amending laws, to make their business easier and safer and less stigmatized. As one can expect while the Asian economies are aiming for service-led growth, the bargaining power of workers continues to decline as public sector unions get demolished by privatization, the new restricted workforce that is growing in the service sector is not organized, and laws are structured to maintain worker precariousness ('flexibility') while companies attain more power and wealth. In India and the Philippines, the call centre industry is a major job growth sector yet labour organizers face great difficulty in making inroads in organizing, as is reflected in the articles in this issue. On the other hand, with the decline in manufacturing jobs, the mobility of productive capital, and governments' involvement also in attempts to keep workplaces union-free, union power has also been dramatically repressed in the manufacturing sector. These all point to the critical importance of organizing in the newly emerging service jobs.

We hope this issue can highlight the important cases of organizing in this sector happening across Asia, and encourage increased sharing and exchange of precious organizing strategies across Asia. It needs greater exploration, as the sector has become the expanding 'catch-all' for migrant, female and casualized workers everywhere, and strengthening the consciousness and collective power of service sector workers is a critical element in putting a stop to corporate domination in every sphere of our lives.



Cambodia

In waves of thousands, garment workers in Cambodia went on strike in the days of 13-17 September 2010, finally numbering over 200,000 by the end of the week, according to estimates of the Coalition of Cambodia Apparel Workers' Democratic Union (C.CAWDU) and the National Independent Federation Textile Union of Cambodia (NIFTUC). The workers had gone on strike after giving notice long in advance, to express their opposition to the government's decision to implement a new minimum wage of US\$61 per month for workers in the garment industry, which would fall below what the workers say is a decent and humane level. In Cambodia, violent repression of public demonstration and union activity is still not unusual; the killing of popular trade union leader Chea Vichea in January 2004 as well as other political killings have still not been brought to justice. In that context the workers' strike showed huge courage and pent-up demand to work in decent and fair conditions.

With the number of garment workers in Cambodia estimated at 400,000, the great numbers of workers who joined the mass strike reflected the massive support that the cause had, even from those who were not members of the two unions that initiated the strike.



The government through a tripartite mechanism, the Labour Advisory Committee (LAC), had recently approved (on 8 July 2010) a minimum wage of US\$61 per month (for regular workers) and US\$56 for probationary workers (those on probation from one to three months). Moreover, these levels were to be fixed for the coming four years – until 2014 – regardless of the external changes in prices. The LAC has seven seats each, for unions, employers in the Garment Manufacturers Association of Cambodia (GMAC), and the government – totalling 21 seats; yet despite the form, many of the unions in the LAC are heavily influenced by employers and the government, and the LAC has no mechanism to ensure that the unions which have seats on the LAC really have consulted workers seriously for their views.

The vast majority of Cambodia's garment workers are paid the minimum wage and it is not uncommon to be paid less. As argued by C.CAWDU and NIFTUC, such low levels violate Article 104 of the Cambodia labour law, which states that the wage must ensure every worker a decent standard of living compatible with human dignity. Based on the research done by Cambodia Institute of Development Study (2009), the minimum wage should be US\$93, which is a living wage; and this is the minimum wage level that was demanded by C.CAWDU and NIFTUC. However the GMAC has been adamantly against such a high wage increase and insisted on the validity of the LAC decision.

Cambodia is a major sourcing country in Asia for clothes of the brands The Gap, H&M, Zara (the three top global brands) and many others. The wage for garment workers is among the lowest in Asia. The Cambodian garment industry is a vital income generator for the nation. 70% of the garments produced are destined for export to the United States, to be sold at high prices beyond the reach of any of the Cambodian workers, who at the current increased level could still only earn approximately US\$2 per day.

Dismissals with impunity

More than 1,000 workers had been suspended, dismissed, or threatened with legal action



Mr. Ek Sopheakdey, CLC Vice-President gave a speech during the September strike, at Gladpeer Garment Factory (Cambodia) Ltd.

Photo: CLC

in the aftermath of the strikes. On 28 September, six major union federations and GMAC (the employer federation) met to strike some compromise and keep smooth industrial relations, and a Memorandum of Understanding (MoU) was signed between them. Among the key points of the MoU are:

- A commitment by both parties to abide by the law
- A commitment by minority unions not to interfere with the right of the majority union to engage in collective bargaining with employers.
- An agreement to use the Arbitration Council's binding arbitration procedures for disputes over rights, allegations of violations of the law (or Prakas) or the existing collective bargaining agreement (CBA).
- Agreement that there will be no lockouts, strikes, or further claims during the term of the current CBA.

In addition, the MoU (which comes into effect on 1 January 2011) allows both parties to monitor and review the implementation of the agreement. They agree to act in good faith to adhere to the MoU, and if breaches of its terms are suspected they agree to use to take corrective action through dialogue. Yet the MoU has no binding power, and the goodwill presumed from the signing of it did not ensure that employers who are members of the GMAC would immediately revoke their suspensions and dismissals of the workers who had been active in the strike.

Rather, in the following days few of the dismissals and suspensions were reversed, and still large numbers have been suffering from the long period of going without work – placing pressure on the unions to support the laid-off workers.

ILO

The ILO has been a supporter of the tripartite mechanism and following the MoU of 28 September, 'welcomed' the agreement as a landmark ... which provides for substantial improvements in relations between the two parties – i.e. between the unions and GMAC.

The ILO has thus been continuing to lend legitimacy and authority to a body (the Labour Advisory Council) that clearly lacks a mechanism to ensure full consultation of workers.

On 29 September 2010, the government of Cambodia further issued the instruction to companies to withdraw all complaints submitted to courts, stop the dismissal of union leaders and reinstate all dismissed and suspended strike leaders. Yet employers have refused to do so, and there has been no penalty on employers. As is the case for employers in many countries, a law or administrative order which is not enforced with a meaningful penalty is a law or order that is not followed.

Appealing to Buyers

Clean Clothes Campaign, ATNC Monitoring Network, Asian Floor Wage Campaign and other garment worker-supporting campaign groups had sent letters to the major garment brands which buy from suppliers in Cambodia, seeking their support for the US\$93 minimum wage and respect for workers' right to strike; however the brands replied in legalistic terms, denying their influence over their suppliers and the government's wage-setting process, and insisting, like the ILO, on following the ruling of the LAC.

The Cambodian garment strike has reflected the role that an insufficiently democratically structured tripartite mechanism can have in legitimizing low wages and denying workers' voices in important labour decisions which affect their lives. Garment brands that benefit from the repressed wages in already low-wage Cambodian garment factories have been able to maintain the façade of bearing no responsibility for the workers, while keeping their entitlement to hefty profits.

Sources: C.CAWDU, ATNC Monitoring Network

Taiwan

In Taiwan, major changes to labour laws have been passed in the Legislative Yuan and amendments to the Labor Standards Law are being discussed as well. The final effective date of the approved changes to the Labor Union Law, the Settlement of Labor Disputes Law, and the Collective Bargaining Agreement Act (the so-called 'Three Labor Laws') will be announced by the President, but is expected to be on 1 May 2011.

The laws contain some progressive aspects in it yet also bear other new elements of control over union activity. The major amendments to the Three Labor Laws are:

1. The law now will allow more types of labour unions and alliances and simplify the organizational processes of labour unions. (See Box on p. 7, 'Union Categories Under the New Three Labor Laws) for main union types that will be allowed.) However, there is also a penalty for workers and unions if they resort to a strike while a conciliation or arbitration is still ongoing; and there are still a large number of industries in which the union can strike only if they first sign a 'terms and conditions for the services needed' with the employers (Article 54 of the Settlement of Labor Disputes Law).

2. The law will bear stronger penalties against unfair labour practices by employers which hinder union organization and operation and against adverse treatment to the union cadres. Complaints of unfair labour practices are

to be reviewed by a specially established Decision Commission for Unfair Labor Practices, which is to be composed of seven to fifteen commissioners with a term of two years, who are professionals familiar with labour laws and regulations and labour relations matters, and to be appointed by the Council on Labor Affairs (CLA, the labour administration at the national level).

3. Paid leave provisions for union officers will become more restrictive, limited to only enterprise unions; this means that union officers in the federations or industry unions won't have the same protections and rights to have paid union leave.

4. The government is authorized to replace the union officers if the union violates the law and does not correct it after the deadline given by the government to remedy the situation. Many unions and labour organizations strongly criticize this article as 'the union martial law' (Article 43, Labor Union Law).

5. The monthly membership dues requirement for unions is raised to at least 0.5% of the staff's salary, which is much higher than many unions have implemented until now. Since no penalty has been given, it is doubtful how effective this will be.

6. The negotiation for the collective bargaining agreement (CBA) will be mandatory. Neither the employer nor the union can reject the negotiation for a CBA without just reasons; violation of this

Union Categories Under the New Three Labor Laws

a. *Enterprise (or company) unions*, organized by workers employed by the same employer. The workers in the same company or in the same plant can both organize their own unions.

b. *Trade (or industry) unions* organized by workers in the same industry and in the same geographic area. There is no limitation on the definition of the industry nor the geographic area, as long as it is not national. In other words, you can not organize a national trade union, but you can organize a trade union in a region, whether it is a city/county, or several cities/counties.

c. *The crafts (or vocational) unions*, organized by workers in the same industry but without a permanent employer or even the employers themselves. There is almost nothing changed in this category. Most of these unions are not considered independent unions, as most of them are controlled by the employers and do not function as unions in a real sense.

Unions can form federations as they like, and regulations for the federations in the present (i.e. soon-to-be-legislated) version have almost all been deleted.

would lead to penalties (Article 6 and 32, Collective Bargaining Agreement Act).

Meanwhile, CLA is proposing an amendment to the Labor Standards Law to deal with dispatch work. Labour groups strongly fear that it will have the effect of legitimizing and embedding the practices of dispatch hiring even more deeply. Until now, the legality of dispatching practices have not been clear, and companies have made wide use of the practice in recent years.

According to the Directorate-General of Budget, Accounting and Statistics, in May 2009 there were over 687,000 atypical employees (any

workers not in regular full-time employment), including 517,000 temporary and dispatched workers. This represents 5% of the country's workforce, and is a five-fold jump from 114,000 in 2006.

The CLA proposed prohibiting agencies from signing short-term contracts with employees, a widespread practice among companies bidding for government-outsourced jobs. The amendment proposal includes capping the number of dispatched workers in one company at 3% of its total workforce, with the possibility of increasing the limit to 20% under certain conditions. The level of maximum is still a hot point of contention between

the government and employers, and workers.

The amendment would also prohibit the hiring of dispatched workers in six major fields: health care, security, aviation, maritime transportation, public transportation and mining.

The New 'Three Labor Laws' in Taiwan

The latest drafts available online

The Settlement of the Labor Disputes Law

Chinese: <http://law.moj.gov.tw/LawClass/LawAll.aspx?PCCode=N0020007>

English: <http://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCCode=N0020007>

The Labor Union Law

Chinese: <http://law.moj.gov.tw/LawClass/LawContent.aspx?pcode=N0020001>

English: not released yet

The Collective Bargaining Agreement Act

Chinese: <http://law.moj.gov.tw/LawClass/LawAll.aspx?PCCode=N0020006>

English: <http://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCCode=N0020006>

However, different departments, from the central to the local governments and even CLA itself, have outsourced jobs to the dispatching agencies for years; actually the government is one of the biggest outsourcing employers. It is highly doubtful how well the new regulation will be enforced.

In a statement on 14 July, the nongovernmental Labor Rights Association demanded that dispatched labour be totally banned from the public sector, and a clause be included to end the dispatching system altogether within two years.

While labour law changes are ongoing, the union members of the electronics company Young Fast Optoelectronics (YFO) have still been experiencing corporate impunity in violating workers' rights. The company makes touch-panel screens, mainly for mobile phones. Due to various labour violations in the company, the workers had formed a union (YFOTU) in December 2009, but in March 2010, the company dismissed at least five union officers and 10 active union members.

Violations at the company included illegal union-busting dismissals on trumped-up premises; excessive overtime child labour (in the name of internships, which it also excessively uses); non-payment of overtime wages, and poor health and safety conditions.

Because of the strong protests by the union as well as solidarity organizations including trade unions, Serve the People Association, environmental organizations and student groups, the struggle of YFOTU got much media attention both locally and overseas.

Finally, the company reinstated only one worker; yet the company still has been pressuring that worker and another union officer to accept a lump-sum payment (nearly US\$10,000) and leave the company.

YFOTU and the solidarity labour groups could not completely succeed in stopping the company's anti-labour practices, but did manage to restrict the company's use of student interns. The CLA still has not enforced the law to freeze the company's use of migrant labour – something which is in CLA's power. On the other hand, due to the outstanding labour disputes and to protect the employees' rights, the CLA did oppose Young Fast's proposed capital investment in China, when the Investment Commission, which approves Taiwanese outward investments, consulted it on the matter.

The anti-union attitude of YFO and impunity with which the company uses intern and migrant labour is characteristic of electronics-producing factories in most of the countries of Asia; and the brands such as HTC have also characteristically denied responsibility for the production site working conditions.

Another typical union-busting case in Taiwan in recent months was the mass dismissal in Japan Airlines



Dressed in bloody bandages to symbolize the worker victims of Young Fast Optoelectronics' brutal work conditions and union-busting, the protesters marched on 23 July 2010 from the Executive Yuan to the Control Yuan (a monitoring branch of the government), rolling like balls to express how they have been tossed carelessly between government departments that take no responsibility for them.

The protesters' petition was received at the Control Yuan but so far there has still been no response.

Photo: Lennon Wong

(JAL), where 70 out of 140 local crew members were dismissed. Even though the government stated that the dismissal was illegal, JAL has never offered any compromise. Unions and federations support the JAL union while the dispute still continues.

Sources: Lennon Wong, Young Fast Optoelectronics Trade Union; June Tsai, 'Labor dispatch system a hidden worry for society', Taiwan Today, 30 July 2010; Shelly Huang, 'CLA opposes Young Fast's China plan', Taipei Times, 26 July 2010.

India

The working classes in India are now facing very hard times, after two decades of growth in a globalized and liberalized economy. The economy is recording a very high growth rate, at about 8.8% in the three months ending June 2010. But rather than uplifting the living standards of the people, it is actually creating hell for them. Around 830 million workers in India are compelled to survive on less than US\$2 a day. With rising inflation (7-9%), the prices of necessary commodities, transport, education, health and housing have been steeply rising. On the other hand, there has been no comparable increase in wages and on the top of it there is no surety of income for workers. Thus the discontent among the workers has also been growing. This discontent was reflected in the all-India general strike of workers on 7 September 2010.

The 7 September general strike was the biggest ever strike in post-independence India; more than 100 million workers participated in it. The strike was also significant in terms of realizing broader trade union unity. The strike was organized by eight central trade unions which formed a joint front – the Coordination Committee of Central Trade Unions. Except for BMS (the trade union wing of the far right political party), almost all the central trade unions (including INTUC – the trade union wing of the centre-aligned ruling political party) came together to form this coordination committee and jointly participated in the 7 September all-India strike. The workers participated from all over India, including rickshaw drivers in Mumbai, workers from garment factories in Bangalore, and workers from special economic zones, where companies have no obligation to recognize unions. The following demands were raised by the unions in the strike: 1. contain the price rise of essential commodities; 2. take proactive measures to link employment protection in recession-hit sectors with the stimu-

On 7 September 2010, more than 100 million workers participated in the all-union general strike — the biggest ever strike in post-independence India.

lus package being offered to the concerned businesses; 3. strictly enforce all basic labour laws without any exception, including stringent punishment for violations; 4. announce Rs. (Indian rupees) 5,000 million for an unorganized workers' social security fund; and 5. Stop disinvestment in central public sector enterprises.

There has also been a new wave of workers' struggle emerging from below for unionization. With the increased informalization of the workforce (also in formal sector) in India, the workers have been increasingly realizing from their own experiences that only by forming trade unions can they convert informal employment to formal employment; and only by compelling the factory managements to do collective bargaining, can they hope for better wages and working conditions. On the other hand, factory owners are showing less tolerance in accepting trade unions in their factories. Multinational corporations seems to be at the forefront in unleashing the repression against trade unions and the workers. This reality is reflected in most of the recent workers' struggles in India.

BYD Electronics, a Nokia supplier company located in a Special Economic Zone at Orggadam near Chennai, south India, terminated the services of 2,500 contract workers, sacked 37 permanent workers, suspended 23 more and ordered 437 others to sign a letter of apology to keep their jobs and announced an illegal lockout on 1 November 2010. This repression and victimization of workers started when they successfully formed a trade



Marching masses on 7 September 2010, with joint banner of the major Indian trade union federations.

Photo: National Federation of Postal Employees, India
Continued on page 11

The following statement was drafted by AMRC following a consultation of labour groups and activists in May 2010, which had been reported about in the previous issue of ALU, Issue 75, 'Corporate Social Responsibility: A Vehicle for International Solidarity?'. The statement is intended to stimulate labour groups to reflect and take a position on the role and impact of 'corporate social responsibility' on the labour movement in Asia.

Position Statement on Corporate Social Responsibility

In many Asian societies, Corporate Social Responsibility (CSR) is generally understood as being no more than corporate-run community development projects to compensate for social and economic injustices. Most of such projects, like constructing schools and health care centres, have been effectively hegemonic, providing strong legitimacy and extensive license to corporations to sustain the exploitation of the human and natural resources in many countries. A further implication of CSR is that it makes people think that it is the company's obligation to meet people's rights to a better education system, clean water, health care, etc., instead of the State or government. At the same time, this has allowed the State to escape from its obligations towards society.

CSR is a simple but effective method for corporations to obtain legitimacy as a responsible social actor. It is also a status-enhancing way for them to acquire an excellent and clean image in the public. For many corporations, the implementation of CSR can increase the sales of their products and market share. CSR can also help the brand attain a good reputation and promote workers' productivity. It can reduce production costs, attract more investment, and achieve more favourable credit and ratings. In this respect, there is no doubt that CSR is a vehicle for increased corporate power in society.

There are many actors involved in CSR activities: NGOs, government, and international institutions, which eventually make CSR an emerging industry itself, valued at US\$ 31.7 billion in 2007. CSR-driven initiatives such as Multi-Stakeholders Initiatives (MSI) claim to have an impact on core labour issues such as freedom of association and collective bargaining. However, the reality has proven that CSR has done more harm than good.

In the labour movement, CSR has transformed itself into a mechanism called the Code of Conduct. The Code of Conduct is a fundamental manifestation of the CSR, which corporations consider as part of their business public relations in response to accusations made by activists. Certainly, corporations by nature do not see CSR as their obligation, but as a business strategy to achieve greater profit by fulfilling its social responsibility.

By promoting Codes of Conduct, employers alter labour relations in the factories towards a harmonious industrial relation to sustain their violations against labour rights without facing any resistance. Codes of Conduct are aimed at making people feel good and pacifying labour, consumer, and civil society movements. It has the mission of protecting multinational corporations' interests in international sub-contracting. The way that Codes of Conduct domesticate the movements is that it serves as the basis for NGOs, and even labour unions, to be engaged in the supervision work of the manufacturing process of multinational corporations. In the end, many NGOs and labour unions participate in the bandwagon of Code of Conduct monitoring, taskforces, stakeholders' roundtables, etc., forsaking their core work at the grassroots.

Codes of Conduct create the privatization of labour law and promote self-regulation in the factories. By promoting Codes of Conduct, employers divert the focus of labour and consumer movements into setting up localized regulation, but at the same time neglect the national constitution and the labour law. Employers try to convince us that voluntary standards are better than the existing labour law, which suffers from a lack of implementation. Thus, the Code of Conduct logically has an inherent contradiction in itself: it suffers the same root problem as the labour law, which is the failure to be implemented and enforced. For that reason, we are very doubtful that local labour laws will be improved and properly enforced under the Code of Conduct influence.

Moreover, Codes of Conduct and other types of CSR have the 'divide and rule' effect. At the workplace level, CSR hampers the development of genuine, free and independent unions, which are further stigmatized as trouble-makers in society. At the community level, CSR affects the loss of harmony within society, as a number of people get benefits through jobs, gifts or trade opportunities, while others get none; some people are even deprived, such as when they have to give up their land. At the national level, the impact of CSR is obviously seen as the rupture between the proponents and opponents of CSR is ever widening. Meanwhile, at the global level, Northern and Southern workers become less and less likely to reach out each other, as they get co-opted by multi-stakeholder initiatives and become more invested in them, rather than in seeking the solidarity of other workers. In a nutshell, CSR undermines solidarity between workers.

At the moment, CSR has won the battle of ideas and serves the neoliberal agenda of a reduced role for the state in favour of an expanded role for the corporate sector. To respond to the facts, we are challenged to face it in several ways. First, we have to demystify CSR. Many experiences show that CSR fails to produce concrete improvement in working conditions, but also diverts movements' attention away from real issues. Second, we have to strengthen solidarity between workers, to have better communication with one another, and a united front against extensive promotion of CSR. Third, we have to establish more effective international solidarity.

On this occasion, we are calling everyone who shares the above-stated perspective about CSR and its impacts on society, to endorse this statement to confirm that CSR activities are detracting from labour unity and failing to contribute to sustained worker empowerment; and that labour groups must focus on increasing the collective power of workers to assert their labour rights, not relying on what is granted voluntarily by corporations.

Works cited and further readings:

Dae-oup Chang, 'The Strategy of Triangular Solidarity: What is International Solidarity for Asian Workers in the Global Factory', *Asian Labour Update*, Issue 65, October - December 2007, http://amrc.org.hk/alu_article/labour_resurgence_under_globalization_ii/the_strategy_of_triangular_solidarity_what_is_i

Apo Leong and Ka-wai Chan, 'Critical Reflection on CSR: A Labour's Perspective', *Asian Labour Update*, Issue 60, July-September 2006, http://amrc.org.hk/projects/Critical_+Reflection_+on_+CSR

Hilde van Regenmortel, 'Corporate Social Responsibility (CSR): A Vehicle for International Solidarity?' *Asian Labour Update*, Issue 75, April-June 2010, <http://amrc.org.hk/node/1022>

What do YOU think?

To **endorse** the above statement as individual or as organization, or to **share your own opinion or experience**, please write to Fahmi Panimbang, AMRC, at: fahmi@amrc.org.hk.

For a related book review, see **Reviews/Resources** on p. 48, 'Fair Wages: Strengthening Corporate Social Responsibility.'

Continued from Regional Roundup: India, page 9

union and raised the demand for recognition of the union and for improvement in working conditions. More than 3,000 workers participated in a three-day sit-in strike from 28 to 30 October 2010 at the factory gate in support of the above demands put forward by the newly formed union. The repression and victimization was such that one worker who handed out union leaflets attempted to commit suicide on 27 October by drinking isopropyl alcohol after intense questioning by management. The struggle is still going on. The demands of the trade union also includes a wage increment, an eight-hour working day, regularization of all contract workers who have completed 260 days of work in the company, provision for maternity leave, etc.

The struggle of the workers of Foxconn India, located in the Nokia Special Economic Zone in Chennai, is still continuing. Foxconn India employs 7,800 workers out of whom only 1,800 workers are permanent workers and the rest are engaged as contract workers or trainees. The pattern of using contract and 'student/trainee' labour, for low wages and with long working hours, has also been seen in Foxconn's China factories, which have become notorious for its reliance on low-wage student workers and the suicides of the workers during 2010. (See ALU Issue 75, Regional Roundup: China, p. 5.)

To address their accumulating grievances, 1,200 workers of Foxconn India formed the trade union Foxconn India Thozhilalar Sangam (FITS), affiliated to Centre of Indian Trade Unions (CITU – the trade union federation affiliated to the Communist Party of India (Marxist)), and demanded recognition of the union. But the management refused, and entered into an agreement with another trade union, Foxconn India Thozhilalar Munnetra Sangam (FITMS), which is affiliated to the

ruling political party in Tamil Nadu, even though the union FITS correctly claimed that it was representing the majority of the workers. Thus the workers started to strike. Two times the number of striking workers were taken into custody by police and 23 workers were suspended. On 6 October 2010, the striking workers took a radical step and occupied the factory premises. Then on 9 October, 319 workers including the trade union leaders were arrested and sent to Vellore Central Jail. Around 200 women workers were also taken into custody but police dropped them at a bus station and compelled them to leave. On 13 October 2010, the court granted bail to 307 workers. The remaining 12 workers (union leaders) were released on 22 October on conditional bail requiring them to attend the Kanchipuram Court every day. The struggle goes on.

There are so many struggles in the last two years on similar issues with similar stories, for example, the Pricol (a Coimbatore-based automobile instruments maker) workers' struggle, Madras Rubber Factory (MRF) workers' struggle, Hyundai Motor India Limited (HMIL Chennai) workers' struggle, Nestle (Pantnagar, Uttarakhand) workers' struggle, Rico Auto (Gurgaon, Haryana) workers' struggle etc. In all these struggles of 2009-2010, there is a common trend: the workers moved forward to form a trade union; and then unimaginable repression was unleashed on them by managements and also the state machinery.

Sources: *World Socialist Web Site* (www.wsws.org); *IMF website* (www.imfmetal.org), www.socialistworld.net



The Struggle of Cabakura Union – Union of Cabaret Hostesses

IINO Ayumi

Translated by CHIJIWA Gen

The Precariat Union (Freeter Zenpan Rodo Kumiai) was established in 2004. As of October 2010 the membership is approximately 250 people. Members are for the most part non-regular workers (*Editor's note*: Regular workers are generally those with full-time continuous employment and standard legal benefits; the term 'regular worker' is commonly used in Japan and South Korea). The general tendency of workers in Japan has been to join established unions within their respective enterprises. For this reason, non-regular workers and regular workers in small to medium scale enterprises have been excluded from unions. These are the workers who come together to constitute the Precariat Union. Their occupations and sectors vary widely, including call-centre workers, programmers, janitors, coffee shop workers, caretakers, drivers and security guards, to name a few.

The Precariat Union launched the Cabakura Union ('Cabauni' or 'CU') on December 2009 as an industrial branch of the union. The Japanese neologism *cabakura* stands for 'cabaret club', the official term being 'Catering Establishments for Social Intercourse'. Under the 'Act Regulating Adults Entertainment Business', businesses must be registered with local authorities such as the Tokyo Metropolitan Public Safety Commission. According to surveys conducted by the Tokyo municipal government there were 9,264 such establishments in 1998 and 9,486 in 2008 within its jurisdiction.

Prior to the establishment of CU, women from the industry had been calling the union more frequently and some cases had led to victories. On 22 December, a press conference was held to publicize the formation of CU. CU also designated the day of 27 December for receiving telephone consultations from *cabakura* workers. The number of calls received exceeded the union's own expectations and some workers immediately joined the union.

Briefly described, a *cabakura* is where female hostesses are seated beside male clients to enliven the conversation and cater to their needs. The hostess would increase her sales by encouraging clients to order drinks for themselves and from clients ordering drinks on her behalf. Male clients have the option of '*shimei*', which is to demand that a hostess of their liking take a seat beside them – although depending on the establishment, hostesses may be paid some amount as incentive in addition to their hourly wages for doing *shimei*, and may receive a wage increase when many clients make this demand.

Hourly wages vary according to the locality of the establishment but are found to be between 2,000-5,000 yen (equivalent to US\$ 25-60). The most important part of her work is enlivening the occasion and attending to the clients. In principle, bodily contact is prohibited. It can be said that the work of *cabakura* hostesses is a form of affective labour demanding significant psychological input outside of work hours to maintain a degree of intimate contact with clients. This could be keeping in touch through frequent exchange of email and text messaging, catching up on the clients' personal tastes and profiles, and '*douhan*', which is to meet clients in another location before work for a dinner date and accompanying them to the *cabakura* afterwards. Often hostessing is a means of supplementing underpaid daytime jobs, paying for tuition, or supporting families as single mothers.

The occupation of hostess became a hot topic of the mass-media well before the Precariat Union started receiving calls in 2009. Hostesses who have made successful careers in Kabukicho, the largest entertainment district in Japan, began appearing on television programmes which highlighted their astonishing annual incomes. A magazine specializing in the topic came out and soon became popular. These channels helped establish the popular perception of

The job of cabakura hostess was ranked among the most popular career aspirations among junior high school and high school students.

Yet very few hostesses are able to earn high incomes regularly. In reality, thousands of yen are deducted in fines without due process, or for 'employee welfare' without due explanation.



Members of Cabauni parade through Yasukuni Dori, Shinjuku, on 26 March 2010. Dressed as cabakura workers, or as each saw fit! The placard reads 'Fines are Prohibited'.
Photo: Shimizu Naoko

cabakura hostessing as that of a glamorous job, where young women while dressed in beautiful attire could bypass the usual barriers such as educational qualifications, and still make large salaries. One ranking showed the job of *cabakura* hostess to be among the most popular career aspirations among junior high-school and high-school students.

And yet, very few hostesses are able to earn high incomes regularly. In reality, thousands of yen are illegally deducted from paychecks each time for missed workdays and tardiness. Likewise fines are imposed and hourly pay reduced without due process for not having fulfilled the expected quota of '*shimei*'.

Fees which supposedly go towards improving 'employee welfare' are deducted from pay without due explanation. Because of such schemes, workers are often put in a position where their livelihoods are at risk, as opposed to living the good life.

The grievances being brought to the attention of CU revealed the negative aspects of the industry which had

remained hidden beneath its glamorous image. Unpaid wages are by far the most common of grievances. According to the Labor Standards Law workers are entitled to resign from their jobs without being penalized by giving fourteen days notice to employers. Where actual working conditions are not the same as conditions presented to the worker beforehand, an immediate withdrawal from the workplace is a right. In spite of these legal rights, *cabakuras* claim to have 'local rules' obligating a one month notice prior to their departure. When this is not followed, as when unbearable conditions force workers to flee or leave on short notice, heavy penalties are imposed or wages are calculated at a rate substantially lower than the actual rate. The resulting payment could be next to nothing for the number of hours worked. In the worst cases, pay calculations have resulted in negative figures. Another frequent pattern is dismissal with neither due process nor payment, the reason given being that 'she did not bring in sales'. Cases brought to the CU also revealed that sexual harassment and power harassment¹ are rampant.

In addition to female hostesses, *cabakuras* also employ male staff also known as ‘boys’ or ‘black shirts’ who perform the work of waiters, making and serving drinks and running the cashier. These workers have also joined the *cabakura* union. Some have reported being physically abused by employers on a daily basis, including being struck or kicked. Fearing further violence and retribution, they have sought the union’s assistance in order to ‘quit the job safely’.

When confronted with this situation of lawlessness, managers claimed to have their own ‘rules of the night, which goes without saying’. They have asserted that ‘there are no reasons’ for taking the unions demands into consideration, and that they are ‘being ripped-off’.

It was Sakurai Ryo’s case which eventually led to the formation of CU. She had worked for several years in a *cabakura* in Tokyo and hers was an extremely malicious case. When at one point she became psychologically unstable due to constant sexual harassment from the boss who oversaw the business, she was forced to take a leave of absence. The *cabakura* responded by withholding her salary. Sakurai first approached the Labor Standards Supervision Office for consultation and demanded her wages under their guidance. Following their advice she stated her demands in a letter and sent it through a delivery service which would give proof that the *cabakura* had received the letter. But the bosses told her ‘what you say doesn’t mean a thing’ and the officials did not intervene any further.

Sakurai then joined the Precariat Union in May of 2009 and arranged a session of collective bargaining (albeit not in the traditional sense of one union to one employer) with the managers of her *cabakura*.² The managers who attended the session displayed an utmost lack of sincerity. The sexual harasser of Sakurai had been drinking since the night before and this was visible to all. His supervisor, the district manager (overseeing several managers of individual *cabakura*), did not hide his contempt for the Labor Standards Act nor the Labor Union Act either. Later they shut down the business in

order to flee from negotiations altogether.

Under such conditions, Sakurai decided to form the Cabakura Union, and her move was supported by the executive committee of the Precariat Union. The mission of the CU was to specialize in and organize collective struggle against an industry ruled by unique conditions and malpractices. Its initial task was to bring Sakura’s case to a conclusion and respond to the increasing number of *cabakura* workers seeking consultation. One way to achieve this was to communicate and legitimize the union via press conferences and further exposure in the mass media.

Sakurai’s case concluded in late March 2010 following the formation of CU. A series of direct actions toward *cabakuras* under the same ownership were taken in order to bring the management back to the negotiating table. This culminated in a demonstration through Kabuki-cho scheduled for 26 March. The managers were given a notice by the union, and the union soon received a reply indicating that they were willing to settle.

The notification from the union explained to the managers that the demonstration would pass in front of a *cabakura* managed by the group, that this particular *cabakura* would be mentioned in the call-out made to publicize the event and would become the target of the speech choir (i.e., the message being amplified through speakers).

On the scheduled day the demonstration was still carried out as part of the CU campaign to address industry malpractices. Approximately three hundred people participated and a large banner on which was written four bold letters indicating ‘Improve our Industry’ hung from an advertising balloon. The placards stated ‘Against Power Harassment’ and ‘Fines are Prohibited’. The demonstration turned out to be very effective. A case where negotiations had been going nowhere ended in victory. Sakurai’s boss agreed to give her her back wages, reparations for harassment and a formal apology. The CU had proven itself worthy in the largest entertainment district of Japan.

Some Key Factors Contributing To Success

- The Labor Union Act allows for individual workers to join unions and states that employers are obligated to hold collective bargaining at the union’s request.
- Prior to receiving calls from *cabakura* workers, members of the Precariat Union had friends and family members working in *cabakuras* and were therefore familiar with and not prejudiced towards the workers’ situation.
- Women consultation staff active in the Precariat Union were at hand to respond to workers seeking help. It was decided that initially the CU consultation staff would consist entirely of women.
- Manoeuvrability: For example the union could mobilize its members at various times of the day and night upon short notice.
- Members made efforts to contact and work closely with the media.
- Unions dues are comparatively low, starting from 500 yen (US\$6) per month.
- Crazy people?! For better and worse, a fierce willingness to step outside the bounds rather than handling matters with an ‘administrative attitude’.

Sakurai's is but one of many cases where workers had approached the Labor Standard Supervision Office prior to consulting the union. It must be said that the government office is also implicated for having discouraged workers from fighting, stating in veiled language that the 'rules of the night' are to be followed. As such, there is a need for negotiations with relevant government offices to hold them accountable. Meanwhile calls from distant provinces have been referred to allied unions in those regions. Negotiations have begun and in some cases they have been concluded.

It remains a challenge that many businesses still refuse to respond when the union demands collective bargaining, or these talks are held but do not make progress. In such cases the union must be persistent and take disruptive action in the form of protests during business hours, uploading footage from these protests onto the web, and visiting the business owners at their homes. This serves to show the bosses that they will not escape from the union's reach. There are also discriminatory sentiments deeply entrenched in Japanese society which must be corrected. They are felt acutely in remarks such as 'Withstanding sexual harassment is part of the *cabakura* hostesses's job'.

There is no doubt that our struggle will continue to be a difficult one. And yet we are certain, that when people who are not considered to be workers raise their own voices, something is sure to change.

For more information (in Japanese), see:

Cabakura Union Blog: <http://ameblo.jp/cabauni/>

The Precariat Union (FZRK) Website: <http://freeter-union.org/union/>

and *Blog*: http://d.hatena.ne.jp/spiders_nest/



Endnotes

1. Power harassment is defined as a case where standing and power relations within an organization are abused. Power harassment worsens the everyday work environment and increases the sense of job insecurity in the worker. It is too often justified on the grounds of training or guidance of workers.

Article 11 of the Equal Employment Opportunity Law as amended in 2000 stipulates that employers are obliged to respond to workers' claims and take preventative measures against sexual harassment, which is one form of power harassment. This means that companies must regard and concede to the survivors' own claims. Although the legal basis for fighting other forms of power harassment is less established, it is very common for unions in Japan to hold companies accountable for power harassment based on Article 1 of the Industrial Safety and Health Law and Article 4 of the Labor Contract Act. The government has also issued guidelines about it.



Demonstration through Kabuki-cho, Shinjuku, on 26 March 2010. The four characters on the banner read 'Improve Our Industry'.

Photo: Shimizu Naoko

2. Although some *cabakura* are individually owned and operated, many are registered under 'front' companies and operated by other bodies. For example, the copy of the commercial registration would state that a company has a starting capital of 10,000 yen (US\$120) or the owner can not be reached at the address indicated and it is often a difficult task to locate the people responsible. In Sakurai's case the union's actions at the *cabakura* – visiting in groups during business hours and filing for unfair labour charges with the Labor Relations Board – forced the managers responsible to attend negotiations. After Sakurai's *cabakura* was closed, the union continued to hold the 'group' which had been posting advertisements for job openings at six *cabakuras* accountable again by visiting these *cabakura* during business hours. The 'group' would not acknowledge their having control over these six *cabakura* however. As such the exact scale and organization of the business remains unclear. Presumably, the managers decided to settle out of fear that the details of their business would be exposed.

Organizing Sales Promoters: Casualized Women Workers in Supermarkets

Meilin Wu

Women Workers Under the Trend of Casualization

From the mid-1980's onwards, Hong Kong has transformed itself from a manufacturing centre to a global financial and sourcing hub. Relative to other Asian countries, the 'de-industrialization process' in Hong Kong has been drastically fast and extensive. Employment in the manufacturing sector dropped from 35.8% of total employment in 1986 to a mere 9.7% in 2006, with a loss of 621,000 jobs.¹ The majority of the discarded workers were semi-skilled middle-aged women workers.

Many middle-aged women workers being displaced from manufacturing industries now constitute a large percentage of reserve labour for the growing service sectors. The number of working women in the manufacturing sector dropped from 431,752 in 1986 to 104,576 in 1999, and 72,408 in 2004.² These 359,434 women workers displaced from the manufacturing sector are middle-aged and low skilled. The hidden unemployed women become 'discouraged workers'³ and become classified as 'housewives' in official statistics, thus becoming invisible. Many female workers end up as manual workers in public housing estates, offices, restaurants, and fast-food chain shops – in other words, in the lower strata of the service sectors.⁴

Overall, the employment conditions for women have continued to deteriorate. There is a trend of longer working hours and suppressed wages in full-time employment and at the same time, casualization and reliance on part-time workers are other trendy modes of employment. Casual workers are defined by the Hong Kong government as workers who are employed on a day-to-day basis or for a fixed period of less than 60 days. According to the statistical data from the government, the number of casual employees in 2009 is over 225,000 persons, occupying 7.2% of the total working population of 3,125,000. It represents a rise of 6% when compared with year 2002. The rise in casual work is mainly because of the loophole in the Employment Ordinance which exempts employers from being responsible for their social benefits.

Part-time work has also been on the rise: the number of part-time workers has increased by 32%, from 82,000 in 1997 to 182,000 in 2004. The percentage of part-time

workers against the whole working force increased from 2.8% to 5.5%. The government defines part-time workers as those who have a fixed number of work days per week and work less than five days a week or less than six hours a day, or who have no fixed number of working days per week but work less than 30 hours per week.

Aside from the failure to be covered by benefits, part-time and casual workers who already have low incomes have been suffering from lack of an hourly minimum wage. Until this year, in Hong Kong there has been no statutory minimum hourly wage for the territory; there has only been a monthly minimum wage applicable to Foreign Domestic Helpers only. This will change this year, however, after years of struggle by Hong Kong unions, as the government has already legislated a statutory hourly minimum wage – which will include all local workers but exclude live-in domestic workers (over 99% of whom are Foreign Domestic Helpers).

Casualized Work Excluded from the Labour Law Protection

As mentioned above, casual workers are on the rise and are unprotected by Hong Kong's labour law. The existing Employment Ordinance provides labour protection and benefits entitlement for only employees who work at least 18 hours a week for a continuous period of four weeks ('4.18'). These benefits include paid maternity leave, sick leave, holidays, rest day, redundancy compensation, etc. Employers can save a lot of workers by hiring workers who work less than the time period defined in this Ordinance ('4.18'), and who are thus not entitled to any protection by it.

In many cases, employers try to escape responsibility by setting terms of employment that explicitly stipulate 17.5 hours of work every four weeks, or termination for one week after working for 3.5 weeks, resulting in many new casual work patterns and serious exploitation. Thus, the loophole of the Labour Law has indirectly been increasing casual work. Despite years of labour groups including Hong Kong Women Workers' Association (HKWWA) protesting to the government to patch up this



From left to right: Meilin Wu, HKWWA Coordinator; two sales promoters wearing masks; and two researchers, at a press conference to announce the survey results and the recommendations of HKWWA and the promoters. Photo: HKWWA

loophole, the Hong Kong government has taken no serious legal measures to address it.

Strategies of Organizing Casualized Promoters

Women workers of Hong Kong are the destined losers in the globalization process. With economic restructuring and casualization, increasing numbers of women are relegated from the formal sector to the informal sector – as irregular workers in and out of employment in different industries. Such an employment pattern further erodes women's identity as workers, which hamper their potential for organizing under conventional trade unions.

As a women workers' organization, HKWWA sees that we have unique and important roles to play – to empower the women workers to voice their needs, and to

bring about changes to their situation through collective effort.

Thus, organizing casualized women workers continues to be our priority; and one of our main focuses now is organizing retail sales promoters. Thus our strategies now include:

Employers evade obligations to pay benefits to those who work at least 4 weeks and 18 hours per week ('4.18 rule') —setting terms of employment such as 17.5 hours of work every four weeks, or termination of work for one week after 3.5 weeks.

1. Focusing on organizing sales promoters in supermarkets and continuing visits to them there, to cultivate a sense of commonality and to address specific needs and problems, and work out relevant strategies.

2. Initiating research on the working situations of promoters and publicizing the report, to arouse the concern of the society.

3. Adopting a community organizing approach, which takes into account the multiple identities of the casualized sales promoter – as a worker who is deprived

Research Findings: The Vulnerable Situation of Retail Sales Promoters in Hong Kong

From March to July this year (2010), HKWWA launched a research survey on the situation of retail promoters in supermarkets. The research had successfully interviewed 138 promoters at 20 shops of seven superstores or supermarkets.

The results of the research show the vulnerable situation of retail promoters, as follows:

1. More than 99% of retail promoters are women, and 73.9% among them are middle-aged, from ages 41 to 55. Middle-aged women from low-income families are not only the caretakers of the family, they also carry the role of breadwinners.
2. There were 118 retail promoters (85.3%) who had been working at the same company more than four years, and among them more than 46% had been working as a promoter over 10 years. It indicates that casualized work is not just a temporary job for women anymore, but rather represents a core source of the women's family income.
3. The working pattern of promoter is consistently unstable, as their work depends on the promoter's working period, which may vary. The common pattern is 7 days or 15 days for one round, and 9 hours per day. They work over 26 days a month in the peak season of retail sales, and may work just 2 or 3 days per week in the low season. According to the '4.18 rules' of the labour law, even though the promoter is fulfilling the requirement of working over 18 hours per week, if they cannot keep it up substantially beyond three months, the promoter cannot be covered under the full protection of Labour Law. The most common methods for the employers to escape their responsibilities towards promoters are to stop the work for one week when the promoter has nearly reached work for three months, or to arrange working hours just less than 18 hours in one month. Thus, it cuts the continuity of the employment and enables the employer to exclude the promoters from full coverage by the Labour Law.
4. From the research, 83.3% of the interviewees do not have the benefit of any of the paid labour holidays or any annual leave. Over 60% of the interviewees do not get compensation or sick leave even if they get hurt during working time. More than half of the interviewed promoters do not have the Mandatory Provident Fund, the Hong Kong social security scheme, and 47% of the promoters do not get any allowance for overtime work. They have to attend briefing sections as new products go on promotion, which usually takes a half day and is unpaid, with not even any allowance given for travel expenses.
5. The casualized pattern of work not only influences the level of protection from the labour law, but affects the arrangement of women's daily life. Most promoters who were interviewed got their working orders less than three days in advance. Sometimes, they received their working order just the day before. Thus, the promoter is always forced to wait in uncertainty. It then becomes difficult for them to arrange any study, have social gathering activities with friends or family, or get any other part-time jobs.
6. The wages of the promoters are mainly paid by the hour, but are sometimes paid according to a commission based on a proportion of the products sold. So, it is an unstable way of calculating of wages. On average, wages of promoters are from HK\$240 to HK\$360 per day of eight hours. It is a bit higher than the minimum wage of HK\$33 (US\$4.20) per hour that labour groups have proposed. But as the number of working days per month is unstable, the workers' monthly income is also unstable.
7. As the promoters are required to work at any supermarket the employer sends them to, they must always work at different areas even though the location might be far away from their home, and it costs them a lot for the travel. From the research, the travel expenses may be from be 9% to nearly 21% of their income. If they refuse to work at the locations they are sent to, it will affect their future chances of being assigned work.
8. The promoters easily get hurt at work, since they must not only sell the product, but have to prepare the counter before the start of work as well. As they are not staff of the supermarket, they have to take the product for promotion from the lorry at the car park to the storeroom of the supermarket, and also carry the products from the storeroom to the counter when orders come from the customers. From the research, 17.4% promoters have gotten hurt from their work, and of those, over 70% did not get any compensation. Furthermore, they have to take the risk of the product loss themselves; if the products get stolen, they have to pay for the loss individually.

of due labour benefits as stipulated by the Labour Ordinance, such as statutory rest days, paid holidays, sick leave, and redundancy payments; and as a mother and a resident of a community.

4. Organizing propaganda activities in communities in order to deliver information and support. A Mobile Information Team visits sales promoters regularly. The content of exchange and information disseminated is not confined to just working conditions and labour laws, but also issues and resources related to family, childcare, and the workers' or residents' own health.

5. Conducting a hotline service on the labour law and family issues, and supporting the workers to address their disputes at the Labour Tribunal, their housing problems and their family issues.

The following are HKWWA's proposed policy recommendations for the casualized workers:

1. The Government should review and revise the '4.18' definition of continuous employment under the Employment Ordinance, in order to provide employment protection for women in casual employment.

2. The Government should set up a statutory mini-

imum wage system to ensure a decent living for low-income workers.

3. The Government should establish a universal retirement protection system for all citizens, particularly for the low-income women and homemakers.

4. Subsidized traffic allowance should be granted to the workers when they have to work in other areas far from their homes.



Endnotes

1. Oxfam Hong Kong, *Policy Paper*, 2007.
2. Census and Statistics Department (2005) *Hong Kong Annual Digest of Statistics*, p. 23.
3. Chan, Kam Wah & Leung, Lai Ching (1999) *Women in and out of work: a research report*. Hong Kong: Department of Applied Social Studies, Hong Kong Polytechnic University, City University of Hong Kong, Hong Kong Young Women's Christian Association.
4. The service sector (in Hong Kong) is composed of following industries: retail and wholesale, import and export trade, catering, transportation, communication, financial, real estate, commercial, social and personal services.

Cooperatives – A Vital Part of Women Workers' Struggle

Since 1991, HKWWA has been assisting women workers to form cooperatives and operate a Mini-Store, in which all workers are co-decision-makers, and profits go to supporting campaigns of women workers' rights. Typical products sold in their store, aside from food items, are handmade soap and handbags made from recycled materials by other women's groups. The cooperatives can be sustained and survive in universities, because the university students are attracted by the food and the ideals of cooperatives.

Through the process of building and sustaining the cooperative, the workers not only regain a lost sense of dignity after being disposed by society in the process of globalization but promote an alternative set of values to those of capitalism: respect for workers, mutual support and environmental sustainability.

*For more information (in Chinese),
go to www.hkwwa.org.hk*

Right: Bags made from recycled materials by women's groups and sold in the worker cooperative Mini-Store set up with the help of HKWWA. Photo: HKWWA



A Strike Threat Produces Results — the Hong Kong Dragon Airlines Flight Attendants Association

Doris Lee; Interview with Chris Suen

‘Dragon Air, Never Fair! Dragon Air, ‘Squeezing Until No Air!’

Throughout this year, the media coverage of labour struggles in Asia has given a large focus to workers’ struggles for wages – in China, Vietnam, Bangladesh and Cambodia – especially in the export manufacturing sector. Yet the service workers in major multinational corporations face similar battles for dignity and for a democratic say in their work conditions - even higher-skilled workers who are regarded as relatively well-paid and stable and respected in their employment, such as airline crew, teachers and instructors, and health care workers. With little thought to the workers, employers ever more easily increase the workloads and workplace safety risks they have to bear.

The union of Hong Kong Dragon Airlines flight attendants is one group that has recently reached the limits of their tolerance; this article gives a brief look at their struggle to defend their basic work conditions and dignity. In their struggle we are able to see that indeed, ‘encouraging’ the employer to be humane and any amount of talking nicely cannot compare with a group of workers united and prepared to exercise their legal right to withhold their labour. In a favourable legal context (in Hong Kong – a legal strike can be conducted by a union any time after the strike vote), workers would be remiss not to claim back their rights through persistent organizing and a united preparation to challenge – rather than only plea with – the employer.

‘It feels like we have no choice at all, to reject if we get a call to go on flight duty the next day. It is like we don’t even have the right to know our own roster schedule!’ – said a flight attendant during the Emergency General Meeting of the Hong Kong Dragon Airlines Flight Attendants Association (FAA) on 19 August 2010. The meeting had been called to discuss how to proceed after the company kept rejecting their demands, and take a vote on whether to strike if the company still refused. In the meeting, spirits were high, after an energizing rally



MAJOR POINTS OF DISPUTE

1. *Carry-on duty*: Flying Time Period (FTP) x 5, at \$59/hour. But is it after ‘open door’ or after ‘sign in’ (different stages of pre-flight preparation)? We need clarification. And most importantly, carry-on duty must get the staff’s consent first; right now it seems that staff have no choice, but must simply do as told, when they get a call from management to do carry-on.
2. *‘Minus crew’*: when staff are short, others need to cover for them and work extra to cope with the shortage. When this happens, other staff get HK\$80/per missing staff person. But the union members would rather have less ‘minus crew’ (i.e. less understaffed flights), instead of this small amount of money. With such a small amount, of course the company opts to pay ‘minus crew’ to save money rather than hire enough staff.
3. *Extra overtime pay for staff when they have to work on rest days*; and it should be voluntary (i.e., with staff’s consent).
4. *Review the pay structure/scale*; the fruits of the labour should be shared with the staff.
5. *Baggage handling*: company should define ‘assist’. There is a working group about the baggage handling issue, but with no cabin crew on the group, only senior staff and the International Air Transport Authority (IATA) on it.
6. *Minimum rest*: this is important – allow at least certain amount of break before rostering more time. The Roster Working Group also has no one from the union as a member in it; it should include union member(s).



Dragon Air flight attendants hold mass protest to air their grievances against the company, at the Hong Kong International Airport on 6 August 2010. Within a month afterwards, a hundred new members joined the union. Photo: HKCTU

at the airport just two weeks earlier – the first industrial action taken in Dragon Airlines in the 25 years since its establishment. At the same time, male and female flight attendants present also expressed bitterness, offence and confusion at the airline for its wilful and intransparent handling of policies regarding work time, rostering of flight duty, and lack of any compensation for changes at short notice without the staff's consent.

In the last several years, complaints of the flight attendants had been increasing, with many of the grievances being due to the shortage of staffing and resulting impositions by the management on the existing staff.

The union officers went through, one by one, the 13 points on which the union had confronted the management and demanded clarity and corrective action. (The six major grievances are listed in the Box on p. 20, 'Major Points of Dispute'.) After explaining the points and soliciting union members' views, the union officers summed

up, saying that one of the most bottom-line points was 'carry-on duty' – unrostered flights that some are asked to work upon their return to the airline's home base in Hong Kong. The union demanded that flight attendants be allowed to refuse to accept carry-on duties.

'We rely on the roster to arrange our personal life, but up to half of our roster could end up being changed, and we don't get prior notice most of the time,' said Winnie Poon, the Chairperson of the FAA.

The other main problem was about baggage handling – staff are required to assist, but what is 'assisting'? It is not clear. The union said the company should enforce the rule that putting up baggage in the overhead cabins which is over the weight limit should be the passenger's responsibility to lift and store above – not the flight attendants'.

Finally the union members cast their votes – about 150-odd union members came for the meeting, but including proxy votes, the total number of votes was 467.

All except for one, agreed that the company's 'offer' was unacceptable, and 464 of the 467 members agreed to take industrial action in case the company did not take serious measures to solve the issues, while only three members disagreed with taking industrial action.

Chairperson Winnie Poon said to the media that the first demand of theirs was the respect of the company. The union knew well that the company was reaping big profits, yet the workers hadn't had any raise in salary for years. Yet she did not offer an actual proposed date for the strike action, hoping that the company would re-open communications to settle the problems.

The union also heard supporting statements from other Hong Kong unions. Dora Lai Yuk-sim, the Chairwoman of Cathay Pacific Airways Flight Attendants' Union, said, 'The key point is, there should be much more penalty for understaffing! The 'minus crew' (payment to other staff who must bear extra work, when the flight crew is below the necessary number, which is HK\$80 per

'The key point is, there should be much more penalty for understaffing!...

The company wants to exploit your tolerance, to pass through the peak season without hiring more crew!

Dora Lai Yuk-sim, Chairwoman of Cathay Pacific Airways Flight Attendants' Union

staff member short) is so little, of course the company will always opt for it. The point is the company wants to exploit your tolerance, to pass through the peak season without hiring more crew!

A Dragon Air union member burst out in response, 'If the flight attendant gets a call, they have to go, and if the staff says no, they need to explain why – this implies that it's not a choice, but it should be our decision! And [the understaffing] is not safe for us! The company can pay a few hundred dollars less, but it's dangerous to let a flight be understaffed, the staff who are on duty have to do so much extra work and will easily get hurt!'

Lee Cheuk-yan, General Secretary of the Hong Kong Confederations of Trade Unions (HKCTU), reminded the union members of the importance of staying united. It was their united strength that would get them a victory; without it, any gain would be hard to get, and easily undermined. Their unity is what would make a strike successful, if really launched. Of course if a strike is called and most union members return to work, it would

THE INTERVIEW WITH CHRIS SUEN, VICE PRESIDENT OF THE DRAGON AIRLINES FLIGHT ATTENDANTS ASSOCIATION

AMRC: The energy and turnout of your union members is quite impressive. How many members are there in your union, and out of how many total staff is that?

Chris Suen: Dragon Air has 1,256 staff, and 830 of them are our union members. But Cathay Pacific Airways Flight Attendants' Union, which gives us a lot of support, is one of the strongest unions in Hong Kong. They have 5,000 members.

Since we took over the Executive Committee six years ago, we've gone from 40% of the union rate to 60-70%.

That is because two weeks ago (on 6 August), we held Dragon Air Union's first industrial action. We put ads everywhere including on Facebook. 150 replied to confirm, but we were so surprised that 400 people came. This taught us that union members it is actions taken by the union that gets members! In the past one month, 100 new members joined! This was impossible before, to get 100 new members in one month.

AMRC: But is it also because the working conditions now are worse than before? Have you found any trend like that?

Chris Suen: Actually now is not the worst time I have experienced in Dragon Air. No, the meanness of the company has been similar before. But the reaction of our post-80's members¹ to it is different. I've noticed it. During my nine years, now has not been the worst time.

AMRC: So has that made it easy to organize the staff, having more post-80's members?

Chris Suen: It's not really easy to organize, as 1) we have a tight schedule and we cannot really meet members except in-flight. And 2) the Dragon Air flight attendants union is 21 years old; it was established in 1989, and our members are a bit split between old style and new style. It's our education in Hong Kong, I think. We are well-molded to follow instructions. So, older union members tend to be more obedient, but one thing I think that has made us come to this point now is that there are more young people; I really feel the post-80s generation are more motivated and willing to challenge others. It's their own culture and educational background.

AMRC: Usually how do you recruit union members?

Chris Suen: It is hard to meet them except on flights. Still, we try to organize social activities. Also new staff in the airline get induction training. At that time, we can come and recruit among the new staff.

AMRC: How much support do you get from other unions in Hong Kong?

Chris Suen: The support of other unions to us is very important.

Our union is one of four unions in the Hong Kong Flight Attendants Association. Besides us, Cathay Pacific, United Air

and British Airways' Hong Kong-based crew unions are there. We have quarterly activities there, where all the flight attendants' unions meet.

Also HKCTU gives us a lot of support. When we were new (newly elected into the Executive Committee), HKCTU and HKFAA gave training to us, about negotiating, and on collective bargaining.

AMRC: What are the elements, in your opinion that have helped Dragon Air union to be stronger?

Chris Suen: One important factor is the percentage of members. Building up enough members so that members don't feel isolated, but rather part of a strong group among the staff, makes a big difference.

The other is, the policies imposed by the company unilaterally make the staff more and more angry. When the union reacts on the behalf of staff, it shows staff that the union is defending them. People actually would not join, if there is no problem! In the traditional view of unions that is common in Hong Kong, unions are for getting groups discounts, and having yearly banquets of snake soup...

But there are some staff who will just never join our union. Mostly those are upper level staff, the 'dual crew'. The 'dual crew' perform dual duty as a normal flight attendant and a office worker. They are required to do on-board duty several days a week, and work in the office the rest of the time. They consider themselves to be like management. And there are also some staff who are just selfish, I believe. They get the benefits which our union has fought for, but they do not join our collective action or contribute with their fees. In Dragon Air FAA, the dues are HK\$50 (US\$6.40) per month. It is hard to do much with low dues; so we have no office of our own, nor any full-time staff...

AMRC: How about your union's collaboration with other unions, outside your sector?

Chris Suen: We have gone before to support the workers on the Airport Express (high speed train to the airport) when they had a struggle going on, and some other unions. But it is hard to mobilize members for solidarity with groups that are much different. Still, HKCTU always informs us of the struggles that are going on in Hong Kong, and we try to support them.

Note

1. In Hong Kong, the term 'post-80s' became a buzzword especially after many politically unaffiliated, media-savvy young people, born after the 1980s, joined protests and demonstrations in 2009 against the eviction of the Choi Yuen Tsuen residents in Hong Kong to make way for a HK\$66 billion (approx. US\$8.5 billion) high speed rail linking Hong Kong and Shenzhen. The movement's upsurge via internet websites and lack of a clear leader confounded analysts and invited comparison with the mass South Korean protests against US beef imports in 2009.

just destroy the union. It would be a brave and hard step to strike, as many workers would fear losing their jobs. But in Hong Kong law, their jobs would be protected if they are union members. In Hong Kong, there is no law to require employers to collective bargain with a registered union – yet the ironic benefit of this, is that Hong Kong also has no 'cooling-off' period after a strike vote, before they can launch a strike; thus they can keep an element of surprise, and also, importantly, can avoid the employers using the 'cooling-off period' to aggressively threaten the workers to deter them from their action! This is a vacancy in the Hong Kong law which works to the advantage of unions. 'As long as you have strong unity and determination, the strike can succeed!', he said.

UPDATE OF THE STRUGGLE

After hours of negotiation on consecutive days, on 21 August 2010, the union agreed to suspend its plan to strike, after coming to a resolution with the company about their demands.

The airline agreed to immediately hire 50 more flight attendants; and, as a temporary measure, operate selected flights as charter operations staffed with other airlines' cabin crews. The deal ending the weeks-long dispute came after a 13-hour meeting that ended at 4 a.m.

The company also agreed to accept five out of six proposals on working hours and conditions put forward earlier by the Hong Kong Dragon Airlines Flight Attendants Association.

The airline will offer an extra HK\$1,000 allowance for flight attendants that volunteer to work on rest days.

Five times the regular hourly rate will be paid to cabin staff on top of their basic salary if they have carry-on duty.

And if a flight is run with a cabin crew member short of the full complement ('minus crew'), nine times the crew member's hourly rate will be shared among the remaining crew members as compensation for working short-handed. Dragon Air also agreed to set up a roster system review working group, which would include members from the union, as the roster system has been a major cause of discontent among the aircrew.

Though the FAA regrets not getting the company's agreement that cabin crew should only take on carry-on duty if they have consented to it, rather than be obliged to do it, as they are now; however, the FAA believes that with the above concessions from the management, the need for carry-on duty would drop significantly.



Strategies and Challenges for the Youth Labour Movement: The Experience of ‘Youth Labor Union 95’ in Taiwan

Por-Yee Lin

The ‘labour movement’ may be something unfamiliar or weird for the majority of Taiwanese people in their everyday life, especially for the young people. If we would like to have a ‘youth labour movement’, what is to be done?

There are historical factors affecting the condition of the youth labour movement. The Kuomintang government in Taiwan had suppressed the left-wing activists and any labour movements for a long period, from 1945 to the end of the 1980s. As a result, the independent labour movement in Taiwan lacks a strong historical tradition and only emerged after the 1980s. Moreover, the experience of economic development confused the workers. As one sociologist Gwo-Shyong Shieh has called it, Taiwan was a ‘boss island’, which means there were many newly established small employers during the 1960s to 1980s, and the phenomenon caused many workers to falsely believe they could solve their oppression just by becoming bosses themselves. As a result, the labour movement faced much more difficulties in Taiwan.

However, the young generation in Taiwan may be facing a much harder challenge. On the one hand, the real wage has ceased to progress since 1994. On the other hand, as the expansion of higher education has produced many more students than before, more young people have to pay the costs for entering higher education (including tuition fees, debts and living expenditures), but the real wages for university students are

decreasing, apart from the effect of ‘credential inflation’— i.e., the effect of the rising supply of graduates decreasing the rewards of having a university degree. As a result, there are more students who need part-time jobs to meet the demand of capitalists for their survival. But part-time jobs are often seen as ‘not a job’, and are taken as a learning opportunity or even as a leisure activity, not taken seriously by civil society as needing protection.

Under the effects of the crisis of jobs and ideologies, the part-time workers and other ‘irregular workers’ (e.g.: internships, student-workers, outsourced workers, etc.) usually face worse working conditions, yet have no power or willingness to fight against employers to improve them.



Youth Labor Union 95 and part-time workers rally to demand a raise of the minimum wage and change in calculation of part-time workers' holiday pay, June 2007. Photo: Youth Labor Union 95

In order to transform these conditions, our challenges and questions are: how can we improve the working conditions and labour consciousness of young people? By what means can we increase the number of young people who join the labour movement, or at least fight for their rights? Moreover, as we are almost all still student activists with only limited financial resources, what can we do to pursue our goals?

Strategies for connection with young workers

'Youth Labor Union 95' initiated in 2005, is an independent organization aimed at promoting the youth labour movement in Taiwan. Our members consist of young social activists, graduate students and undergraduate students. We identify ourselves both as a labour NGO (a non-government organization committed to improving the working conditions of young people) and as a union (for young workers to join in us for solidarity and collective bargaining).

In the initial period, we faced many challenges in connecting with young workers. In 2005-2006, we held four small conferences to discuss the 'youth poverty' issues, including the degradation of labour rights, hike in tuition fees, lowering of the birth rate, and the financial credit crisis. These conferences provoked good discussions, but the participants were almost all research students or social activists, not 'ordinary' workers or students. How could we connect with young workers even further?

(1) Online appeal and hotline for young workers

In June 2007, the government raised the minimum

wage 9.09% in the last 10 years; and under the impact of our protest (see the photo at left facing page), the government also changed the calculation method of the minimum wage of part-time workers to include the holiday payment for them (See Table 1 below.). As a result, the minimum wage for part-time workers was changed dramatically from NT\$66 (approximate US\$2.10) per hour to NT\$95 (approximate US\$3) per hour.

To achieve the minimum wage, in July 2007, we set up an 'online appeal' zone on our website, for workers to seek our help for their legal labour rights. At the same time, we released an 'appeal hotline number' (the cell phone number of one of our core members) through the newspaper.

Creating an 'online appeal' zone on our website and a hotline telephone number for young workers to call, proved to be a successful way to reach young workers.

However, most of the calls have been about individual labour rights — not issues of collective action.

Surprisingly, this way broke the obstacles of the past in connecting with young workers, and we received more than three phone calls and emails from different young workers every day to get help in claiming their labour rights. In the beginning, most cases were about their wages under the new rule of the minimum wage. After 2009, there have been more

different kinds of labour issues that they call us about, but most of them have been about individual labour rights, not issues of collective action (e.g., calls for help to unionize them, or to initiate collective bargaining with their employer).

What could we do to help them? When we receive the calls, after discussion with the workers, usually we call their employers directly, and tell them it's illegal to pay their part-time workers under the minimum wage. On average half of the cases get resolved, but others do not. In the latter cases, we have to exert further pressure. For us, one way is to ask the government to intervene, and the other way is to raise public pressure.

(2) Media as the tools for raising public pressure

Generally, we try to assess the possibility of calling the press to publicize the cases when we help the workers.

Although as a small union (or a labour NGO), we cannot monopolize labour's power collectively to bargain with the employers, we can still bargain with these

Table 1. The Changes in Minimum Wage and Calculation Method from July 2007
(Exchange rate: US\$1 = approx. NT\$31)

	Before July 2007	After July 2007
Calculation method of minimum wage	'per hour' = 'per month' salary ÷ 240	'per hour' = 'per month' salary ÷ 182, (because there should be 58 hours on average as holiday payment per month)
Minimum wage per month	NT\$15,840	NT\$17,280
Minimum wage per hour	NT\$66	NT\$95

employers by raising public pressure and criticism, especially when the company cares about its public image. Overall, the companies of the service sector care more keenly about their image. In our experience, two-thirds of the companies of the service sector are willing to negotiate with us after the media has covered the labour problems they have, especially if their behaviors are seen as illegal.

The effect of (2) - media strategy - is intertwined with (1) - the online appeal strategy. We found that every time we made a labour case public through the media, afterwards, there would be more young workers who try to connect with us, as a result of realizing that their labour rights may have been violated. The media coverage of these labour issues has the influence on other workers to take actions collectively, in a 'snowballing' effect.

(3) To recruit young volunteers to help these young workers

The upsurging need to help workers with their appeals forced us to enlarge and stabilize our organization,



Press conference of young workers to protest illegal work termination penalty deduction by a Singaporean human resources company, 3 October 2009.

Photo: Youth Labor Union 95

from a temporary student alliance to at least an official NGO or a small union.

To regenerate our membership, we hold a camp annually to recruit volunteers for us to help these young workers. We found that our volunteers are almost all students from universities, and some have had experience in student movements. Until now, the majority of the core executive members of Youth Labor Union 95 have been research students of the social sciences and have been living in the capital city of Taiwan, although this phenomenon may lead to some limitations: for example, we are often not familiar with the real everyday life of 'ordinary' part-time or full-time workers.

The general illegal behaviors of Taiwanese employers

Table 2. Top 5 illegal behaviours of Taiwanese employers against part-time workers (2009)

Illegal Behaviour	Percentage
Wage is below the minimum wage (NT\$95, about US\$3 per hour)	51.3%
Did not pay legal overtime payment	86.3%
Did not provide the required labour insurance and pension for their part-time workers	77.2%
Charged a penalty for pre-mature termination of work	22%
Did not pay double payment for workers who work on national holidays	90.2%

In 2009, Youth Labor Union 95 received 110 official appeal cases (involving 150 persons) that called for help by email, and answered more than 300 phone calls for legal advice. The numbers of the male and the female callers are almost the same. We found that there are some common illegal behaviors of employers against workers, especially against part-time workers.

According to the data from these cases, we concluded the ‘Top 5 illegal behaviors of Taiwanese employers against part-time workers (2009)’ were: violating the rule of minimum wage, lack of overtime payment, not providing legal labour insurance, lack of extra payment for work on national holidays, and charging workers an illegal penalty for pre-mature termination. (See Table 2.) Generally, there are fewer employers who obey the law than those who violate the law in Taiwan. Take the legal labour insurance, for example: we estimated that 77.2% of employers who hired part-time workers in Taiwan have not provided labour insurance and pensions for their part-time workers, even though this is illegal. As a result, if these workers suffer any accidents while working, they can not gain any financial or medical compensation from the government. In many cases, they even get fired.

Besides, some new illegal problems have been emerging after the economic crisis in 2008. More and more employers have been trying to charge their workers penalties for pre-mature termination of working. For example, many nurses in Taiwan are now asked to pay a penalty of as much as three months of their wages if

Since the economic crisis in 2008, new illegal problems have been emerging.

More employers have been charging workers penalties for pre-mature termination of work - *deducting as much as three months’ wages* for terminating work after less than one year.

they terminate work before having worked for one year, although according to the labour law it is illegal if they have not received the same value of professional training as of the penalty from their employers. The illegal penalty charge happened to many service workers from 2008 as a new method to cover the deficit of some companies (see the photo on the left facing page). We have even met some workers who earned less wages than the penalties incurred – and ended up owing the employer.

A Case: The Campaign for 85°C workers’ labour rights

I will use a case to try to exemplify our work. From 2003, a Taiwanese local cafe shop – 85°C Bakery Café (or 85°C) – emerged and expanded their chain stores rapidly. The company of 85°C now has more than 300 stores in Taiwan, and is the biggest café chain in Taiwan (with more stores than Starbucks); it now has 139 stores in China as well. They announced they will expand at

the speed of 100 stores per year in the world. So many management magazines took the company as the best case for commercial development.

However, after we set up the ‘online appeal’ zone, we suddenly found ourselves receiving so many cases from the workers of 85°C. In only one year from July 2007, we received 39 cases about 85°C. According to our estimation, in February 2008, more than half of the 85°C stories in Taiwan still hadn’t paid their workers the minimum wage. Almost all the part-time workers in 85°C got no labour insurance or overtime payment. The illegal behavior of 85°C violated the rights of more than 10,000 young workers per year.

It is obvious that the numbers of the rapid expansion and profits of 85°C are at the expense of the exploitation of young workers.

To help the workers in 85°C collectively, we initiated a public campaign against 85°C from May 2008.



‘False queue’ boycott outside a store of the leading cafe chain 85°C - a popular form of protest among the young workers. The words on the T-shirt of the protester says ‘85°C Café is so bad’ – a sticker that the Youth Union made for every protester to wear.

Photo: Youth Labor Union 95

One of our main goals was to ask the company to pay and compensate for the underpaid minimum wage for all their workers. Even if the store is a 'franchised store', not 'direct-owned' by 85°C, the head company still should guarantee the legal labour rights for all the workers in their franchised stores.

In practice, the campaign on the one hand mobilized more workers in 85°C to appeal to us or to their employers for their labour rights. On the other hand, we kept protesting against the company publicly and raised public pressure on it through media.

First of all, via phone calls, we pretended to be job seekers to ask the wages of workers in different stores of 85°C, and recorded them. After that, we held a press conference to criticize the general exploitation happening in every 85°C. We also protested publicly against the company several times. One time we even mobilized some friends to line up outside the store without buying anything, to boycott the store (see the photo on p. 27). We found that young people like this activity very much.

After public protests more than five times, and more and more workers appealing to us or the head company, at the end of 2008 we successfully forced the company to pay the minimum wage for their workers, at least in their 'direct-owned stores'. Some of their 'franchised stores' still didn't pay the minimum wage, but these cases were fewer than those in the past. By our estimate, the campaign influenced the wage conditions in more than 200 stores of 85°C. Moreover, the campaign indirectly reminded many workers in Taiwan that if their wage is under NT\$95 (approximately US\$3) per hour, it is illegal.

The challenges to fighting further

However, there are at least three hard challenges we encountered in this campaign. In my opinion, it also reflects the general challenges for our strategies in working with youth labourers.

Firstly, although we helped so many workers in 85°C or in other companies, we could not 'organize' most of them to join in our membership or labour movement, apart from conducting the campaign mainly by raising public pressure.

Considering that our financial and human resources are very limited, in our plan we hadn't actually taken membership as the priority in this campaign; instead, we took raising deeper labour consciousness for many

young workers as the priority. Nevertheless, we still face this challenge: by our activity we may be enlarging the discontent of exploited young workers, but how can we keep connecting with them to fight further, if we don't 'organize' them? However, we were not optimistic about the opportunity to do so by using the organizing mode of traditional trade unions to organize part-time workers due to their mobility and job uncertainties. We still had to find out the appropriate mode to 'organize' them.

Secondly, we have not forced this company to obey other legal labour rights successfully, e.g.: the labour insurance, overtime payments, redundancy payments, etc. for their workers. It's usual that a labour right will be neglected for part-time workers if it's not connected with the wage directly, although it may be important. Sometimes some labour rights (e.g.: the extra payment for part-time workers working on national holidays) are a little com-

plex, and the media would not be willing to transmit them fully; yet it is a limit of our strategies that they highly depend on media, and these issues get neglected easily. We have to take more

effort to promote these rights by ourselves.

Thirdly, the issues we have focused on are mostly based on the law; they will be given the name of 'legal rights'. However, there are mechanisms and sources of oppressions behind the violation of labour rights, and if only we could terminate these basic forms of oppression, the problems would not be reproduced in the workplaces. For example, it is hard to educate the young workers via online appeals or news media to realize the fundamental inequalities between labourers and capitalists in a capitalist society; but if we don't face up to the necessity to fight against it collectively, there may be endless violations of labour rights.

Above all, we have to discover the bridge from exerting public pressure to worker organizing, from basic rights to complex rights, and from the protection of labour rights to the struggle against the logics of capitalism, collectively. These are the challenges we should face up to further.



The blog of Youth Labor Union 95 (in Chinese) can be found at:

<http://blog.roodo.com/youthlabor95>

Challenges for Organizing the Beer Promotion Women in Cambodia

Hornq Vuthy

Introduction

The worldwide financial crisis has caused huge damage to Cambodia's tourism, garment manufacturing and construction sectors. Those sectors comprise three of the Southeast Asian kingdom's four economic pillars (besides agriculture) and the bulk of its economic growth over the past decade. Tens of thousands of people have lost their jobs in the past 16 months or are earning less than before.

In Cambodia, women have already been particularly affected by the crisis, as they play a crucial role in the economy but are most likely to be low-paid and exploited. Women do much of the agricultural work, run the fresh food markets, and run other stalls and shops. On top of this, they continue to do the majority of the housework and childrearing.

Importantly, women also form the majority of the workforce in the formal sector, in Cambodia's export industries. The garment industry is Cambodia's largest export industry and has employed some 400,000 workers, mainly young rural women, over the past decade, bringing thousands of rural women to urban centres. Wages are very low and the women workers scrape by, living a very basic lifestyle. They are obliged to send part of their earnings back home to their poverty-stricken rural families, leaving them even less to subsist on. Many women who are without education or skills do unskilled construction work.

But since the global economic crisis, more than 51,000 garment workers have lost their jobs, and there have also been major lay-offs in the tourism, hospitality and construction sectors. All of this has meant that tens



Beer promotion woman wearing her uniform with prominent logos of Angkor Beer.

Photo: CLC

of thousands of women in Cambodia have recently gone from low wages to no wages. Many are now left little choice but to return to their rural villages and seek new livelihoods. As the financial crisis continues to bite, many of the women who have lost their jobs will turn to low-paid hospitality or other service sector work, becoming so-called 'entertainment workers' – beer promotion and karaoke restaurant workers. Such jobs contribute to the important tourism industry, which has also stimulated the rise in related informal employment such as 'tuk-tuk' (motorcycle taxi) drivers and other informal service work.

In this article, we relate the working conditions of beer promotion women (also called 'beer garden workers', or commonly, 'beer girls') of Cambodia, and the efforts of the Cambodian Food and Service Workers Federation (an affiliate of the Cambodian Labour Confederation) to organize them.

Note: Much of the data in this article is based on the collaboration research between Asia Monitor Resource Centre (AMRC) and Cambodian Food and Service-Workers Federation (CFSWF), an affiliate of the Cambodian Labour Confederation and organizer of beer promotion women. The target group of this research was beer promotion women in Phnom Penh and the research was implemented by conducting a workshop and direct follow-up interviews. 101 beer promotion workers participated in the research workshop and they were from four beer companies; 45.5% of the workers were from Cambrew, 39.6% from Cambodia Breweries Ltd (CBL), 3.9% from Adwood (Heineken) and 10.8% from Asahi. (See Table 1 on p. 30.)

The full report will be made available on AMRC website: www.amrc.org.hk.

General Information

'Beer promotion women' (hereafter, BPWs) are a relatively new phenomena in Cambodia. Their job is to promote a specific brand of beer or other alcohol, and they work in beer gardens, restaurants, private parties and other entertainment establishments. Marketing research by beer companies has suggested that BPWs help increase beer sales, especially when the girls sit and socialize with customers.

Over 4,000 women and girls are engaged in the promotion of beer and alcohol in beer gardens, karaoke bars and local restaurants in Cambodia. This business attracts vulnerable young women and girls.

Many international beers are marketed in Cambodia with beer promotion women, and similar techniques are now being introduced into the rapidly expanding China market (see Bouma, 2003; van Luyn, 2004; van Pinxteren, 2004, at www.beergirls.org). The Interbrew family (recently renamed 'InBrew') is currently expanding and has marketed during the past two years a number of their international brands including: 'Three Horses' from the Netherlands, Stella Artois, Cass, Beck's, Labatt's, Hoegaarden, as well as Bass Pale Ale from the UK. Many other brands are marketed by the beer promotion women as well.

The Beer Brands

The majority of all of the brands sold by beer promotion women in Cambodia are imported from regional breweries, and distributed via locally managed distribution companies. There are just two breweries in Cambodia – Cambodia Breweries Ltd (CBL) and CamBrew, the national brewery. CBL has the license to brew and distribute Tiger, ABC Stout, Anchor, Anchor Strong and Crown beers. CamBrew produces and distributes its own-label beers of Angkor, Bayon, and Black Panther.

All beer which is brewed outside of Cambodia then legally imported, is distributed by one of seven companies: Anco Sutl., Asia Sunrise, Attwood Import and Export Co. Ltd., Duong Chhiv Import Export and Transport Co., Hak Soon Import Export Co. Ltd., Hosten Distributor and Soon Soon Import and Export Co. Ltd.

Beer is also reported to be imported illegally into

Table 1. Beer companies in Cambodia - No. and share of beer promotion workers (from AMRC/CFSWF survey)

Beer Companies	No. of workers	%
Cambrew	46	45.5
CBL	40	39.6
Adwood (Heineken)	4	3.9
Asahi	11	10.8
Total =	101	100

Cambodia, and sold without payment of the required import tax. The issue of illegal importation of beer has been said by legal companies to be a threat to their companies' ability to either maintain or expand their existing market share. Although the amount of beer which is illegally imported into Cambodia is unknown and therefore is difficult to assess how much risk illegal importation poses to the business of legal breweries and distributors in Cambodia, the issue of illegal imports remains, which also implies that more women are required to promote these new legally imported brands.

Recruitment

Beer promotion workers are recruited by beer companies and nearly all beer companies operating in Cambodia have women beer promotion workers who promote their products. Prominent examples include: Angkor, Anchor, Tiger, and Heineken beers.

Beer promoters are contracted by beer companies/distributors and as such are not regarded as direct employees. At the discretion of the beer company, however, they may be entitled to limited employee benefits (e.g. access to medical care).

Women hired for these positions are generally young and attractive, and are often asked to wear revealing, branded uniforms representing the beer they competitively sell in Cambodia's bars, restaurants, and beer gardens. They often sit and talk with the primarily male clientele, and continuously encourage them to drink their brand, pouring additional beer into the glass, opening new bottles or cans, adding ice to cool the beer, and drinking glasses of beer themselves.

Most beer distributors hire these young women from poor families with promises that they will earn plenty of money and be taken care of, and then throw them into the fray with less than an hour of training, and paying them only for what they sell. This comes to an average monthly salary of US \$50-55, which is less than half of what it costs just to survive. The young women are under heavy pressure by their employers to do anything that is necessary to sell the beer, and that means they have to drink with each of the men buying from her, often ending up very drunk at the end of the night.

Working Conditions/Employment Contracts

The 1997 Labour Law is the most up-to-date and comprehensive legislation governing the infrastructure, employment and treatment of workers in Cambodia. Under Article 3, 'workers' refers to every person of any sex and nationality, who has signed an employment contract in return for remuneration, under the direction and management of another person. Therefore, with the

exception of those working in the informal sector (for example street traders and domestic helpers), all female workers including beer promoters, garment factory workers and karaoke hostesses are entitled to their rights and benefits under the Labour Law.

The Labour Law has strong provisions to protect women against harassment and abuse in their workplaces. However it seems that public knowledge and legal enforcement of these laws is low or non-existent (CARE Cambodia, 2005).

Currently, even though the labour law requires a proper contract between workers and employers, the form of contract of BPWs with employers is still not clear. According to the workers surveyed, 10.8% were verbally contracted workers and 90% were non-verbally contracted workers (some of the non-verbally contracted workers were on probationary contracts which had only three months, which, after renewal, would be extended to six months and then one year.)

One hundred percent of BPWs said they were working on a full-time basis or for eight hours a day, for a beer company/distributor. In general, beer promotion workers congregate at the offices in the early afternoon and are subsequently dropped off at pre-identified restaurants. Changes in these 'assignments' take place only if the restaurant has few clients. In fact, some of them worked less than eight hours and others worked more than eight hours per day, because some of the jobs were shift work. In cases of overtime work, it was the responsibility of the company to pay an addition US\$20 per month to workers, according to the additional shift work done. (See Table 2.)

Table 2. Working hours of beer promotion workers (from AMRC/CFSWF survey)

Working Hours	No.	%
5 Hours	65	64.3
7 Hours	15	14.8
10 Hours	21	20.7
Total =	101	100



Union organizer Ms. Ou Tephalin trains beer promotion workers on the impact of alcohol on workers' health.

Photo: CLC

Service Expected from BPWs

Each night, young Cambodian women wear branded uniforms and compete to sell different beers in venues including beer gardens, restaurants, soup shops, and karaoke clubs. Working in Phnom Penh and across the country, the beer promoters mainly provide two types of services:

1- In restaurants, karaoke lounges, and beer gardens:

When customers are seated around the table, beer promotion women from all the companies approach the table to promote their product. They advertise the quality of the beer, inform customers of any promotions and sit and serve the customer if they order their product.

2- At private parties:

Generally, at private parties the BPWs promote one beer and one wine/liquor, depending on the choice of the host. They pour drinks for the guests, provide ice, and ensure the guests always have full drinks. They generally do not sit and serve guests at private parties.

For instance, when you go to have drinking and dining at night at a restaurant or beer garden, there will be a lot of BPWs standing around you and asking you to 'drink my beer, drink my beer'. Sometimes, just as you reach the entrance of the restaurant, the girls will walk with you and hold your hands as well.

Besides the income they earn from their monthly salary and commissions, some of them play another role, of sex worker; they go to sleep with guests, if they agree to go with them. At this point, some guests do not respect the BPWs' rights because they view them as sex workers.

Some others only work for their wage or some extra commissions to support their family. Thus, some

women who work and serve as sex workers, undermine the reputations of other girls and women who do not. Generally, most people always regard the BPWs' work as being not good jobs.

Types of Occupational Hazard —a 'toxic workplace'

The female labour force participation rate is increasing, particularly among young women in sectors where the pay is low – the garment industry, beer promotion, karaoke and waitressing - and the low pay and poor work conditions also push many of the women into sex work for additional income.

In the Cambodian outlets, the women find themselves working not in a convivial entertainment venue as in other countries, but in a sinister, dangerous and sometimes 'toxic' workplace, in terms of workers' health and safety. They face: i) forced drinking with customers and nightly alcohol overuse (1.5 litres of beer nightly, 27 days monthly); ii) on-the-job nightly impairment with blood alcohol concentrations averaging almost 0.05g/100ml; iii) the non-provision to beer-sellers of a 'living wage' to feed their families, with 50% underpayment, in turn forcing half the women to exchange sex for money 2 to 2.5 times monthly; iv) reduced condom usage after heavy drinking with customers, increasing the consequent risk of infection from HIV/AIDS (prevalence rates 21.7%, 1995-2003); v) nightly exposure to physical and verbal abuse and sexual harassment, and vi) non-universal access to life-saving anti-retroviral therapy (ARVT) or highly active anti-retroviral therapy (HAART) for HIV-positive beer-sellers, and the industry's refusal to provide free treatment to its women workers, while providing HAART to male brewery workers (since 2003 in Cambodia).

Some companies prohibit beer promotion women from sitting with or drinking with customers as a way of reducing harassment. But within venues, women fall under the effective control of outlet owners and managers. Some of these owners/managers respect the women's refusal to sit with customers and drink. Others threaten the women that if they do not generally pander to customers then the owner will complain about them (on made-up grounds) to the company (CARE Cambodia, 2005, p. 20).

Outlet owners (along with the customers who consume the beer) are seen as important customers, crucial to brewery and distributor sales success. So, even though the workers get paid by the beer company, some restaurant owners and managers order them to do more jobs

in the restaurant that are unpaid, such as serving food or cleaning tables. The restaurant owners and managers use their power over BPWs, threatening that if they don't comply they will tell the BPW's manager to move her to other restaurants or workplaces where it is harder to get clients. Thus the BPWs feel they have to follow what the restaurant owners and managers say, in order to keep their stable work.

Working Conditions: Payment System

Although salary structures vary between beer companies, US\$50 per month is an average salary. Beer promoters are required to submit their sales figure on a daily basis.

In the case of beer promoters who were on the company payroll, they would generally receive their salaries on a monthly basis. Incomes were between US\$30-40 per month although some could get up to US\$100 due to their beauty, youth, and 'courteousness'. Only two companies, Cambodia Brewery Limited and Cambrew Ltd., paid fixed salaries per month. The former paid US\$40 and the latter US\$30 for new recruits. Interestingly, the majority of employers, representing 75% of the total, stated that they issued the workers' wages based on the amount of beer sold. Wages are reduced on a percentage basis if promoters fail to reach monthly sales targets, but workers are paid commission on an individual basis if beer sales exceed their target. In addition, most of them were paid per night or per time spent with the clients.

Organizing Strategies

In Cambodia, efforts are being made to establish a



Beer promotion workers taking company cars to their workplaces. Photo: CLC

sound and transparent industrial relations system where employers and workers can identify common interests and seek peaceful solutions to problems and labour disputes in a bipartite setting and through tripartite mechanisms. These initiatives are recent and require further strengthening.

The 1997 Labour Code enables freedom of association and successful organizing among employers and workers in the formal economy. In contrast, associations which aim to defend the interests of their members are hampered by ambiguity in the laws that regulate their operations. In addition, the lack of time-bound regulations for accepting the registration of an association means that in practice bribes need to be paid to allow for registration.

Based on our experience, we still have to use our old ways of organizing such as just going to the factory, talking about the union and asking workers to join.

But it is not easy to collect and organize the informal workers and organizing them requires a rather long time to make workers understand and feel confident towards trade unions, federations or associations.

According to the survey result of CLC and AMRC on the organizing of beer promotion workers in Cambodia, we observed that there are some similarities and differences among the experienced organizers' strategies for organizing beer promoters, such as:

- Meeting at workers' workplaces in restaurants and beer gardens when they are free from work.
- Meeting at workers' houses because there they have more time for discussion, feel it easier to communicate and live close to other beer promoters.
- Organizing through activists, union leaders and members who used to participate in the workshop trainings by explaining to them to spread this information to unknown workers.
- Firstly providing training to workers whether they are our members or not, because it will be easy for the next step in organizing.
- Organize in the beer companies when they gathered for the meeting before they are sent to different individual workplaces.
- Organize at car waiting places at night times after the beer promoters finish work.



Beer promotion workers and trade union leaders went on strike in front of Angkor Beer company in March 2010. The workers and trade union demanded, among other things, the right to change the beer promotion manager from the company to a new one, in an election that the trade union could participate in.

Photo: CLC

- Organize in the restaurants where they work together by explaining about the union and other benefits in organizing.
- Try to collect and know beer promoters' phone numbers
- Conduct a small group meeting at the outside eating places, then make good relationships and talk about the union.
- Organize when they have health problems by accompanying them to the hospital or clinic in order to show our caring and protection.
- Offer legal consultation when they have problems at workplace.
- Organize when we launch a campaign or strike for improving workers' working conditions or demand other benefits for them.
- Build trust in the union, by providing resolution conflict services to them.
- Even after applying the above successful strategies for organizing the BPWs, organizers still face some difficulties, because some BPWs are reluctant to join unions, thinking that it is useless and a waste of their time. Also, we still have do not have enough human resources for organizing; especially, organizers do not have enough personal time for implementing organizing activities.

Opportunities to strengthen the organizing work

In order to strengthen the organizing work more effectively, there are three strategies or opportunities for organizers to improve their organizing skills, as follows:

1- Building Workers' Trust

In case of a formal working situation like for permanent workers in the garment industry, it is easier for the trade union to deal with these obstacles, because workers and organizers can meet and discuss topics quite frequently in a reasonable safe environment. They can meet regularly, share about their problems after work, exchange about their rights, learn who they can trust and who they can not trust. They can share their burdens, and when in the union they can start sharing the responsibility.

But the more informal the situation becomes, the stronger the obstacles above, and the more difficult for the organizer to build trust. In the informal economy for instance, workers are alone; they don't even know they are a worker with rights, and they live with fear all the time. In an informal situation, workers know few other workers and cannot easily compare, share and talk about their problems.

2- Building a Strong Union

Permanent workers in the garment or tourism sector can more easily build up a strong union in which leadership, knowledge, membership, commitment – also in dues – can be constructed over a longer period of time. Also provision of services to permanent workers is easier.

In the case of workers in informal conditions, this all becomes very difficult. Because of the flexible character of informalized workers, the union needs to adapt itself and become more flexible also. Regular meetings and communication, training, coaching the local leaders, decision-making, and general provision of services become costly, slow and painstaking if we apply the same methods as in the formal sector.

More than in the formal sectors, the strength of the union must be created at the level of the member. We need to be aware not to create a dependent relation between workers and union leaders, because we cannot guarantee that the leaders will solve the problems for them via negotiation. If we fail, the union will collapse. So besides



CFSWF President Mora Sar being interviewed by journalists while beer promotion workers were striking in front of Angkor Beer company in March 2010. Photo: CLC

providing services, the organizer must facilitate the building of relations between the workers and strengthen the capacity at the lowest levels. This requires additional skills, competences and resources.

3- Conducting an Effective Struggle

An important obstacle to defending the rights of informalized workers is the unclear relation to the employer. This is closely linked to the type of contract the workers get. If workers have a temporary contract or no contract, or work on commission, then it becomes difficult to push the employer to respect the labour law, because there is little legal basis, or workers are simply afraid. Moreover, in many cases, it is not clear who the employer is, such as in the case of the BPW, and who should take responsibility.

This complicates bargaining for informalized workers: what demands can we defend, and who can we talk to?

In the case of the informal economy workers, the employment relation is completely gone, yet they face exploitation and intimidation.

This means that the negotiation is no longer between two parties (the trade union and the employer) but between more parties (which are different according to the case, for example: the trade union, local authorities, traders, employers, users of the services ...) Bargaining becomes more difficult, because the trade union has less bargaining power compared to all the other parties.

In that case, building alliances with other groups who

are similarly affected can be a way to increase that power and networking between small groups. Other strategies than collective bargaining may need to be applied such as campaigning. For the union it is a challenge to do so, because these forms of action are not protected or regulated in the trade union law.

Conclusion

Generally, women who are working in the entertainment industry in Cambodia are stigmatized by society, whether it is karaoke, massage parlours, or the beer promotion work. They are considered to be bad women. Across Cambodia about 4,000 women work as beer promoters in hundreds of beer halls, with the job of persuading men to drink their brand of beer. The majority of all of the brands sold by beer promotion women in Cambodia are imported from regional breweries, and distributed locally; thus the women are really contributing to the profits of large multinational companies.

Most beer distributors hire these girls from poor families with deceptive promises, and then throw them into the fray with less than an hour of training, paying them only for what they can sell, which amounts to a low monthly salary that can barely cover the workers' survival costs if at all.

The Cambodian beer promotion industry is inherently decentralized, as informal work sectors often are; relying on entertainment establishment owners, managers, and local contacts from the international beer companies. It therefore becomes difficult to organize all employees along any guidelines, such as Codes of Conduct or training curricula. It is strongly up to unions to tailor their organizing methods so the beer promotion workers can be motivated to form or join unions, and identify successful means to achieve improvement of their work conditions through their collective power.

In conclusion, in order to strengthen the organizing work more effectively, organizers, union leaders and national federations, associations and confederations have to drive their own activists and organizers to build workers' trust, importantly build their own strong union which can include workers of different sectors, and conduct an effective struggle.



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Challenges for Organizing the BPO Workers in India

Surendra Pratap

Introduction

The Information technology (IT)-enabled Services (ITES)-Business Process Outsourcing (BPO) industry is considered to be India's flagship sunrise industry, playing a major role in transforming the country from a slow-growth economy with recurring balance of payments problems to a fast-growth economy generating foreign exchange surpluses. It is also argued that the boom in ITES-BPO activities is instrumental in resolving the crisis of unemployment among the growing mass of educated-unemployed in the country. Call centres in India are broadly classified under ITES-BPO category. Roughly 60–65% of ITES-BPO services fall within the call centre spaces and 35–40% are back office activities. Major established call centre hubs in India are located in Bangalore, Mumbai, and in the National Capital Region of Delhi. Now new IT-BPO hubs are emerging in Pune, Kolkata, Chennai and Hyderabad. Most of the work is routine call centre and back office processing work for the US, UK, Australian and domestic markets.

From 2003 to 2008 the employment in ITES-BPO services increased from 180,000 to about 704,000; and it is expected to reach about 1.4 million by the end of 2010. 'The information technology and business process outsourcing (IT & BPO) sector today accounts for 6% of the country's GDP, a quantum jump from 1.2% just a decade ago, according to a recently concluded study by industry body Nasscom, in association with research firm Evaluateserve. The study estimates that by 2020, the sector will account for 10% of the country's GDP and 14% of the total services sector revenues....The sector contributed to 10% of the country's service sector revenues, its unique service-led export oriented model contributed 9% of the country's incremental GDP. The per capita GDP contribution of IT-BPO employees is 80 times that of agriculture. The industry grew twice as fast as the total Indian exports over the past decade and contributed 14% of the country's total exports.'¹

However, if we situate this service sector growth in the broader political economy of the country, we encounter a different picture, and then this growth seems to be contributing more to aggravating the problems than to resolving it:

1. From the period between 1983 to 2004-05, the

share of agriculture in GDP drastically reduced from 37% to 21%. In the same period the share of manufacturing in GDP remained largely stagnant (14% in 1983 to 15.1% in 2004-05); while the share of services in GDP recorded a sharp increase from 38.6% to 53%. The service sector therefore has attained the dominance in the economy. However, we do not get the same trend in the growth of employment. In the same period, there is no comparable decrease in share of agriculture in the employment (68.5% in 1983 to 56.5% in 2004-05). On the other hand, the share of manufacturing has remained more or less stagnant (10.7% in 1983 to 12.2% in 2004-05). The increase in employment in the service sector is also very low in comparison to increase in its share of GDP. The employment in the service sector increased from 17.6% in 1983 to 24.8% in 2004-05. According to National Sample Survey estimates (2004), the employment in computer-related activities accounted for only 0.2% of the work force; and all business services including financial intermediation, and real estate, renting and business activities, accounted only for 1.7% of the workforce. It can be easily understood that this 'Indian-style capitalist development' is producing a hell of chronic poverty and hunger in vast rural areas and also creating a huge reserve army of unemployed working class. This is largely termed as job-less growth.

2. The growth in this sector is largely based on external stimulus. As far as the ITES-BPO sector is concerned it is mainly based on external work contracts. Therefore, this growth is not leading to any kind of sustainable development. Any hint of crisis in developed economies may cause disasters for this sector. Moreover, with many third world countries (former British or American colonies) entering in this business, intense competition between them may make the growth in this sector even more unstable. In these situations the amount of work contracts for particular BPOs can never be stable. This is why the ITES-BPO sector is fiercely campaigning for amendments in labour laws to get unrestricted flexibility in hiring and firing the workers.

The ITES-BPO is not only a new sector of employment, but the nature and structure of employment in this sector is also largely new to India. Therefore the unionization in the ITES-BPO sector becomes a challenging task.

Exemptions from Labour Laws

Although the labour laws of the land apply to the ITES-BPO sector, various exemptions from crucial labour laws have been granted to the sector by the government. The ITES-BPO sector is exempted from application of the Apprentice Act. This exemption provides the sector with the opportunity to engage large number of workers as apprentices without any obligation to absorb them as regular workers or provide them with any social security benefits. The state governments of Karnataka, Tamilnadu, Maharashtra, etc. have exempted IT establishments and IT-enabling services from the provisions of the Shops and Commercial Establishments Act related to working hours; and from prohibitions in the Act against night work for women and young people, subject to employers providing transport and security for those working at night. West Bengal's IT Policy allows BPO/ITES employers 'self-certification' of their compliance with important labour legislations like the Minimum Wages Act, Shops and Commercial Establishments Act, Workers' Compensation Act, and Employees State Insurance Act. Andhra Pradesh's Policy on IT also grants similar exemptions. The IT Policy of Uttar Pradesh exempts ITES from routine inspections in relation to compliance with labour and pollution regulations. In 2009, the Karnataka government provided exemption to IT/ITES and software establishments from the provisions of Industrial Employment (Standing Orders) Act 1946 for two years. This Act provides for strict enforcement of provisions on classifying workers, their working hours and shifts, the wages payable, etc. Haryana Labour Policy declared the IT and ITES sector as Public Utility Services in 2006.² Some other states have also made this declaration. Moreover, more and more IT and ITES units are now moving in the Special Economic Zones (SEZs) where all the activities are declared as Public Utility Services under the Industrial Disputes Act; for workers in Public Utility Services, a legal strike is almost impossible. About 50% of SEZs are especially for IT and ITES. As of September 2010, the Government of India has approved 734 SEZs to be established in different states of India. (367 out of 734 approved SEZs are already notified – either land has been already acquired for them or it is in process. 122 out of these 367 notified SEZ have already become operational.)

Working Conditions in BPOs

The workers in the BPOs are generally called agents. Over 80% of BPO workers are in the age group of 20-25 years. Women workers (mostly unmarried) roughly constitute 40-50% of the workforce. Workers are generally recruited as probationers for 6-12 months. Only a very small portion of these probationers are absorbed as regular workers. Studies have reported that as high

as 38% workers in BPOs are probationers (workers on probation for up to one year before being formally hired as regular workers) or on project-based engagement (only 62% are permanent workers).³ Moreover, in the BPO sector, permanent status can not be equated with job security. The permanent workers are also thrown out of their jobs as easily as the temporary workers. The only difference between the two categories of workers is that permanent workers get social security benefits and leave entitlements, etc. Studies have found a very small portion of workers working in the BPOs for more than two years; the attrition rate in the BPO sector is as high as more than 50%.⁴ It reflects on the high insecurity and vulnerability of BPO workers. There are also the pull factors, but the main contributor in the high attrition rate is the push factor and not the pull factor.

In India BPO workers are comparatively better paid than other industrial sectors. The monthly salary of BPO workers ranges from Rs. (Indian rupees) 8,000 to Rs. 15,000 (equivalent to US\$178-US\$334).

The major problem that BPO workers face is that they are virtually compelled to work like slaves. Using Automated Call Distribution (ACD) technology⁵ (along with providing standard scripts to facilitate the agent's response) the firms keep the 'free time' between calls to the barest minimum. Moreover, the workers and their work are continuously monitored with the help of specially designed software and closed circuit cameras. This monitoring is not only at the workplace but also outside the workplace. The workers are always under psychological pressure. The other major problem is difficulty in getting leaves. The regular workers also can not go on leave without prior permission, even when they are facing sickness. However, they are eligible for 10-11 days of leave in a year. But probationers or other temporary workers who form almost 40% of the workforce are not eligible for any leaves except casual leaves.⁶ Moreover BPO workers, whether regular or temporary, do not get any leave on national holidays and festivals. The issue of leaves is so crucial that sometimes it becomes a reason to resign.⁷

Unnatural working hours, a heavy workload, excessive overtime, continuous monotonous work without rest, and working under continuous psychological pressure cause serious health problems ranging from nervousness, chronic fatigue, body ache, insomnia, nausea, anxiety, restlessness, irritability and depression, to digestive problems such as constipation, peptic ulcer, indigestion, diarrhea, excessive gas formation, abdominal pain, etc.⁸

The individualized work culture and lack of space for social interactions either at the work centre or in society (due to odd timings), is making them asocial individuals detached from society. This is a major cause of depressions. Moreover, they also face a problem of split

personality – they live in a ‘foreign’ world with foreign names and foreign culture at night, and as poor natives facing a lot of trivial problems in the daytime.

If the work culture in manufacturing units automatically teaches the workers to work collectively and therefore automatically transfers in them a collective feeling and some sorts of organizing skills, the BPO culture automatically teaches the opposite and automatically transfers individualistic feelings. Probably this is also one of the reasons why they are more hesitant to join organizing efforts. But there is another aspect of this situation also – i.e. BPO workers feel comparatively more urge to socialize and join gatherings, etc.

Challenges for Organizing the BPO Workers

Unionization in BPOs in developed countries (i.e. mainly US, Australia and Britain) was comparatively easier as they could extend the union activities of the customer companies based in the same country; since the BPOs were actually an extension of activities of these companies. But in third world countries like India this has not been the case. Also, as we discussed earlier, BPOs were not only new sectors but also sectors with new employment structures and a new work culture; the trade unions in these countries had no experience of organizing workers and practicing collective bargaining in such situations.

Moreover, the whole state machinery, industrialists and their think tanks and the media are continuously campaigning that there is no need of trade union activities in BPOs as they enjoy ‘heavenly’ working conditions with the best salaries; and that unionization in this sector will end India’s comparative advantage and prove detrimental to the nation, since these sunshine industries are now driving the Indian economy. Many state governments have already declared ITES-BPOs as Public Utility Services under the Industrial Disputes Act 1947, which makes legal strikes almost impossible; and therefore also makes the unionization process highly difficult.

These are the broadly the external factors which have delayed and also acted against unionization efforts in the BPOs in India. However, the decisive role is always of internal factors and therefore we should focus more on the factors affecting the collectivity at the workplace. We can summarize these factors as follows:

1. We have already discussed that workers in BPOs work in a foreign environment with foreign names, foreign culture and foreign language. They enjoy better transport facilities, work in clean air-conditioned offices with their own small cabins; they are called call centre executives (and not ‘operators’), and are also better paid than workers in other industrial sectors (although, if they are married, with this salary they cannot maintain a mid-

dle class life). In a colonial mindset that is still prevalent in India, the BPO workers get social status in the eyes of common people. In India there is a general feeling in the middle classes that trade unions are labouring class organizations and it is against their status to join the trade unions. This attitude automatically percolates among BPO workers and it is also nurtured by management practices in BPOs. The seriousness of the problem increases by the fact that the vast majority of the BPO workers are drawn from the Upper Caste⁹ strata of the society. One study has exposed that an overwhelming majority of 94.4% of BPO workers is from the General caste category (Upper Castes) and more than 80% of the workers were educated in English-medium schools.¹⁰

2. The working conditions and management practices in the BPOs promote individualism and act against development of collective attitude among the workers. By using ACD technology along with standard scripts for response to calls, the management actually leaves no time for interaction among workers. For every second in the shift every individual cares for completing his target only, since the salary and other benefits and also the job security depends on completing the targets. For getting a better place in a five-point rating system, all the workers are compelled to compete with each other, rather than to cooperate. Moreover, all the time they are under surveillance with closed circuit cameras.¹¹

3. The sword of retrenchment is always hanging over the heads of the workers. Given the serious unemployment problem in India, this factor becomes important. The BPO workers are hired and fired so easily that every individual is always in fear of losing his/her job. The whole campaign against unionization also affects them and they do not want to do anything that has any negative impact on the BPO business—meaning that they also want India to retain its competitive advantage in this sector so that their jobs are protected. It is interesting to note that in the recent crisis, workers drew two conclusions opposite to each other: one, there must be trade unions in BPOs to stop the employers from firing the workers; and two, we should not do anything that may lead to loss of BPO business.¹²

However, with growing experience in the industry and with realization that there is no end to the hardships, gradually the attitude of the workers has been changing. Studies reveal that in recent years the BPO workers have started showing more interest in and responding positively to trade union activities; they have been recognizing the need for trade unions in the BPO sector.¹³

It is also worth mentioning that the high attrition rate of BPO workers is also an indication of dissatisfaction and hopelessness; and this has grown to the extent of becoming problematic to the BPO units. The problem is so acute that some BPO managements are now occasionally expressing

their willingness to engage with trade unions if they can help in reducing the attrition rate.

‘This indirectly has lent support to the unionization efforts through the media and a few industry protagonists who felt that union can be tolerated till the time it curbs the problem of attrition. These industry representatives have publicly agreed in forums on the utility of the union to counter the most significant problem of the industry viz. attrition. For example, going back to the Excell case, if we ask a basic question – why then did the Excell management take on a union? J.S.R. Prasad, national director, Union Network International (UNI), a global network of 900 service sector unions, says Excell signed the CBA to counter attrition in the company. There was no communication between the management and employees. UNITES Pro was called in to bridge the gap.’¹⁴

In this background, in recent years efforts for unionization have started in more systematic manner in India.

Strategies for Unionization of BPO Workers

There are three worth mentioning initiatives for organizing the BPO workers.

1. UNITES Pro (Union for Information Technology & Enabled Services Professionals): This is claimed to be a trade union for IT and enabled services professionals, formed in 2004. It is an independent union, but recently it was reported that UNITES is trying to get affiliated with INTUC (Indian National Trade Union Congress—a trade union wing of Indian National Congress—the ruling party in the national capital Delhi). UNITES Pro has chapters in Delhi, Bangalore, Mumbai, Hyderabad, Chennai, and Kochin.¹⁵

2. West Bengal Information Technology Services Association (WBITSAs): This union is floated by CITU (Centre of Indian Trade Unions—the trade union wing of the Communist Party of India (Marxist)—the ruling party in West Bengal).

3. Centre for BPO Professionals (CBPOP): This initiative established two service centres in 2004, one in Hyderabad and the other in Bangalore with the support of UNI Apro, aiming to establish contact with, convince, connect with and finally consolidate such networks of professionals into trade unions. Therefore CBPOP generally works for building awareness among BPO workers and networking among them. It is said that CPBOP is now in the process of registering the trade unions at the state level.

It is interesting to note that none of the above three initiatives has emphasis on organizing the trade unions at the enterprise level, at least as the strategy in the initial

stage. All the above three organizations are emerging as general forums of or for BPO workers, without any organization at the enterprise level. This is one of the changes in the strategy of unionization, which emerges from the specific situations in the BPO sector. It is also to be noted here that generally this has also emerged as the dominant strategy to organize the workers in the unorganized sector.

Moreover, the UNITES Pro is adopting many forms which are generally uncommon to traditional unionism. The union campaigns for improving working conditions in BPOs, healthy and safety issues, youth discrimination at workplace; and enables BPO workers to meet peers with similar problems and demands. It also works to enhance the employment prospects of agents through ‘portable career’ services, including interview training, career workshops, and advice on individual contract negotiation. Moreover, it also organizes spirituality and ‘art of living’ programmes, Christmas parties, meals, sports events, sessions with psychologists, blood donation sessions, etc. (interestingly such programmes are also organized by the BPOs). Most importantly, UNITES Pro’s activities are not only for workers but also for potential workers – the organization also links itself with youth organizations, women’s networks, and schools, etc.¹⁶

As far as CBPOP is concerned, we have already discussed that it adopted a strategy to build awareness, facilitate networking of workers and then organize them in unions. There is a provision for enterprise level unions also. But the general strategy is to form a national level trade union. Because of legal constraints, CBPOP is forming the state level unions first.

CITU has also launched the West Bengal Information Technology Services Association (WBITSAs) as a general forum of BPO workers at the state level. The initial strategy may be the same – i.e. making contacts, building awareness among workers in all BPOs, and then enrolling them as members in the general union WBITSAs. It is in-built in the strategy that forming enterprise levels unions will be the second stage of the activity, when there are enough members of WBITSAs from a particular BPO.

It seems that the search for alternative strategies for organizing the BPO workers is just beginning. Currently there are problems but no concrete solutions; however, identifying the concrete problems is first step of the solution also. Some effective tools have already emerged in different initiatives; like the forms adopted by UNITES Pro in accordance with the needs of BPO workers. The other form, of building awareness and networking as the process of unionization, adopted by CPBPO and also to some extent by CITU, is another important part

of the new strategy. It seems that now there is a need of more thorough studies on organizing strategies of different initiatives at the grassroots level so that all the emerging new and effective tools can be synthesized to build a comprehensive strategy for unionization in the BPO sector.



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4. Ibid.
5. Automated Call Distribution (ACD) technology is the computerized telephone system that manages incoming calls and intelligently processes them, for example by automatically routing them to particular call agent stations.
6. Casual leave is a form of paid time off work for personal or emergency reasons.
7. Penfold 2009; Ramesh 2004; and Centre for Education and Communication et al. 2006.
8. Ramesh 2004.
9. In India the caste hierarchies were structured on the basis of decent occupations and the worst occupations—this means basically the division between non-labouring and labouring communities and the division based on the worst forms of labour. Dalits were traditionally compelled to remain in the occupations with the worst forms of labour (work that was regarded as ritually impure in the Hindu context); 'Other Backward Castes' were engaged in many traditional occupations including agriculture; and the 'General Caste' category included mainly the non-labouring Upper castes—priests, warriors, traders, land-documenting castes, etc. Legally the caste divisions based on occupation have been abolished; but because of the distorted capitalist development combined with lack of any radical land reforms, the deprived castes are still deprived castes and privileged castes are still privileged castes. Attitudes linked with castes and also in inter-caste relations still strongly exist. The change is that a majority of the upper caste people are also now pauperized and proletarianized and compelled to join the ranks of labour. Earlier they were more in government, public sector and organized sector industries with social security benefits. but now a large number of upper caste workers are also in the unorganized sector. However, it is still the case that the vast majority of unorganized sector workers are Dalits. BPO jobs requires English-speaking skills and largely only the upper caste middle class is able to educate their children in English-speaking schools, since it is highly costly. Therefore, the upper caste workers form the majority in BPOs.
10. Centre for Education and Communication et al. 2006.
11. Ramesh 2004.
12. From my notes of Informal discussion with five BPO workers in Noida in June 2010 (two of them were thrown out soon thereafter and left the BPO sector).
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Updates on the Philippine Call Centres

Dr. Rene Ofreneo

The Philippines is Southeast Asia's industrial sick man (barely any transformation since the 1970s) and agricultural failure (a major net importer of agricultural products since 1995). The country's weak agro-industrial growth is the primary reason for the rapid expansion of the informal economy (employing as much as 2/3 of the labour force) and the country's continuing dependence on the remittances of its 10 million or so migrant workers, roughly a tenth of the population.

And yet, the Philippines is widely held as Asia's global call centre address. It has been cornering most of the Asian share of the voice segment of the offshored or global business process outsourcing (BPO). The Philippine call centre industry has grown by leaps and bounds, employing roughly half a million workers today, from only 2,400 employees in 2000. The industry kept growing even at the height of the global financial crisis (GFC); the GFC nearly halved the country's electronics and auto parts export industries in 2008-2009.

Today, call centre buildings are sprouting like mushrooms, dotting the skylines of key cities of the archipelago. The call centre building boom is also occurring in the 'new wave cities', or the remote cities being promoted by the Information and Communication Technology (ICT) Commission as new sites for call centre operations. These buildings, dubbed as 'IT Parks', are also registered as 'ecozones'. Out of the 211 ecozones, more than 60 per cent (129) are 'IT Parks/Centres'.

Recent studies also indicate that the high employee turnover rate in the call centres, estimated to be as much as 50 percent a year in the first half of the decade, has been going down. This is probably due to the limited job opportunities outside the industry for Filipino call centre agents, a large number of whom have not even finished college. In short, call centre jobs have become careers for an increasing number of Filipino youth.

Still another probable reason for the declining turnover rate is the emergence of a 'yuppie culture' among the call centre agents, who work mainly at night to service global clients in Europe and North America in their waking hours. Earning 2-3 times the minimum wage, the young agents are great spenders, especially on imported consumables such as cell phones, CDs, watches and designer clothes. They behave as if they are a distinct

professional class in Philippine society.

This distinctive yuppie-like culture or petty bourgeois attitude is one reason why union organizers have difficulty penetrating the fortress-like halls of call centres. Many of the agents, doing menial and routine customer service functions such as giving directory assistance or billing updates, have the impression that they are part of an elite group of well-paid workers. Yes, they are better paid (US\$300-400) compared to the average Filipino workers (US\$150-200); however, they are paid much less compared to their American/European counterparts (US\$3,000-4,000). They also have to endure dedicated ICT work in isolated cubicles at a time when the whole nation is sleeping. So even if some call centres have as many as 10,000 or more employees each, the voice workers are ironically unable to communicate with one another as they are walled off from one another by the glass cubicles and the communication headsets attached to their ears while they are doing dedicated work. Work in the industry requires communication skills, English proficiency and familiarity with the IT/ICT facilities.

The Federation of Free Workers (FFW) and the Trade Union Congress of the Philippines (TUCP) even set up their own 'call centre academy', obviously to be able to deploy would-be union organizers in the industry. To date, they have not reported any successful union organizing. The Philippine affiliates of the Union Network International (UNI) and other trade union groups tried different tacks, from offering professional counseling service to recruiting from within. Still there is no record of union recruitment success so far. The only success story, a limited one, is that of the National Union of Bank Employees, which succeeded in covering call centre agents in the collective bargaining agreement (CBA) of the Standard Chartered Bank (SCB). But in the case of the SCB, the SCB call centre employees do both voice and non-voice activities and service both Philippine and non-Philippine clients.

Also, tenure in call centres is account-driven, meaning job security is based on the client accounts, e.g., Procter and Gamble or Colgate accounts, that have been secured by the centre. If the account with the client is only for one year or two, then an agent's tenure is also for only one year or two. Agents who stay on in the industry

simply move from one client account to another.

Recently, this researcher was informed of a newly-organized union in a call centre (Stream) at the Clark ecozone. However, right after the union registration with the Department of Labour and Employment (DOLE), the company filed a petition for the cancellation of the union registration and had asked the help of a so-called expert on Labour-Management Council (LMC), a set-up promoted by some companies as a substitute for unionism and collective bargaining. During the DOLE's hearing on the management petition, the union organizers did not show up. The union has been dropped from the DOLE list.

The truth is that industrial relations in the call centre industry are confused. The rules are not clear. And unionism is generally prohibited, overtly and covertly. Governments have studiously kept some kind of a distance by not saying or commenting on unionism and industrial relations in the industry.

And yet, it is abundantly clear that call centre agents need a union or an organization to defend their welfare and advance their collective interests, just like any group of workers. Some urgent issues which should galvanize the call centre employees are the following:

- How to have a say on the labour process, e.g., on the

determination of call quotas, on the number and length of breaks, etc.

- How to make work conditions in the call centres more bearable and humane, e.g., setting the temperature just right (it is very cold inside the buildings), having ergonomic chairs and cubicles, etc.

- And yes, employees should also have a say on tenure, discipline and grievances. On discipline, are the work rules, e.g., on electronic monitoring, reasonable and made known to employees? Is the principle of due process – in meting disciplinary actions and serving suspension or termination orders – understood and respected in the industry? Are Philippine labour laws and jurisprudence respected? There are reports that some expatriate American managers even try to impose American-style firing-at-will practices, which is a no-no in the Philippine industrial relations setting.

To conclude, a modern industry requires a modern industrial relations system. A global industry requires global work rules. A voice industry means an industry which gives its employees a voice on how to manage the work process. This is not the case at the moment in the Philippine call centre industry.



EXPANDING ANROEV (formerly, ANROAV) in 2010

The Asian Network for the Rights of Occupational Accident Victims (ANROAV) is a coalition of occupational accident and disease victims' groups, trade unions and other labour groups across Asia. It was established in 1997, and now has members from more than 14 Asian countries as well as affiliate members from other continents.

This year the annual conference of ANROAV, as well as the Asian Ban Asbestos Network, was held in the historic city of Bandung, Indonesia.

After a formal greeting from a representative of the Manpower Department of the Indonesian government, members of the ANROAV network shared updates about the activities in Asia of the past year, including campaign updates on the issues of asbestos, electronics, silicosis and Gold Peak Batteries (victims of workplace cadmium poisoning). These were followed by updates from the active national networks on OSH in India, China and Indonesia and also from affiliate members in USA and Europe. Over the next day there were three simultaneous workshops on lung diseases, victims' organizing and electronics. In each workshop, members and resource persons shared their experiences, strategies and insights with other members, and the workshops concluded with action plans and joint collaborations for the coming year.

During the concluding session ANROAV members heard from a delegate from Iran who joined the network for the first time. He gave an update about the OSH situation in his country that was greatly appreciated by all. Members also heard an update and appeal regarding the ongoing campaign of garment workers in Cambodia for a decent minimum wage, as well as of Hong Kong and China labour groups opposition to Hong Kong companies' efforts to water down pending collective bargaining laws in China. The two appeals, presented by the C.CAWDU and the ATNC Monitoring Network, received the full support of the ANROAV membership.

Members discussed and agreed to a joint statement summarizing the essence of the conference's objectives - the 'Bandung Declaration', which aims to prevent workers and communities from being exposed to workplace hazards, and acknowledges the right of victims to have treatment, just compensation and rehabilitation in society. The statement can be read at the following link: <http://www.anroav.org/content/view/113/1/>

ANROAV members also decided to expand the network to include environmental accident and disease victims; thus the network will be renamed ANROEV, the Asian Network for the Rights of Occupational and Environmental Victims. The annual conference of ANROEV in 2011 will be held in India.

Gender and Labour Column

Gender stereotypes have the potential to severely limit individuals' human development as well as limit what they can earn through work. Discrimination against people based on their job is another. Sex work is one of the most socially stigmatized jobs in a society. It is widely regarded as immoral, and being either provider or consumer of sexual services is often either illegal or bordering on illegal. One might think the workers have no need for 'dignity', but this is far from true. The workers still expect dignity, and even expect professionalism from themselves; and one aspect of this is a flexible attitude regarding one's sexuality – especially in the case of male sex workers.

In this interview, project officer Ray Lam, from the male sex worker support network/organization Midnight Blue, tells about the struggles of the male sex workers to achieve a better working environment for themselves. For the workers, breaking free of social pressures dictating how 'men should be' and of self-limiting definitions is an important pre-condition to their successful work as well as successful organizing and collective action.

Interview with Ray Lam, Project Officer of Midnight Blue— a Male Sex Workers Mutual Support Network in Hong Kong

AMRC: Is your organization more like a union or like a service provider?

Ray: We call ourselves a network as the commitment and participation of the sex workers is important. We are more like a union, though we have not formally registered as one. The group we work with are male sex workers, but they don't all have a concept of union and of union members, or even that they are 'workers'.

AMRC: Among sex workers, women sex worker organizing is more common. Is it harder or easier for male sex workers to organize? Are there some gender stereotypes that make it harder?

Ray: The workers do face social pressure and bias. Sometimes we meet academics or students who talk in terms of masculinity, with a preconception that a man must be a certain way. For example they ask: if you have sex with a man, can you still be considered a man? If you are selling sex work, aren't you more like a woman? These kinds of attitudes give male sex workers more social pressure. They are confirming a narrow idea of how men should be. We want to reject these. We ask: besides physical feature, do women have any personality features that men can never have? Like being gentle, considerate of others, polite.... We don't think so. Of course men can also be all these things, though you might call it something different.

AMRC: The world of male sex workers is not well known. Do some serve women clients and others serve men clients? Is it up to the workers' preference?

Ray: There are different kinds of sex services. Some of

the male sex workers identify themselves as homosexual, and don't feel a physical reaction that lets them have intercourse with women. Or they are only heterosexual, and cannot work with male clients. And some of them are bisexual.

But some of the male sex workers may work with male clients and still provide them sexual satisfaction in certain ways, even if they don't identify themselves as gay or bisexual. They regard themselves as heterosexual but they regard the job as 'work' and consider it a matter of professionalism to provide sexual services, putting aside their own preference, and are able to do sexual acts which don't involve actual intercourse. This professional attitude and skill in doing a wide range of sexual services are useful for them in their work – it gives them less social pressure, to be able to separate their own preference from what is required for work, and they can of course have a wider client base, which is important for their work success.

Besides their own sexual orientation, the type of society or cultural environment they are working in also makes a difference. In Hong Kong culture, it is not that common for women to pay for sexual services from men, so there are few women customers. On the other hand, Hong Kong has a relatively open gay community, and many of the men get exposed to male sex workers in a social setting. And while doing so, they often do not regard themselves as buying sex work. So, partly, some male sex workers in Hong Kong are probably serving male sex workers not as their main preference, but just due to the 'demographics' of the clients available. Also, there are a lot of gay sex promotional sites on the internet, so it's relatively easier to find gay male clients.

AMRC: Where do the male sex workers work?

Ray: They do different types of services and work in different places. Besides sex only, there is also ‘massage’ – which can be offered with or without sex – and escort services. In the case of massage, especially if it’s a man massaging a man, either the worker or the client or both may be nude; this is definitely counted as a form of sex work. Even without intercourse, some sexual acts might be done by the worker. This is done usually either in a one-room business, or a massage centre or spa with several workers, with most clients being gay males.

AMRC: What are the main reasons that male sex workers seek out your organization, or are motivated to organize? What stumbling blocks do you face in organizing them?

Ray: The main thing the workers are concerned about is their business and finding clients. For sex-only work, in Hong Kong it can be done if in one room, which is not illegal. But it’s still not easy, as there are many laws which can be violated when doing sex work. The sex workers often try to get clients by advertising themselves, either on the street or through websites. Besides Hong Kong, many workers also come on tourist visas for sex work, from China, mainly, but also from Thailand and Malaysia. For those on tourist visas, of course it is illegal to sell sex work in Hong Kong; they would be violating their tourist visa which forbids work.

Massage workers are gathered in the massage centres, so it’s a little bit easier to reach them. But escort workers may be part-time or full-time, or just occasional workers, and they are the most scattered.

The ways of communication and meeting points of all these workers are quite different, so they don’t all easily meet each other.

AMRC: What are the things that bring them together, then?

Ray: They all have the common interest of seeking rights and also an easier environment for their business. They fight for better public policies, so they lobby, and they do a kind of collective bargaining with the Health Department and related organizations, for example regarding condom use and prevention of AIDS. They are very willing to work with us to fight better in prevention of AIDS and sexual diseases. The sex workers also actively engage with the police, for example on the issue of whether condoms can be used as evidence for engaging in a crime. This is an important point because sex workers will be less likely to use condoms if having condoms will be used as evidence to prosecute them for crimes – for example, engaging in sex work while on a tourist visa.

AMRC: The sex workers’ organization Ziteng has said that one of their organizing difficulties is the gap of views between local Hong Kong and mainland sex workers. Is there any difference like this among the male sex workers?

Ray: Yes, sure. The main concern is clients, and the sex workers who come from the mainland or other countries on tourist visas are competing with the local sex workers for clients! So they naturally feel a conflict of interest and direct competition. Sometimes the local sex workers feel really hostile to the non-local ones who come on tourist visas and even sometimes report them to Immigration; and they say to us, ‘Why do you help them? They are taking away our business! And they are illegal!’ However we try to tell them: the law is not just, so we should not use it as a tool against other sex workers. If the law is just and we just go by the law, we should be reporting a lot of the work we do ourselves, which might be illegal...instead of fighting among each other, we should focus on making a better environment for sex workers to work in, which means we need to work together and gather our collective power.

AMRC: What are the main services you offer in your organization?

Ray: Besides mutual protection like sharing black lists of bad clients, we help with advertising services; flat rentals; information about laws to watch out about. Especially for the sex workers that come from the mainland, they really value this help. Before, they used to come through a kind of agent, but now many of them prefer to advertise themselves. Regarding legal knowledge, we not only tell them what laws to avoid breaking, but what to do if they are confronted by police; how to make statements; their right to stay silent; and how to distinguish real clients from undercover police.

We also provide occupational training; hence we have these massage tables here in our office.

We also always think of new services and activities that are useful to the workers, to let them know about us, and to keep our relationship with them. Because even though they don’t feel united or have a strong identity as ‘workers’ or as part of a ‘labour movement’, we do need collective power to lobby with the government and authorities for better policies and better treatment – as well as to coordinate well with other groups related to our work, such as the massage centre bosses.

Thus, for example, we offer workers occupational training, such as massage skills, and English for communicating with non-Chinese clients. They sometimes need to know some English, to ask what kind of services the client wants, or ask them to turn over on the table. This helps the workers individually, but collectively as well. We have even succeeded in getting a kind of cooperation

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Occupational Safety and Health Column

Occupational safety and health issues are difficult to address in many trade unions, which tend to focus in collective bargaining agreements (such as they may have); yet these issues are even more neglected when the occupation in question is informal, or even worse, illegal. In this column, we focus on the issue of occupational safety for sex workers, who, in the case of Hong Kong, operate in a narrow legal space – their occupation is not totally illegal in Hong Kong – as well as social margins. As often the case for advances in occupational safety and health (for example, it was the Kader and Zhili fires in 1993 that provoked an upsurge of occupational accident victim organizing), it was a severe tragedy and media uproar that sparked both organizing and some extent of success in advocacy. In this column, the sex workers' organization Zi Teng shares their recent experience organizing on the issue of their safety.

- Editor

Organizing Sex Workers in Hong Kong

Ziteng

Sex work context in Hong Kong

Sex is still a taboo in modern Hong Kong, let alone the buying and selling of it. Sex workers are reluctant to admit in public they are working in the sex industry. As a result, one can never obtain accurate data on the number of sex workers. However, it is true that more sex workers are now working in Hong Kong than before. The 'business mode' has also been changing. We not only find nightclubs, karaokes, saunas, hair salons and 'one-woman apartments' (where only one sex worker working in one flat), we also find some new business modes such as foot massage parlours, 'compensated dating' (mainly referring to young people who sell sex and solicit clients on the Internet), and beauty salons. The number of migrant sex workers, who come legally with a travel or family visa but work illegally in Hong Kong, is also on the increase. Since it is against the law to work in Hong Kong, migrant sex workers are more underground. They are eager to hide their business.

The Hong Kong government does not see sex work as a kind of work nor as a crime. Sex work is just left in a 'gray area'. Basically, sex work is not illegal, but there are various criminal ordinances, which greatly limit the movement and activities of sex workers. Sex workers can only work on their own. The assumption behind this is that sex work itself is exploitative, and working for a third party will make sex work more exploitative. As a result, it is against the law for people to hire someone to provide

sexual services. Partnership is also not acceptable. If sex workers work together, they may then be charged with 'managing/operating a vice establishment'. They cannot distribute leaflets about their service on the streets as they would be breaking another law, of 'soliciting for an immoral purpose'. They can hardly make commercials like other companies do, as the advertising agents they employ will be charged of 'living on the earnings of the prostitution of others'. They have to pay more rent usually to the syndicates (gangsters), as most ordinary landlords dare not rent their flats to sex workers for fear

of being charged with 'Letting premises for use as a vice establishment'. Certainly, it is absurd for sex workers to form a union, as they are supposed to work on their own and

would not be able to provide any information required by the law about their employer or boss.

Because of the ambiguous legal status of sex work, the legal restrictions explicitly imposed on the sex industry, and the controversial nature of sex work (e.g. whether it is a job, whether it is moral, etc.), sex workers are often exposed to police abuse, violence and crime. It is also not common for social groups in Hong Kong to provide support for sex workers (except for medical support). The lack of on-job support and protection thus pushes sex workers to solve their problems in their own ways. One is to work with the syndicates to safeguard their business and interests, say, paying 'protection fees' to 'security guards' to help drive bad clients away, paying

Because of the ambiguous legal status and controversial nature of sex work, sex workers are often exposed to police abuse, violence and crime.

adult websites for advertisements, and sometimes paying 'professional copywriters' to help promote their services on the Internet.

Though sex worker organizations all over the world have been advocating for the inclusion of sex workers in the labour movement, sex worker issues are seldom put on the agenda of the labour groups. Many labour groups refuse to accept sex work as work. They also often conflate sex work with sex trafficking and/or sex slavery. As a group which recognizes sex work as a kind of work, we believe that sex work itself is not exploitative, but that, similarly to other professions, external or contextual factor(s) may turn selling sex into an exploitative activity. Zi Teng is thus keen to eliminate such external factor(s). We are also eager to increase sex workers' consciousness of labour rights and occupational safety. We strive to provide sex workers with all kinds of information and support related to their jobs. It is also one of our goals to empower sex workers, to help them to self-organize and fight for rights. However, organizational work has become more challenging as the sex worker population has been changing a lot in its composition. While local sex workers, who are born in Hong Kong, are more ready to stand up for their rights, most immigrant sex workers, who fail to find conventional jobs but enter the sex industry after coming to Hong Kong from China, lack rights consciousness. The latter group of sex workers also has more concern for their self-interest than for their collective interest. As a result, conflicts between local sex workers and immigrant sex workers often result. On one hand, our approach to the two different groups of sex workers must be a bit different. For local Hong Kong sex workers, we can directly talk in terms of rights and the need to fight for them together. However for immigrant sex workers, they are easier to approach by first talking in terms of business – i.e., what are good ways to raise or to protect their income – meanwhile also bearing in mind the chances to introduce the concept of fighting for rights. We do need to sustain and consolidate the rights consciousness of local sex workers. On the other hand, we need to introduce immigrant sex workers to concepts like rights and responsibilities and solidarity. Thus, we had spent a lot of time and effort to find out the common interests of these two groups of sex workers. But finally it was through common fear and concern for safety, that these groups became unexpectedly united.

Serial murders of sex workers

In 2008 and 2009, nine sex workers were murdered in Hong Kong. One of them was a 16-year-old girl engaged in 'compensated dating', who was killed by her client. He strangled her to death and later dismembered her. Much attention and concern over the safety of sex workers was aroused. We found this to be an important occasion to



A newspaper clipping, of sex workers' press conference demanding greater protection and an end to the continuing murders.

mobilize sex workers to fight for more social acceptance and respect from the police – and to draw attention to the insufficient laws to protect the workers. Fortunately, we gained some successes. The police finally did make some changes to their policies towards sex workers. For example, they set up a special taskforce to help sex workers, and produced television programmes and posters to warn criminals who might target sex workers. Police attitudes towards sex workers have also changed: many police officers have stopped insulting sex workers and the police now meet regularly with sex workers and sex workers groups and exchange crime information with them.

How we organize sex workers

We believe that several factors have contributed to our success so far. First, we were able to identify a common issue or common problem – that of work safety – for both local and immigrant sex workers, and built our work around that single issue. We never stopped doing advocacy work including protests, exhibitions, and signature campaigns, 'reminding' the public of sex workers' human rights and basic protection, and keeping our work focused and successful. And, because of the two groups' participation in the above events and campaigns, sex workers unite more. Their sense of belonging increases as well as their solidarity. Many of them also have started to believe that their direct participation can lead to changes.

We do not work as a union, but we encourage the workers to organize themselves. We are still in the process of setting up and supporting a kind of union – it is an association of only sex workers – although it can not be recognized as a union in Hong Kong law and the sex workers cannot reveal their employers' information. The association and Ziteng mutually support each other.

To bring further changes, the participation of more



Zi Teng, or *Acorus Calamus*, is a plant with an extraordinarily tough and strong vitality. Their leaves and stems can be used for making ropes, baskets and many other household furniture. They grow and flourish, quietly and unnoticeably around houses corners, alongside with other wild grasses, and in the wind.

The selling of sex, one of the longest surviving professions in the world, has long been dismissed and discriminated against. Sex workers, with women the majority, have been deprived of their basic and rightful rights other workers in other professions are entitled to. They face the exploitation of the pimps, the sadistic torturing of the punters, not to mention the risk of all kinds of sexually transmitted diseases. They have been denied by the society at large, living a life with no dignity. Zi Teng is a non-governmental organization formed by people of different working experiences. They are social workers, labour activists, researchers specializing in women studies and church workers etc. who care and concern about the interest and basic rights of women.

sex workers is necessary, especially from those who have just entered the industry. Just as our efforts have led to the changes above, it will be important for them to first identify one common issue before moving forward.

Apart from continuing to negotiate with the police, we also plan to include closer work with the law-making body in Hong Kong, the Legislative Council, in our agenda. Though there often is a very long way to go to completely change the law and enforcement policies, we need to arouse the attention of legislators and remind them of sex workers' safety and human rights. In particular, we need to help them understand the difference between forced prostitution and voluntary sex work, and the different ways to support people in each situation. On the occasion of the serial sex worker murders, we campaigned for decriminalization of all the aspects of sex work. For example, we said the government should allow two or more than two women to work together in

one flat—it would greatly enhance the workers' ability to protect themselves. But besides this, we also insisted that the government should allow the sex workers to hire any person they want, to be their bodyguard and protector. Currently, this is considered a crime, as the payment of the sex worker to the hired bodyguard means the hired person would be 'living on the earnings of the prostitution of others'.

We believe that even a small change can serve as great incentive. The changes we have seen as a result of our work can encourage not only sex workers to continue fighting for their rights and the respect they are entitled to. We sincerely hope that our experiences in Hong Kong can also inspire other service workers in other regions of the world.



Continued from Gender and Labour Column, 'Interview with Ray Lam, Project Officer of Midnight Blue' on page 44.

with some massage centres, to send them workers after they have received training from us.

AMRC: Do the sex workers themselves become leaders and organizers?

Ray: Yes, the sex workers do take initiatives and responsibility, as we are trying to function as a mutual support network. Besides the activities for sex workers that I already mentioned, they volunteer to talk with police regarding crime reduction; they join the May 1 and other rallies to demand rights for sex workers; and they also do general public education work, giving interviews at universities or to the media, so that they can breakdown negative views and harassment of sex workers. We encourage the sex workers to monitor us (Midnight Blue). The commitment and participation of the workers are important.

AMRC: Do you have any expectations of the labour movement?

Ray: Although I cannot speak for all the sex workers, I believe they mainly expect just to be able to work without being arrested, and not being discriminated against. They don't have a clear feeling about what the labour movement is, or that they are workers with rights. They just want their life to be a little easier – to earn money and be respected.



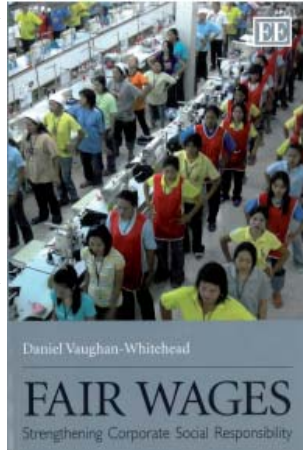
Reviews / Resources

FAIR WAGES: STRENGTHENING CORPORATE SOCIAL RESPONSIBILITY

By Daniel Vaughan-Whitehead

REVIEW BY DORIS LEE

As the title of this book indicates, the author indeed is a proponent of corporate social responsibility (CSR). In the Preface, he says that CSR 'has become an essential dimension and tool of good corporate governance' – making it possible to 'tackle a number of important and urgent work-related issues, such as child labour, health and safety at work and other core working conditions.' He does not seriously question the truth of CSR's achievements, i.e. why CSR could not achieve more in the past decades of its 'heyday'. What the author does intend and achieve, however, is to provide a methodology for evaluating and monitoring 'fairness' of wages which is better than what exists now.



The gist of this book is to point at the global problems relating to wages, and suggest that fair wages have not been sufficiently considered in the CSR ambit but should be. The author, who is Senior Adviser, Responsible for Wages Policies at the ILO (though this publication is not under ILO auspices) presents data on the globally visible phenomena of general increase in low pay and working poor, low workers' share of wages in national incomes, as well different 'dysfunctional' practices along the supply chain, like non-payment of wages, lack of social dialogue, and intransparent pay systems. The injustice and inequality reflected in this data is hardly an issue, and rather, it is useful for labour activists to have the information.

The author also reviews existing initiatives that attempt to address wage issues, such as living wage campaigns and the Asian Floor Wage campaign. As these all have some gaps, however, the author introduces what he calls the Fair Wage approach, which goes beyond just a living wage and beyond purely legal standards, to be more comprehensive and multi-dimensional. For example, the common practice of payment by piece rate exacerbates the tendency towards low wages and long working hours, and fails to reward workers according to skill and experience, or to match inflation. To fill the gaps, he introduces his own set of 12 indicators, and also urges for an international standard for benchmarking fair wages. The author also rightly places responsibility with brands for the wage conditions in their supplier factories.

What clear-minded activists would, or certainly should,

take issue with, is the assumption that it is meaningful to take a 'progressive, step-by-step approach' to improving wages along the supply chain. In the author's own case studies in factories in China, employers provided certain information frankly but some also simply refused to show copies of pay slips, reveal wage and labour costs, and reveal company profits. This type of information is essential for the approach to be meaningful, yet we know there is little reason to expect most employers to develop willingness to sharing this information – short of significant external pressure.

In the previous issue of Asian Labour Update (Number 75) as well as many other previous issues (e.g. Number 60), we have made clear our stance that CSR is a double-edged sword that brings some token and short-term benefits to workers, but has more disturbing harmful effects: weakening workers' struggle for and through unions, keeping decision-making in the hands of the corporation rather than workers, and more. (See also the 'Position Statement on Corporate Social Responsibility' on p. 10 in this issue.) As Martin Luther King, Jr. has said, 'Justice delayed is justice denied.' The danger of joining this Fair Wages bandwagon is that we take corporations' frank confession of existing problems as 'progress' and continue to get strung along indefinitely – as labour activists certainly have, ever since the appearance of codes of conduct.

The other main argument of the author for 'incorporating wages into CSR' (i.e., to extend monitoring to not only child labour or safety issues) is so that wages can be seen as part of sustainable economic growth, and not just in social terms. In other words, the author in the final run wants to bring wages to the 'real' world of economic growth, and make them part of the pursuit of productivity, investment and consumption! The author is far from questioning the global race to the bottom that motivates companies to base production in repressive, low-wage countries in the first place. He also simply glosses over the role of unions, taking their and governments' weak capacity or motivation to monitor work conditions as a given more than as a goal of campaigning in itself.

Thus the reader must discriminate the useful data in this book, from the underlying values and misleading assumptions. Briefly, the value in the book is in the development of a more nuanced set of criteria and indicators to judge whether wages are fair and sustainable, which can help workers find the areas for improvement that may not lie in only a formal minimum or living wage. But companies driven by the pursuit of profits for stockholders cannot realistically be expected to 'progressively' and voluntarily take steps that increase the costs of labour, which is merely a 'factor of production' for them. Readers who have previously spent energy on CSR will likely be well aware of this fact.

Publisher: Edward Elgar, 2010.

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