

ICFTU-Online
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China and Hong Kong violate workers' rights, says ICFTU in report to UN

Brussels 25 April 2005 (ICFTU OnLine): By reserving the monopoly of trade union organizing to the state-controlled All-China Federation of Trade Unions (ACFTU), by sending independent union activists to prison and by denying its workers the right to strike, China is blatantly in breach of a major international human rights' treaty, which it freely ratified in March 2001, the ICFTU said today in Geneva. The charges came in a report presented today to the International Committee on Economic, Social and Cultural Rights (ICESCR), in charge of verifying State Parties' compliance with the Covenant of the same name. The Committee monitors ratifying states' compliance with the Covenant on behalf of the UN's Economic and Social Council. Its Members have just started examining China's first Report on the Covenant's implementation.

In its 36-pages report*, the ICFTU also accused China of violating an essential principle of international law by entering a "reservation" on art.8 of the Covenant. The article guarantees "the right of everyone to form trade unions and join the trade union of his choice". According to the ICFTU, art. 8 is an essential part of the Covenant and, as such, entering a reservation about it constitutes a breach of customary international law, as codified in the Vienna Convention on the Law of Treaties.

The ICFTU stresses that the country's only legal trade union, the ACFTU, is "under an obligation to ... promote economic development and uphold the leadership of the Communist Party". "These obligations are incompatible with the nature and role of a free and democratic trade union" says the ICFTU, which adds that "in actual fact, workers frequently dismiss the official trade union as unhelpful or ineffective at best during social unrest".

Organisers of workers' groups and protests are often arrested and sentenced to terms of imprisonment, "reform through labour" or "re-education through labour", says the ICFTU report which includes, for example, the cases of two individuals sentenced to 12 and 15 years imprisonment for posting articles on the internet in favour of creating independent trade unions. The report includes a list of 40 labour activists who currently remain in detention, some since the 1989 Tiananmen Square massacre in Beijing.

Many of them have landed in jail for taking part in or leading strike action. The report recalls in that context that China removed the right to strike from its Constitution in 1982, on the grounds that the political system in place had "eradicated problems between the proletariat and enterprise owners". In practice, strikers and especially strike leaders, are often arrested and charged with offences that vary from traffic violations to holding illegal demonstrations, and even, where extensive organisation can be demonstrated, subverting state power, which is an extremely serious charge under the country's penal code. Strike organisers and independent labour activists also face the threat of "re-education through labour", a form of administrative detention that in practice can be extended at the authorities' will. The plight of many workers detained during labour protests remains unclear.

The ICFTU report concludes that China "does not respect core workers' rights, as embodied in the Covenant and other sources of international law, including the relevant Conventions of the International Labour Organisation (ILO)". "China is in clear and unequivocal breach of article 8 of the Covenant and, to that extent, its report to your Committee is misleading", an ICFTU representative told the Committee today.

In a related development, the ICFTU-affiliated Hong Kong Confederation of Trade Unions (HKCTU) submitted its own report about the implementation of the same Covenant in China's Special Administrative Region of Hong Kong. In its report, the HKCTU refers to several limitations of workers' rights, which it sees as infringements of the Covenant, including: unequal access to vocational training; the absence of legislation regulating working hours; lack of respect of weekly rest periods (23% of employees work over 60 hours/week); differences in pay affecting women, who earn less than men for work of equal value; a prohibition for unions to use their financial resources for political work, and the lack of legislation to protect collective bargaining, which the HKCTU says violates the Covenant's provision guaranteeing workers' rights to establish unions "for the promotion and protection" of their rights.

The ICFTU represents 145 million workers in 233 affiliated organizations in 154 countries and territories. ICFTU is also a partner in Global Unions: <http://www.global-unions.org>

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*For a copy of the ICFTU submission, see:

<http://www.icftu.org/displaydocument.asp?Index=991221564&Language=EN>

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