

Chinese Trade Unions Endeavour to Safeguard Workers' Rights and Interests

Since the reform and opening up in 1978, profound changes have taken place in China's economic and labor relations in the course of China's economic system shifting from the planned economy to the socialist market economy. Under new historical circumstances, Chinese trade unions have made strenuous efforts in defending workers' rights and interests by constantly highlighting and enhancing their basic duties in safeguarding workers' legitimate rights and interests and acting independently and with the initiative in their own hands.

(I) Safeguarding Workers' Rights to Join and Organize Trade Unions

According to the *Constitution of the People's Republic of China*, citizens have the right for the freedom of association. The *Labor Law of the People's Republic of China* prescribes that "workers have the right to join and organize trade unions in accordance with the law. Trade unions represent and safeguard the legitimate rights and interests of the workers and act independently and with the initiative in their own hands." China's *Trade Union Law* stipulates that "the physical and mental workers of the enterprises, institutions and organizations within the territory of China who live mainly on their wages, irrespective of nationality, race, sex, occupation, religion and education, all have the right to join and organize trade unions. No obstruction or restriction shall be made by any organization and individual". The legal responsibility has been laid down in *Trade Union Law* for obstructing workers from joining and organizing trade unions. There are also explicit regulations in China's *Company Law* and in other laws pertaining to foreign-invested enterprises on the establishment of trade unions by workers. The right of the Chinese workers to join and organize trade unions has been fully ensured in accordance with the law.

In recent years, the Chinese trade unions have set forth the working guideline of "Organizing for Better Protection", adhered to the principle of establishing trade unions at wherever there are workers and devoted major efforts to advancing the construction of grassroots trade union organizations according to law. Currently, the Chinese trade unions have focused on the establishment of trade unions in foreign-invested enterprises inclusive of the world top 500 firms

as well as in privately-operated enterprises and have admitted a large number of migrant rural workers into trade unions; have made great efforts to facilitate the construction of trade union organizations in townships, neighborhoods, communities, administrative villages as well as in economic and technology development areas and new hi-tech parks, continually innovated the trade union organizational makeup and the ways to establish trade unions and strived to organize as many workers as possible into trade unions. For instance, during 2006-2007, trade unions in various localities of China gave impetus to the establishment of trade unions in all branches of the Wal-Mart in China. By the end of September 2007, 1.508 million grassroots trade union organizations had been set up all over China (involving 3.193 million enterprises and institutions), with the number of trade union members reaching 193 million, of whom 58.339 million were migrant rural workers, and the trade union admittance rate reached 71.5% throughout China. The Chinese trade unions have become the trade union organizations with the most members in the world.

(II) Defending Workers' Right for Collective Negotiation

It is prescribed in China's *Labor Law* that "workers of an enterprise can enter into collective contracts with the enterprise with regard to payment for labor, working hours, breaks and holidays, labor safety and health, insurance and welfare, etc."; "collective contracts will be signed by trade unions on behalf of workers with enterprises". It is provided in China's *Trade Union Law* that "trade unions, on behalf of workers, shall conduct equal consultation and sign collective contracts with enterprises or with institutions exercising management like in enterprises." China's labor administrative authorities promulgated the *Regulations on Collective Contract* in 1994 and modified the *Regulations* in 2004, laying down detailed stipulations on principles and contents of the collective consultation, protection of trade union representatives and execution and supervision of the collective contracts, etc.. Besides, special regulations on the collective contract system have been laid down in China's *Labor Contract Law*, and relevant rules have also been set down in China's *Company Law*. All these laws and regulations have earnestly defended Chinese workers' right for collective negotiation.

The Chinese trade unions have expedited the establishment and improvement of equal consultation and collective contract systems in various types of enterprises, especially in

enterprises of non-public ownership, centered on the popularization of collective wage consultation, facilitated the establishment of regional and sectoral equal consultation and collective contract system and better maintained the labor and economic rights of the workers through the establishment of such a system. For instance, at present the Chinese trade unions have facilitated the signing of collective contracts in a number of Wal-Mart branches in China. As of 2007, 975,000 collective contracts had been signed throughout China, involving 1.704 million enterprises and 128 million workers, making up 55.5% of all enterprise workers in China. 103,000 regional collective contracts and 55,000 sectoral collective contracts had been signed across China; 343,000 wage collective contracts had been signed, relating to 39.686 million workers.

(III) Ensuring Workers' Democratic and Political Rights

Chinese workers enjoy a wide range of democratic and political rights according to law. Chinese trade unions have positively participated in the state and local legislation and policy formulation and have represented and safeguarded workers' rights and interests at source. Since the reform and opening up, ACFTU has participated in the establishment of more than 300 legislations concerning workers' rights and interests. In 2001, ACFTU stimulated the state legislative body to have revised and promulgated the *Trade Union Law*. Over recent years, ACFTU has participated in the drawing up or revising of more than 60 laws and regulations pertaining to labor contract, promotion of employment, labor dispute handling, safety in production, prevention and treatment of occupational diseases, etc.. Local trade unions at various levels have positively participated in the formulation of local laws and policies. In 2007, trade unions at the provincial and prefectural levels throughout China joined in the formulation of 210 local laws and regulations, of which 165 relates to the rights and interests of the workers and the trade unions; and the trade unions joined in the formulation of 690 local standardized documents.

With the implementation of the tripartite labor relation coordination conferences at the national and local levels and the joint conference system between trade unions at various levels and governments of the same levels and between industrial trade unions and relevant industrial sectors, the Chinese trade unions have democratically participated in and jointly consulted and resolved the important matters concerning workers' interests and labor relations. In 2007, trade unions at various levels throughout China participated in establishing 11,000 tripartite labor relation coordination mechanisms. Trade unions have taken vigorous action

to participate in and discuss government and political affairs, to reflect and voice workers' aspirations and demands and to appeal for the protection of workers' legitimate rights and interests at the people's congresses and the political consultative conferences of various levels.

The Chinese workers enjoy the right to participate in the democratic management of enterprises in accordance with the law. It is prescribed in the *Constitution of the People's Republic of China* that "state-run enterprises shall exercise democratic management in accordance with the law and by means of workers' congress or in other forms". China's *Labor Law* stipulates that "workers, in accordance with the law and by means of workers' conference or workers' congress or in other forms, can participate in democratic management or conduct equal consultation with their employers on the protection of their lawful rights and interests." China's *Law on Industrial Enterprises Owned by the Whole People* has clearly stipulated the nature, content, functions and powers of workers' democratic management on the basis of workers' congress. There are also provisions on workers' democratic management in China's *Company Law* and *Labor Contract Law*. Workers' congress is a body for workers of the Chinese enterprises to exercise democratic management and to enjoy five functions and powers according to law, such as reviewing important decisions on production and operation of the enterprises, deciding on important matters concerning workers' livelihood and welfare and appraising and supervising leading cadres of the enterprises, etc..

Chinese trade unions have endeavored to push forward the implementation of democratic management among workers in various types of enterprises and institutions and have positively carried out and ameliorated the workers' congress system and other forms of democratic management. In 2007, 1.086 million enterprises and institutions across China set up the workers' congress system, involving 103 million workers. Trade unions have placed importance on making public the factory affairs to let workers know about the affairs and discuss the affairs in order to construct the enterprises better. At present, 945,000 enterprises and institutions across China have carried out the system of making public the factory affairs, relating to 91.022 million workers. In addition, the trade unions have also endeavored to facilitate the establishment of worker director and worker supervisor systems among corporatized enterprises.

(IV) Actively Participating in Mediation of Labor Disputes

With the development of the socialist market economy, profound changes have taken place in

labor relations in Chinese enterprises and the number of labor disputes tends to increase. Explicit provisions on labor dispute handling procedures and on trade unions' functions have been laid down in China's *Labor Law*, *Trade Union Law* and *Labor Dispute Mediation and Arbitration Law*. In accordance with these laws, the Chinese trade unions have positively participated in the mediation and handling of labor disputes and have effectively defended the lawful rights and interests of the workers. Trade unions have propelled the establishment of labor dispute mediation committees in enterprises, joined labor dispute arbitration boards at all levels and participated in the handling of local labor disputes. Trade unions have also actively provided workers with legal aid and services. In 2007, the countrywide enterprises and institutions where grassroots trade unions have been set up established 311,000 labor dispute mediation committees, handling 319,000 cases; 11,000 regional and sectoral labor dispute mediation organizations were set up throughout China, handling 87,000 labor dispute cases; and arbitrators of the trade unions participated in the handling of 25,000 arbitration cases.

(V) Safeguarding Workers' Labor and Economic Rights and Interests

1. Promoting employment and re-employment in a positive way. By 2007, the nationwide local trade unions above the county level had opened 2,846 job centers, having successfully recommended jobs to an accumulative total of 6.888 million person-times, of which 4.462 million person-times were from the laid-off workers; had set up 2,997 vocational training institutions, with the number of training reaching an accumulative total of 8.888 million person-times, of which training among laid-off workers reaching 5.797 million person-times, and the re-employment of laid-off workers after training reached 3.353 million person-times; had launched 4,980 re-employment bases, with the number of re-employed laid-off workers reaching an accumulative total of 1.402 million.

2. Facilitating the implementation and improvement of the labor contract system. Trade unions have actively guided and helped workers in accordance with the law to sign labor contracts with enterprises and have supervised the execution of the contracts. In 2007, among the countrywide enterprises in which trade unions have been built, the number of workers who had signed the labor contracts reached 78.32 million, making up 51.3% of the total number of workers of the enterprises in which trade unions have been built, of whom the number of migrant rural workers who had signed labor contracts reached 24.411 million. ACFTU and departments

concerned have jointly put forward a plan: From 2006 to 2008, labor contracts will be signed between various types of enterprises and the workers at large within three years.

3. Defending workers' right to gain payment for labor. Trade unions have positively expedited the implementation of the minimum wage system in enterprises, established and improved the joint wage determination mechanism, the normal wage promotion mechanism and the wage payment guaranteeing mechanism to increase the wages of the workers. Trade unions have actively assisted the governments in strengthening supervision and examination of wage payment in enterprises and have conscientiously solved the problems of enterprises' defaulting payment of wages to or embezzling wages of the workers including migrant rural workers. In 2007, 29 provinces (autonomous regions and province-level municipalities) across China increased the minimum wages.

4. Maintaining workers' right for social security. Trade unions have actively participated in the formulation of laws, regulations and reform plans on social security and have assisted the governments to do a good job of the reform, supervision and examination of the old-age insurance system, unemployment insurance system, medical insurance system, injury insurance system and the childbirth insurance system. Trade unions have also devoted major efforts to developing mutual-aid and cooperation insurance to build up another line of defense against risks. In 2007, 73,000 grassroots trade unions throughout China conducted mutual-aid and cooperation activities among workers, with 15.344 million workers taking part and 1.37 billion yuan being provided; 3,276 trade unions above the grassroots level across China conducted medical mutual-aid activities among workers, with 18.301 million workers taking part.

5. Asserting workers' right for labor safety and occupational health. Trade unions have supervised the implementation of state rules and regulations in enterprises with regard to the safety in production in accordance with the law and have endeavored to improve the working conditions in enterprises. In 2007, trade unions of the enterprises and institutions across China set up 328,000 labor protection supervision and examination committees; trade unions of the enterprises and institutions set up 606,000 labor protection supervision and examination committees at the branch, branch-factory and workshop levels and appointed 1.775 million labor protection examiners for trade union teams; trade unions above the grassroots level across China set up 22,000 labor protection supervision and examination organizations and appointed 157,000

labor protection supervisors of trade unions. In 2007, trade unions at various levels across China participated in examinations of safety in production reaching 3.011 million times, put forward 219,000 opinions on rectifying hidden perils and occupational hazards and participated in the investigation and handling of 109,000 casualty accidents among workers.

6. Strengthening aid to needy workers. Trade unions at various levels have thoroughly carried out the warmth-delivering project, actively dealt with the conspicuous problems in work and lives of the needy workers and of the migrant rural workers and strived to do practical work and good deeds for workers. In recent years, by setting up solidarity centers, trade unions at various levels have provided needy workers with various kinds of services such as living salvage, medical aid, patronage for school education to children of the needy workers, job recommendation, training for employment and legal aid. In 2007, local trade unions above the county level across China set up 2,975 solidarity centers for needy workers, raising funds of 1.01 billion yuan and aiding 4.525 million needy workers.

To sum up the above, Chinese trade unions have made great achievements in safeguarding workers' rights and interests. Nevertheless, as China is still the biggest and the most populous developing country in the world with a poor foundation to start with and an unbalanced development, its economic and social development level is not high, its employment is under great pressure and there are still a lot of defects in the protection of workers' rights and interests. In particular, problems like working overtime and defaulting payment of wages still exist in some privately-operated enterprises and in some foreign-invested labor-intensive enterprises, and safety problems and acts of tort often take place; at present, a large part of 140 million migrant rural workers across China have not joined trade unions. Therefore, it is still an arduous task to establish trade unions and protect workers' rights and interests. Chinese trade unions still need to make long-term and strenuous efforts to realize common wealth and social justice among the whole people, to earnestly safeguard the legitimate rights and interests of the vast numbers of workers including migrant rural workers and to facilitate the construction of a harmonious socialist society in China.

Within a future period of time, Chinese trade unions will endeavor to strengthen the construction of the protection mechanisms and devote major efforts to developing harmonious labor relations and will continue to push forward the construction of grassroots trade union

organizations with great efforts. The Chinese trade unions will, before the convening of the trade unions' fifteenth national conference in 2008, strive to increase the number of nationwide union members by more than 200 million and, by the end of 2008, will strive to make the establishment of trade unions in foreign-invested and privately-operated enterprises to reach 80% respectively and the number of migrant rural worker members to reach 70 million. The Chinese trade unions will take vigorous action to expedite and participate in the state formulation and promulgation of such laws and regulations as the *Social Insurance Law*, *Wage Regulations*, *Regulations on Democratic Management in Enterprises*, *Rules on Implementation of the Labor Contract Law* and the *Measures on Old-age Insurance for Migrant Rural Workers*, and will stimulate the enterprises to enhance the labor contract and collective contract systems as well as workers' democratic management system; will stimulate the governments to take workers' wage promotion as a target in economic and social development planning, strengthen the supervision and macro-control over the wage distribution in enterprises, deal with the problem of low wages earned by workers and raise the minimum wage standards and so forth, so as to better protect the lawful rights and interests of the Chinese workers.

P.S.: A Brief Introduction to ACFTU

Established on May 1st, 1925, the All-China Federation of Trade Unions (ACFTU) is a mass organization formed by Chinese workers on a voluntary basis. Over 80 years since its establishment, ACFTU has always made great efforts to safeguard the political, economic and cultural rights and interests of Chinese workers. Chinese trade unions have carried out the organizing and guiding principle of combining industries with localities. Except for Hong Kong and Macao special administrative regions and Taiwan, there are currently 31 provincial federations of trade unions, 10 national industrial trade unions and 1.508 million grassroots trade unions (involving 3.193 million enterprises and institutions) throughout China, with 193 million members, and the nationwide trade union admittance rate has reached 71.5% (as of September 2007).

All-China Federation of Trade Unions

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