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Policy Officer, International
Department,
CGT France

Director

Daniel Blackburn, MA, barrister

Researcher

Ciaran Cross, LL.M.



International Centre for Trade Union Rights

Centro Internacional para los Derechos Sindicales
Centre International pour les Droits Syndicaux

E-mail: ictur@ictur.org
Web: www.ictur.org

ICTUR was founded to
defend and extend trade union rights and
to raise awareness of these rights and their violations
around the world

Attn:

Hsu Ming-chun
Minister of Labour
9th Floor, No.83, Second Section, Yanping N. Road
Datong District, Taipei City
Taiwan 10346

CC:

Office of the United Nations Special Rapporteur on the rights to
freedom of peaceful assembly and of association
International Department, Taiwan Confederation of Trade Unions
(TCTU)
International Department, Chinese Federation of Labour (CFL)
IndustriALL

February 2018

Dear Minister,

The International Centre for Trade Union Rights is writing to express its concern about freedom of association in Taiwan, in particular the treatment of trade unionists protesting against recent labour reforms and incidents of anti-union discrimination at work.

ICTUR understands that amendments to the Labour Standards Act being implemented by President Tsai Ing-wen's government have been met with widespread protest over the last months. The proposals raise the monthly cap on overtime, and the limit for consecutive working days, but lower the statutory minimum rest time between shifts. These reforms have been understandably resisted by trade union organisations. According to government statistics, working hours Taiwan already rank among the longest in the world.

A mass demonstration led by trade unions in Taipei on 23 December 2017 was declared by the police to be illegal – a move that demonstrators believe was designed to stifle the protest. Some 10,000 people were in attendance and ICTUR understands that the demonstration ended with police dragging away the remaining protesters one by one into police vans. It is reported that ten union leaders and students were arrested for obstructing an intersection near Taipei main railway station. At a follow-up demonstration to protest the passing of the amendment, held outside the Legislative Yuan on 8 January 2018, the use of police force was also reported against protestors who were attempting to erect a shelter from the rain.

Reported incidents of recent anti-union discrimination by employers in Taiwan are a further cause for concern:

- On 25 November 2017, a strike organised by workers at the Homebox furnishing store in Hsinchu City - to protest the unfair dismissal of nineteen Homebox employees - resulted in the arrest of five striking workers, including the president of the trade union.
- In January, fifteen union members at the Miramar Golf Country Club in New Taipei City's Linkou District were fired one day after the passage of the Labour Standards Act amendment. The workers' union - established at the workplace in 2016 - had negotiated for paid overtime last year, and believes that the dismissals were aimed at now "wiping out" the union by targeting its members for dismissals.

ICTUR wishes to remind the Taiwanese government of its obligations to respect workers' freedom of association and assembly, both of which are guaranteed by the Taiwanese Constitution (Art. 14). In March 2009, Taiwan further ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and legislated to make both Covenants legally binding on all government agencies in Taiwan.

The ICCPR expressly provides that "everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests" (Art. 22) and also recognises "the right of peaceful assembly" (Art. 21). The ICESCR provides for the right of everyone "to form trade unions and join the trade union of his choice" (Art. 8.1(a)). The ICESCR also protects the right of "trade unions to function freely" (Art. 8.1(c)) and for the "right to strike" (Art. 8.1(d)), in accordance with the country's laws. Under both Covenants restrictions placed on these rights are only permitted when they are "necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others".

Regarding anti-union discrimination, the Committee on Economic, Social and Cultural Rights has previously noted that wrongful dismissals or harassment of trade unions leaders and members are in violation of Article 8 ICESCR and has called upon States Parties to the Covenant to "take effective measures to ensure that trade union leaders and employees participating or persons seeking to join trade unions are protected from any retaliatory actions and that they are able to exercise freely their rights under article 8 of the Covenant" (See *Concluding observations of the Committee on Economic, Social and Cultural Rights, Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant*, (Poland) E/C.12/POL/CO/5, para. 20. Geneva, 2–20 November 2009). ICTUR further notes that amendments to Taiwan's Labour Union Act made in 2010 explicitly prohibit, and provide for penalties against employers who engage in, anti-union discrimination.

With respect to the recent amendments to the Labour Standards Act, the ICESCR further recognises the "right of everyone to the enjoyment of just and favourable conditions of work" which ensure *inter alia* "safe and healthy working conditions" and "rest, leisure and reasonable limitation of working hours..." (Art.7 (b) and (d)).

ICTUR calls on the government to undertake all necessary measures to address these concerns and to ensure that it complies with Taiwan's obligations under both national and international laws to protect the fundamental freedoms of workers to join and form unions and take action in defence of their interests.

ICTUR will report these incidents in the journal *International Union Rights*, which was established in 1993, and which enjoys a readership in more than 100 countries.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'D. Blackburn', followed by a long horizontal line extending to the right.

Daniel Blackburn, Director