

# Workers' Digest

News and Commentaries

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## Violations of Workers Rights in the Philippines in 2010

Aside from the worst forms of labor repression such as the killings of union leaders and members that are well documented by human rights groups, workers in the Philippines suffer from a host of other violations of internationally recognized and constitutionally protected rights and freedoms.

A particular section of the working class, those working in the special economic zones, deserve particular concern in terms of the observance of labor standards and labor rights. The most common grievances of export zone workers revolve around violations of security of tenure, such as illegal dismissal and illegal suspension; non-remittance of social security premiums, withholding taxes, employees' compensation and health premiums; non-payment / underpayment / late payment of mandated benefits such as 13th month pay, 5 days service incentive leave, overtime pay and paternity leave; lack of transparency in employment contracts; imposition of excessive production quota; verbal humiliation and physical abuse of workers; restrictions of the freedom to organize including blacklisting of unionists; and restraints on the right to peaceful concerted actions including strikes.

The town of Rosario, Cavite hosts the biggest economic zone. In the Cavite Economic Zone (CEZ) are based more than 300 locators which employ an estimated 70,000 workers, a majority of them women. In May this year some 100 retrenched workers of Dyna Image, a Taiwanese-owned electronics firm, setup the first ever campout at the CEZ in protest at the refusal of management to heed the workers demand for rotation instead of layoffs. The campout lasted for only 24 hours without the workers demands being met because of the threat by the CEZ administrator and the local police that the peaceful action will be dismantled.

Another illustrative case of restriction in the freedom to unionize is the pending labor dispute at Best Chemical and Plastics Phils. Inc. (BCPI), a Korean-owned factory in the town of Carmona, Cavite. The union won a certification election last July despite management interference in the exercise of the right to organize, and collusion by local government



*Protest at the Cavite Economic Zone*

officials and Labor Department functionaries. Management has a pending protest at the results of the certification elections. The union has filed a notice of strike due to the company's refusal to bargain.

One of the largest export zones is the Mactan Economic Zone (MEZ) in Lapu-Lapu City in the province of Cebu. There are some 200 companies in MEZ I and MEZ II employing an estimated 50,000 workers but not a single union presently exists in the zone.

The latest attempt to form a union was the Alta Mode Workers Union in a garments export firm that supplies to Abercrombie and Fitch among other world famous brands. Unfortunately the union lost the certification election

due to successful interference by management and collusion by Labor Department officials. All the union members were put on forced leave on the day of the certification election. The Labor Department allowed and counted the votes of supervisory and contractual workers who were not part of the bargaining unit.

Finally Alta Mode locked out the workers early this year and then closed the factory. The Alta Mode workers setup a three-month long campout at the gates of MEZ II. There was a failed attempt by the private security guards to demolish the campout and repeated threats to dismantle it despite its peaceful and legal nature. The workers finally settled with management because of the pressure of an unfavorable but questionable decision from a labor arbiter. The arbiter found the Alta Mode workers guilty of an illegal strike for holding a sit-in protest at the factory. The workers assert that the protest did not constitute a strike—and thus cannot be found illegal on procedural grounds—for they were then on forced leave and in fact were demanding that they be allowed to return to work.

The Alta Mode campout was the peak of a wave of labor unrest in Cebu that came as a result of the deleterious impact of global economic crisis on jobs, wages and working conditions. Workers involved in the wave of protests complain that not a single one of them have received financial assistance from the Labor Department despite meeting the requirements. Furthermore, an informant has revealed that the Alta Mode unionists are effectively blacklisted from employment in the MEZ since locators haven been furnished copies of their names.



***PALEA mass action that precipitated the assumption order***

Arguably the biggest labor issue this year is the dispute at the Philippine Airlines (PAL), the national flag carrier. It showcases government abuse of the power to intervene in labor disputes that are “imbued with national interest” in the opinion of the Labor Secretary.

The Labor Code allows the Secretary of Labor to assume jurisdiction (AJ) of disputes and enjoin the right to strike. The Philippine Airlines Employees Association (PALEA), the ground crew union, is protesting against the planned mass layoff of some 3,000 employees and contractualization of work.

The AJ on the PAL dispute was dated April 23, 2010 and came just a few days after Department Order DO 40-G-03 series of 2010 amended the rules on strikes. It is dated March 29, 2010 and took effect 15 days after publication. DO 40 was supposed to be a reform in the wake of the ILO High Level Mission last year. The ILO High Level Mission conducted an investigation into the government’s enforcement of Convention 87 on the freedom of self-organization and Convention 98 on the right to collective

bargaining amidst allegations by workers groups of employer interference and state indifference if not collusion.

In the PAL case, Sec 15 (conditions for assuming jurisdiction) of DO 40 was violated since (1) no conference was called by the Labor Department on the propriety of an AJ and (2) the union did not request for an AJ. Also Sec 17 (rendering decisions) was violated since the Acting Labor Secretary penned a decision even though the case was not yet submitted for resolution. The rules provide that decision should be made within 30 days after being submitted for resolution. A decision unfavorable to the union (“layoff is legal exercise of management prerogative”) was dated June 15 even though mediation proceedings were still ongoing then.

A motion for reconsideration was filed by PALEA on June 28. On the strength of a petition sent by the union to President Benigno Aquino, he has ordered the new Labor Secretary to “review and evaluate” the decision, which remains pending to this day. Last September, PALEA formally asked the

Labor Secretary to declare the planned mass layoff as illegal and for PAL to be found guilty of unfair labor practice.

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