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# WORKING CONDITIONS AND WORKER RIGHTS IN CHINA: RECENT DEVELOPMENTS

## HEARING

BEFORE THE

## CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ONE HUNDRED TWELFTH CONGRESS

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# WORKING CONDITIONS AND WORKER RIGHTS IN CHINA: RECENT DEVELOPMENTS

**TUESDAY, JULY 31, 2012**

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
*Washington, DC.*

The roundtable was convened, pursuant to notice, at 2:30 p.m., in Room 2200, Rayburn House Office Building, Hon. Christopher Smith, Chairman, presiding.

Also present: Senator Sherrod Brown.

## OPENING STATEMENT OF HON. CHRISTOPHER SMITH, A U.S. REPRESENTATIVE FROM NEW JERSEY; CHAIRMAN, CONGRESSIONAL–EXECUTIVE COMMISSION ON CHINA

Chairman SMITH. The Commission will come to order.

I want to welcome our very distinguished witnesses to this hearing on the important topic of the appalling state of working conditions and worker rights in China, a significant human rights abuse that requires greater examination, analysis, and, certainly, bolder action.

Worker rights are systematically violated and are among the many human rights abuses committed by Chinese Government officials at all levels.

Today, the Commission hopes to continue to draw attention to these critical issues in order to push the Chinese Government to reform and to respond to the legitimate concerns of its own citizens, all of whom are entitled to well established, universally recognized labor rights.

As a member of the World Trade Organization, China has experienced tremendous economic growth and integration into the global economy. But as this Commission's most recent annual report documents, China continues to violate the basic human rights of its own people and seriously undermines the rule of law.

Workers in China are still not guaranteed, either by law or in practice, fundamental worker rights in accordance with international standards. Despite legislative developments that purport to ensure some labor protections in China in recent years, abuse and exploitation of Chinese workers remains widespread.

Conditions in Chinese factories continue to be incredibly harsh. Workers are routinely exposed to a variety of dangerous working conditions that threaten their health and their safety. Low wages, long hours and excessive overtime remain the norm.

Chinese workers have few, if any, options to seek redress and voice grievances under these harsh conditions. If workers step out

of line, they may be fired without payment of back wages. Workers have no collective bargaining power, no collective bargaining rights whatsoever to negotiate for higher wages and a better working environment.

The Chinese Government continues to prevent workers from exercising their right to freedom of association, and strictly forbids the formation of independent unions. Attempts to organize are met with dismissal, harassment, torture, punishment, and incarceration.

Workers are "represented" by a government-controlled union, known as the All-China Federation of Trade Unions [ACFTU], a phony, fake, and fraudulent workers organization.

The recent crackdown on authentic labor, non-governmental organizations in Shenzhen in 2012 and the mysterious death of labor activist and 1989 Tiananmen Square demonstrator Li Wangyang in June are but a few examples of Chinese authorities' continued attempts to crush labor activism.

While touting itself as an economic superpower, China continues to violate workers' rights with impunity. With no institutions capable of protecting their interests, Chinese workers are nevertheless taking matters into their own hands.

In the past few years, there has been a dramatic rise in the number of labor-related protests in China, an estimated 30,000 labor-related protests in 2009 alone, and there are no signs that this positive trend has or will abate.

The increase in labor-related demonstrations not only represents the glaring lack of institutional capacity for fair labor negotiation, but also reflects the rise of a new generation of workers in China who are better educated, tech-savvy, rights conscious, and more willing to protest and endure the consequences.

The deplorable state of worker rights in China not only means that Chinese women, men, and children in the workforce are exploited and put at risk, but it also means that U.S. workers are severely hurt by profoundly unfair labor practices, an advantage that goes to those corporations who benefit from China's heinous labor practices.

As good corporate citizens, multinational corporations such as Apple and Microsoft, must ensure that international labor standards are being implemented in their factories and supply chains in China.

In the glaring absence of Chinese Government efforts to bring its labor laws and enforcement up to International Labour Organization standards, multinational corporations can and must play a unique role in advancing labor rights and industry standards throughout their operations in the People's Republic of China.

Again, I want to welcome our very distinguished witnesses.

I yield to my friend and colleague, Cochairman Senator Brown.

[The prepared statement of Chairman Smith appears in the appendix.]

**STATEMENT OF HON. SHERROD BROWN, A U.S. SENATOR FROM OHIO; COCHAIRMAN, CONGRESSIONAL–EXECUTIVE COMMISSION ON CHINA**

Senator BROWN. Thank you very much, Chairman Smith, for your work in this commission. And thanks especially to the staff for the terrific work they do on this commission to prepare the annual report, which they are working on now, which is, in many ways, both a guide and sort of a clarion call for what this commission needs to do and what our government needs to do and what U.S. businesses ought to be doing.

Special thanks to both panels. On this first panel, I appreciate the work of all three of you and what you have done to advance labor rights in China and really all over the world.

Mr. Kernaghan, Mr. Wu, thank you. And, Mr. Qiang, thank you very much. And the second panel, too, thanks very much.

When Congress debated permanent normal trade relations with China more than a decade ago, concerns about human rights and labor conditions were met with expert opinion that conditions would improve with more unrestricted and unfettered trade. That is what we were told by CEOs and editorial writers and pundits and economists and so many people in this institution over and over as Congressman Smith and I were working on this.

But we know that any improvement in labor conditions have not kept pace—even close to keeping pace with the extraordinary trade deficits we have mounted with China. More and more of the goods we buy are made by Chinese workers. In 2011, our trade deficit—our bilateral trade deficit reached an all-time high of $295 billion. The first five months of 2012, the trade deficit was $118 billion, on pace to exceed last year's.

The trade deficit has cost American workers millions of jobs. Chinese workers are not just making our iPads and our iPhones and our laptops, but, also, innovating on the shop floor.

When the innovation happens here and is outsourced for production somewhere else, the innovation, both in terms of process and in terms of the product, happen somewhere else, and we, as a Nation, tend to lose our innovative edge.

They are making our auto parts, our food, our drugs, even our Olympic uniforms.

We learned a few weeks ago, of course, that the accomplished athletes of Team USA would be wearing Chinese-made uniforms at the opening ceremonies. Members of both parties, including those who had voted for PNTR [permanent normal trade relations], were outraged. I was joined by a number of other Members of both Houses and sent letters to the U.S. Olympic Committee. I met with the CEO, who promised that by 2014, these uniforms will be made here.

These products should be made here. Hugo Boss has a facility in Cleveland, Ohio. They make high quality and affordable clothing for Americans and for export.

It is not because American workers cannot compete, but American workers do not often stand a chance against Chinese workers who are underpaid and overworked, who are victims of non-enforcement even of Chinese labor law, and workers who have few rights.

Chinese workers making some of our most popular products—cordless phones, iPhones, iPads—toil under the harshest conditions, as Chairman Smith said. They make a little over $1 an hour. They stand all day. They work overtime that far exceeds Chinese law. Management humiliates them, sometimes forcing them to clean toilets as punishment. They live and they work in far too squalid and dangerous environments.

We learned from a labor rights group in Hong Kong that Chinese workers making Olympic merchandise worked excessive overtime, were docked a half-day's wage for being a few minutes late, and had to bring their own masks to work.

Fundamentally, why do these injustices continue? Because Chinese workers have no bargaining power. In China, there is no freedom of association; there are no independent trade unions. Instead, workers are represented by a state union that, to quote a worker from one report, "everybody knows is controlled by the company."

Like our workers, Chinese workers are willing to fight for their rights. Strikes in China have grown, as Chairman Smith said, to an estimated 30,000 a year. The new generation of Chinese workers is better educated, more tech savvy, more willing to stand up against injustice. All encouraging developments, of course, but imagine how much more Chinese workers could gain if they had the right to organize freely and bargain collectively.

We call on the Chinese Government to abide by international law and guarantee freedom of association, including organizing and bargaining collectively. We call on China to follow the rule of law by strengthening its labor laws and enforcing the laws on the books.

Let us continue to do all we can here to support our workers against China's unfair labor and trade practices. That is why I have introduced three bills over the last couple of years—the Wear American Act of 2012, the All-American Flag Act, and, the most important, of course, the Currency Exchange and Reform Act.

We have great responsibility in this. We must hold U.S. companies accountable for working conditions in their supply chain, something that Mr. Kernaghan has particularly shown a lot of leadership in pushing.

That is why today I sent a letter to Apple regarding factories in China. I urged Apple to fulfill the promises it made following that New York Times story and, since, following an investigation by the Fair Labor Association.

I have asked Apple to keep us informed, this commission, my office, and the American public informed and updated on its progress. I have urged Apple to strengthen its engagement, if you will, with the U.S. Department of Labor.

Companies like Apple are in a unique position to improve working conditions in China, while maintaining their bottom line. I hope they will do the right thing.

Thank you, Mr. Chairman.

Chairman SMITH. Thank you very much, Senator Brown.

I would like to now introduce our first panel, beginning with Charles Kernaghan, who is the Executive Director of the Institute for Global Labour and Human Rights, a prominent anti-sweatshop advocate and director of the nonprofit organization.

He has published a number—or the institute that he heads—a number of in-depth investigative reports on labor abuses, including a 2006 report on the trafficking of foreign guest workers under the U.S.-Jordan Free Trade Agreement, and a 2012 report on factory conditions in Microsoft supplier factories in China.

I welcome back Mr. Kernaghan. He may recall that back in the 1990s, I had invited him and he did a tremendous job, first, in exposing what was going on with Kathie Lee Gifford's line of clothing. She herself testified at that hearing, but he was the one who really got the ball rolling on those sweatshops in Honduran factories for Wal-Mart.

So, welcome. It is great to see you, Mr. Kernaghan, again.

We will then hear from Li Qiang, who is the labor activist and founder of China Labor Watch, a New York-based independent nonprofit organization that works to protect factory workers in China.

China Labor Watch provides the international community with in-depth information and analysis on the labor situation in China through the publication of investigative reports and press releases.

Working with a network of labor activists in China and the assistance of scholars, lawyers, and others around the world, China Labor Watch has published over 80 investigative reports covering more than 200 companies.

Mr. Li has also established labor nongovernmental organizations [NGOs] in China that provide free legal advice and offer community training classes to Chinese workers in the Pearl River Delta region. These labor NGOs, additionally, cooperate with the multinational companies to ensure implementation of corporate responsibility standards in their supply chains in China.

Mr. Li has written frequently on Chinese labor issues and has been published in major Chinese and international media outlets, including China Youth Daily and the New York Times.

In 2004, Mr. Li was a visiting scholar at the Center for the Study of Human Rights at Columbia University.

Then we will hear from a man who is no stranger to this Commission nor to the Foreign Affairs Committee nor to the Congress, and that is Harry Wu, the great Harry Wu, who is the founder and Executive Director of the Laogai Research Foundation, a foundation established in 1992 to gather information on and raise public awareness about the Chinese laogai system.

Mr. Wu has firsthand knowledge of the conditions in the laogai system. He was imprisoned at the age of 23, in 1960, for criticizing the Communist Party, and he subsequently spent almost 20 years in the factories, mines, and fields of the laogai system.

Mr. Wu came to the United States in 1985 after his release in 1979, but went back a number of times, including getting re-arrested on at least one of those occasions. Harry Wu actually—I will never forget, I would say to my friend, Mr. Brown, we had a hearing that Harry helped arrange on the laogai that featured six survivors.

And I will never forget when he brought in Palden Gyatso, who was also a man who had been incarcerated in the laogai system, who brought in these cattle prods and the other things that were

used routinely by the Chinese Government to compel compliance inside the prison gates.

Palden Gyatso, downstairs in this building, could not get through security—and that was before 9/11. We had to go down and escort him through. And when he held up those instruments of torture used in the laogai system, which incarcerates millions of people, you could have heard a pin drop in that hearing room.

So welcome back, Harry Wu, to the Commission.

Mr. Kernaghan, if you would proceed.

**STATEMENT OF CHARLES KERNAGHAN, EXECUTIVE DIRECTOR, INSTITUTE FOR GLOBAL LABOUR AND HUMAN RIGHTS**

Mr. KERNAGHAN. Thank you for this opportunity to testify on this incredibly important issue of worker rights in China.

As of 2008, phones are no longer made in America. The reason is pretty simple. Telecommunication workers in the United States earn $16.85 an hour, which is 15.5 times higher than wages at the VTech phone factory in China, where workers are paid $1.09 an hour, which is a below subsistence wage, and with very few rights or any benefits.

VTech is the world's largest manufacturer of cordless phones, and it controls 51 percent of the market in North America for corded phones and cordless phones. VTech produces for AT&T, Motorola, Philips, German Telekom, and Australia's Telstra.

What I want to do now is put a human face on what happens with these workers at the VTech factory. Suppose your daughter went to work at VTech. She would work from 7:30 in the morning until 7:30 or 10:30 at night. She would work 12 to 15 hours a day. She would work 6 and 7 days a week. She would be at the factory 70 to 85 hours each week. And she would be forced to do overtime up to 37 hours, which exceeds China's legal limit by 345 percent. Your daughter would be forced to stand all day. Her back would hurt. Her legs would ache.

The production line never stops. Every 11.25 seconds, a circuit board goes down the assembly line. The workers have to plug in four or five parts into the circuit board. That means they have 2.25 seconds to 2.8 seconds to do every operation. In one hour, they do 1,600 operations. In 1 day, in the 11-hour shift, they do 17,600 operations. And in the week, they do 105,000 operations, the same over and over again. The pace is relentless, furious, mind-numbing, exhausting.

Workers who fail to meet the production goal have to remain working without pay until they reach the goal. Workers say they feel like they are in prison, as security guards roam the lines and often beat the workers.

The workers are fed some horrible food. They call it awful, slop. Indeed, we smuggled some pictures out of the factory that showed this coarse yellow rice and visibly rotten potatoes, and this is what they were being fed.

Eight workers share each primitive dorm room. They sleep on narrow plywood bunk beds, often without mattresses. The workers told us, "It's filthy, like a pigsty."

Workers told us that when they want to wash, they have to get a small bucket, a plastic bucket, fetch some water, bring it back to

their dormitory and splash water on themselves. This is how they wash. Right now, the temperature would be 96 degrees and it would be extremely humid.

Workers are instructed to spy on each other. According to a manual from the VTech factory, "Those who report others' mistakes would be rewarded monetarily."

One young woman told us, "Sometimes I want to die. I work like hell every day for a dull life. I can't find a reason to live. Given that living is so tiring, seeking death might not be a silly thing."

After just one month of work, back on December 27, 2009, a 20-year-old man at VTech jumped to his death from the sixth floor dormitory. His supervisor had constantly attacked him and scolded him.

Less than a month later, on January 20, 2010, a young woman took an overdose, a fatal overdose of sleeping pills because she was constantly badgered and harassed by the management.

Conditions are so miserable for the 30,000 workers at VTech, at VTech's factories in Dongguan that 80 percent of the workers try to flee the factory each year.

To keep the workers from fleeing, management withholds one month's back wages, including overtime, to try to control the workers and keep them in the factory.

VTech also cheats their workers on their legal social security benefits which are due them. Millions of dollars are going into the pocket of management at the cost of the workers.

There is some small good news in that improvements are beginning to be made at VTech. Under enormous pressure, the corporations like Philips and Motorola, they sent auditors, put them on the ground in the factory, and produced some of these studies over the last several weeks, and they have just reported back to us that they have confirmed many of the violations that the institute had documented.

VTech now is responding to the audits and is saying that it is going to come up with a remediation plan to improve conditions. I am not sure if we can believe that.

But one slightly maybe positive action here is the Sustainable Trade Initiative's electronics program, which was funded by the government of the Netherlands and by several corporations, such as Philips, and they have moved beyond the monitoring, auditing of just a factory, and now they are saying that it is only when there is a worker-management dialogue in place that a company can possibly improve labor conditions.

And Philips has asked VTech to join the Sustainable Trade Institute. This may be something that the U.S. Government would like to look into or U.S. corporations, for that matter. But even having said that, nothing will change in the global economy without enforceable labor rates.

I want to especially thank the Chairman and the Cochairman for your leadership. You do so many bills, maybe you do not remember, but for your leadership and commitment back in 2007 when you introduced the Decent Working Conditions and Fair Competition Act, which, when it passes, it is not, of course, going to pass now, but someday, when that passes, it will amend the Tariff Act of 1930 to prohibit the import and export of sweatshop goods to the United

States—the import, the export, or sale of sweatshop goods in the U.S. Nothing will change.

Multinational corporations have demanded and want all sorts of enforceable laws to protect their products, intellectual property rights, copyright laws, backed up by sanctions. Microsoft is protected, Apple is protected, VTech is protected, Barbie Doll is protected, the NFL is protected.

But when we say to these corporations, "Can't we have similar laws to protect the rights of the human being, as you have to protect your products," the corporations say, "No, no never."

The corporations claim that extending protections similar to those currently afforded to products to defend the rights of human beings would be an impediment to free trade. So we have laws to protect Barbie Doll and Apple, but no laws to protect the human beings who make them.

Nothing will change unless there is some change in policy and we have enforceable laws. Otherwise, China will keep dumping the sweatshop goods in the United States. Right now, $34 million an hour are coming in from China products, $810 million a day is coming in in terms of a trade deficit with China.

I want to end the statement with a remark from an undercover labor leader in China, and I will go through this. This is quite short.

He just wrote us yesterday and he said, "We think opposing the current authoritative regime in China and encouraging transformation toward democracy conformed to benefits of Chinese workers, all human beings, we call upon all just countries around the world, especially the United States to oppose the Chinese Government, a government that suppresses its people's demand for democracy. Ask the Chinese Government to protect human rights to grant these people freedom of association and to let workers organize unions freely."

In the meantime, the United States should boycott sweatshop products from China and broaden support for grassroots organizations in China and American organizations that deal with labor issues in China.

We oppose sacrificing human rights in exchange for short-term economic gain. This is not only harmful for the improvement of working conditions in China, but also unfavorable in terms of the long-term interest of other countries.

I want to thank you, again, for this incredibly important work that you do with this Commission, because some changes have to come for the workers in China.

Thank you.

Chairman SMITH. Thank you very much, Mr. Kernaghan.

Mr. Li?

[The prepared statement of Mr. Kernaghan appears in the appendix.]

## STATEMENT OF LI QIANG, EXECUTIVE DIRECTOR AND FOUNDER, CHINA LABOR WATCH

Mr. LI [through an interpreter]. I would like to take this opportunity to thank the Commission for giving me the opportunity to testify here today.

Back in 2000, when the U.S. Congress was debating whether PNTR should be granted to China, I testified, as well, by saying that the Chinese workers would be working like machines.

Charlie just gave you a very vivid description of what was happening in the VTech factory. As a matter of fact, I myself worked in factories like that, and conditions were even worse.

It was because of my experience working in factories like what Charlie was describing that I came to this country and founded China Labor Watch. The conditions that he described just now do exist in most plants and most factories throughout China.

We did an investigation on 10 supplier plants supplying parts to Apple, and we found that most of them would have conditions as Charlie was describing.

The workers have to endure very long work hours, making very low wages, and doing very extensive—extraneous work.

The second topic I would like to touch on today is the audit system employed by multinational corporations. What I would like to say here is that the systems, these audit systems are not very effective and they are actually corrupt.

Third, substantial advances in labor conditions in China are far more likely to occur only if two things happen. First, the multinational corporations operating there must push for appropriate improvements; and, additionally, the Chinese Government will have to take a more aggressive role in enforcing its own labor laws.

As Charlie was describing, the poor and harmful working conditions in the VTech factories, in our investigation, we found that the working conditions exist in factories throughout China, not just in Foxconn.

While we were putting together this report, another accident took place, last Friday, at one of the Apple factories in China in which one worker died and four were left in a coma. By the same token, last year, accidents took place in Apple supplier plants in which 4 people died and over 50 workers got injured.

What I would like to say here is that in the audit report vis-a-vis working conditions at Apple plants, they did not talk about things that were not favorable to them. One factor, for example, throughout the supplier plants supplying parts to Apple, they extensively used dispatched labor, and these workers have even worse working conditions than regular employees of these plants and they work even longer hours. And sometimes they have to put in 180 hours in overtime. And when we look at injuries, on-the-job injuries, most of the injuries happened to these dispatched laborers.

In addition to what we found in Apple-supplied plants, bad working conditions exist in supply plants for HP, for Dell, and for Samsung. These multinational corporations do have an audit system. However, I think the audit systems are severely flawed.

According to my very conservative estimate, some 30,000 plants—over 100,000 audits are conducted for over 30,000 plants. Normally, recommendations in the audit reports would require the investment of millions of dollars. So the multinationals would, more often than not, bribe the auditing companies by giving them, like, $3,000 or so, so as to avoid making the investment to make the improvements.

I have a very specific example, and that took place in 2007. The toy factories exporting toys containing lead to the United States passed the quality audits from the auditing companies. Again, in 2009, we came across another incident in which the International Council of Toy Industries [ICTI] commissioned an auditing company to audit one of the toy manufacturers in China.

We learned that the toy manufacturer bribed one of the auditors by giving him $3,100, and we reported this incident to ICTI and the toy industry association. In response, ICTI did another audit and they found that fraudulent deeds did occur. So they canceled the certification.

Well, I can give you an example. For a typical toy manufacturer, it may employ 200 workers for the low seasons and the number may go up to 500 for high seasons. In order to implement recommendations in audit reports, they may have to spend $20 per head, per worker.

Take this particular manufacturer, for example. If we did not report this incident to ICTI, the manufacturer would have to come up with $45,000 to implement the recommendations in the audit report. Instead, they bribed the auditor.

We came across nine incidents like this in our investigations.

Now, after we reported the dishonest audit result to ICTI, they published the identity of our informant in its compliance newsletter. The audit firm is Intertek, a U.K.-based company, and they have over 30,000 auditors.

In order to protect its own interest, Intertek went back on its promise to keep the informant anonymous. What I would like to point out is that the same company does audit reports—does audit inspections for many U.S. companies. Big American firms, such as Costco, are their clients.

In my estimate, about one-third of U.S. corporations are clients of this particular auditing firm. And, of course, the auditor reports would be made up of facts. However, they ignore some of the facts.

It is my view that it is the responsibility of the multinational corporations to change the labor, bad working conditions in China, in addition to urging the Chinese Government to do something in this area. We need to put pressure on multinational corporations, as well.

The very reason for Apple to have hired this auditing firm to do audits is that it got bad publicity and it came under pressure.

We know that Apple's profits amount to $13.1 billion for the net profit for the first quarter of its 2012 fiscal year, and that would amount to the annual wages for 300,000 Foxconn workers for 11 years. And the stock awards worth $380 million Tim Cook received when he was appointed as the new CEO amounts to the total wages of 300,000 workers.

Corporations like Apple do have resources to change the conditions, and I think we should start with Apple to really change the conditions on the ground.

Again, I would like to thank the Commission for giving me the opportunity to testify today, and I hope that hearings like this will make a difference so that the working conditions in China will be improved.

Chairman SMITH. Thank you very much, Mr. Li.

Mr. Wu?

[The prepared statement of Mr. Li appears in the appendix.]

**STATEMENT OF HARRY WU, FOUNDER AND EXECUTIVE DIRECTOR, LAOGAI RESEARCH FOUNDATION AND LAOGAI MUSEUM**

Mr. WU. I want to add something to what we are talking about. In 1999, when the Motorola CEO, when he went to China, he met the Chinese Prime Minister, Zhu Rongji. Here is the dialogue.

The CEO of Motorola said, "I want to set up a factory in China to produce the iPad." And you know, until today, Motorola, all their iPads were made in China. And the CEO said, "I want to produce the iPad in China." And Zhu Rongji said, "No problem. What do you want?" And the CEO said, "Nothing. I don't want anything. But I care about one thing. I hope the Chinese workers are not going to organize a union." And the Chinese Prime Minister said, "So do I, no problem."

You see, that is why China does not have unions. And all the iPads right now are produced in China, now all made cheap. And every big factory, big company in China, they have a Communist Party office, Voice of America reported.

There is very little cooperation there. So what do you want to do? You have a hearing, you want to stop it? I hope so, but I do not think so, because China is China, China is not the Soviet Union. If this happened in the Soviet Union, they probably would say, "No, we can't do it. We are not going to share our technology, investment, whatever, with Soviet devil." But the Chinese Communist Party supposedly is not a devil, because they are honored guests in our White House.

I do not know. Fidel Castro cannot come to the United States, but Fidel Castro can meet Roman Catholic Pope. The Chinese say Roman Catholic in China is illegal. This is the environment in China. But today, I was very happy to be invited to this Commission to talk about labor rights. But I want to narrow, very narrow, only concentrate on maybe 3 million, maybe around this number—the prisoners—because if you have a chance to visit Chinese prison camps, all the prisoners are forced into labor.

Laogai, that means forced to labor and forced to reform. That means you have to forget your political ideals, religions. No, no way. You have to think about you having to support Communism. This is so-called reform. And every factory is very busy.

I was in a camp. I was in a coalmine working two shifts a day, 12 to 12 hours. I was on a farm, early every morning we get up. When the sun is setting down, we return. Are they going to pay? Forget it. The forced labor is a way to reform. You become a new socialist person.

And now the Chinese separate so-called enterprises from the prison camps. But by Chinese law, in the last 50 years, every prison camp has two different names. One is Judiciary No. 5, Laogai Detachment, or No. 7 Prison Camp, and another name is a coalmine, is a construction company, is a farm, is a manufacturer of machine tools, or is the biggest rubber boots factory. They can manufacture 80 million pairs of rubber boots, and you can find them in Wal-Mart, in Home Depot. I bought rubber boots on the

prison camp—exactly the same in the Wal-Mart. But I heard, in 1985, when I came to the United States, Wal-Mart said, "Our enterprises order products made in the United States. We are patriotic."

But today, the report says 91 percent of the Wal-Mart products are made in China.

But do you really care about the products made in China? So far, I have heard that in California, there is a company that imports brakes. Because the quality is not good, not strong enough, they cannot stop the car, they cause an accident. They want to return it, stop the contract, and the Chinese know. That is why the Communists say, "Oh, I want to tell you; this is from No. 3 prison camp in Shaanxi Province." So there is a problem.

Another company from Texas is making mugs. Next to the company, another factory, the Maolong prison camp. Two mugs manufacturers, export the products to the United States.

But who cares? If this is cheap, we do it.

So I do not know what should we do. American economy involved with China too much.

On the Dun & Bradstreet, there are 314 enterprises. Actually, it is a prison camp. But what should we do? I do not know.

Thank you.

Chairman SMITH. Mr. Wu, thank you very much.

Cochairman Brown?

[The prepared statement of Mr. Wu appears in the appendix.]

Senator BROWN. Thank you. Thanks to all three of you for your testimony. Mr. Yan, thank you, too.

Mr. Li talked about the audit systems, called them ineffective, corrupt, mentioned bribery, mentioned other—sort of other elements of how all this works.

Could all three of you just talk to me briefly about—each of you give your thoughts on what we can do here with U.S. corporations that contract with these auditors, these auditing companies.

Sometimes companies in the United States contract with them for purposes of answering media inquiries and relieving the pressure that they get from stories in the American media.

Other times, some America companies want to do the right thing here. Some American companies, I think, do care that the work conditions are perhaps not as good as they could be.

Starting with Mr. Kernaghan, if you would give me your thoughts on what we do to encourage companies, not just Apple, but companies like Apple and others to upgrade, if you will, the auditing system to make sure that the auditors are neither bribed or do the bribing or that the reports that they get back are legitimate and that the conditions that they audit will improve as a result of the audit.

Mr. KERNAGHAN. I think the auditing process is very difficult, especially in a place like China, where workers are very frightened to speak truthfully, and they separate the workers. They are all from different—these are migrant workers. They are all from different areas. They do not even let them be in the same dormitory together. So they put them out, so they are always alone and they can never build, like, an organization.

I think what happened with VTech, they came back to us immediately and they said, "No, everything is fine." And VTech said, "Well, they're going to sue us and bring a legal suit against us. We just kept pounding them with the facts about what is really going on in the factory, and it was not until then that the monitors actually took it seriously.

At the beginning, they said, "No problems, you've got it completely wrong. And then all of a sudden, they started to back away. When we did not chicken out, they started to back away a little bit from VTech and then they confirmed that they did find these violations. But I do not think they worked very hard to find those violations. They would rather not find the violations.

So one of the ways to—I am not a believer in monitoring. It is much more important, I think, to have the laws, enforceable laws. But if the monitoring is to work at all, there is going to have to be outside pressure put on the corporations and there is going to have to be research coming out of those factories to keep pushing and pushing.

Without these undercover people in China, we would not know a single thing. There would be nothing and it would just be the monitors going in and talking to management and talking to some workers who are already trained to lie.

So this is really going to have to be driven by unions in the United States, by Members of Congress, by activists, by NGOs.

If we do not keep pressure up on these companies in China, and their buyers, they will do nothing. That is our experience.

Senator BROWN. Mr. Li?

Mr. LI. Well, once an audit report is submitted, I think the recommendations would have to be implemented. Otherwise, the things will go back to square one. And in the wake of Charlie's report, VTech, I am sure, did something to make some improvements on a temporary basis. However, one or two years down the road, it will go back to square one.

I think one of the ways to alleviate the bad working conditions is really to set up hotlines accessible to workers. Groups should be allowed to access the workers on the floors to make them aware of the labor laws and, also, to set up hotlines so that workers could just pick up the phone and dial the number whenever they have a complaint.

Senator BROWN. Will workers believe that their privacy is protected if there is some way of establishing some hotline, their confidentiality and privacy is protected?

Mr. LI. Well, this is what we did in China last year. We set up hotlines in 35 plants in China by which Chinese workers would call our China office via those lines. And, in turn, we will talk to the supplier plant, to the supplier factory.

Afterward, we would follow up on their implementation. And I think there are organizations other than us in China having hotlines. However, only a fraction of factories in China have hotlines like this, because after all, for multinational corporations, this would increase their costs.

For instance, because of the hotlines, maybe the plant would have to provide better housing, better food, and would pay more on

workers' behalf into the healthcare system, and all these would add up.

However, on the other hand, the companies, the plants, and factories themselves stand to benefit in that better working conditions would see lower turnover rates among workers. The workers would tend to stay with their jobs.

And, in turn, the factories and plants would spend less in training, and I think this would be—again, setting up the hotlines in these plants and factories would be a very good first step to take, and this would be acceptable to the plants.

This year, the number of our hotlines will increase to 110 in China.

Senator BROWN. Good. Thank you.

Mr. Chairman, thank you very much.

Chairman SMITH. Thank you very much.

Just a few questions. In her testimony, Thea Lee from the AFL–CIO will say that she would like to see both the Administration and the Congress put protecting workers' rights at the center of the U.S. and Chinese Governments' dialogue, not as an afterthought behind other trade and foreign policy concerns.

Is that being done? Has that been done?

Mr. KERNAGHAN. No, not at all. There will have to be tremendous pressure from the United States and from U.S. corporations to finally respect the local labor laws in China and the internationally recognized worker rights standards.

They are in complete 100 percent violation at this point. So the pressure has to continue. We are only at the very first step.

Mr. LI. The problem in China in enforcing and implementing the labor law is that there are no advocates. There are a few so-called advocates, and these are unions, and unions are controlled by state.

Chairman SMITH. My question, Mr. Li, is has the United States, President Obama, the Secretary of State, the U.S. Congress, they are the leads; they are the Executive Branch. Have they done what Ms. Lee has asked; have workers' rights in China been made a priority?

Mr. LI. There is a lot they can do. For instance, as a first step, they can put pressure on companies like Apple and if Apple has done something, then probably the other corporations will follow suit.

And that, indirectly, would have some impact on labor law legislation in China.

Chairman SMITH. But to date, they have not.

Mr. LI. Right.

Chairman SMITH. I ask that—it has been my experience—I have been in Congress 32 years and when the trading relationship with China was emerging in the 1980s and then, certainly, took off in the 1990s, we had an opportunity, in my view, to seriously put fundamental human rights, the broad spectrum of human rights, including and especially labor rights, at the core of that relationship.

President Clinton, when he linked most-favored-nation status with human rights, included labor rights. One year after linking it, he delinked it in an infamous reversal of policy that happened on May 26, 1994.

Our trade deficit was peanuts then. As, again, Ms. Lee points out in her testimony, in 2011, it was $295 billion. We talk about foreign sourcing as being a problem. It seems to me that there is a magnet that is huge and enormous, causing those jobs that used to be in the United States to relocate to China.

Yet, under Clinton, under Bush, and now under Obama, we have made workers' rights a non-priority. Is that correct or do I have something wrong here?

Mr. KERNAGHAN. Correct.

Chairman SMITH. Thank you. Can any of you tell us why the U.S. Trade Representative [USTR] has not initiated the crushing of worker rights as an unfair trading practice? Have any of you had any ability to pierce that organization's unwillingness?

I would point out that a few years ago, again, working with the AFL–CIO, a very serious complaint—a request—it was a mere request filled with documentation that was filed with the U.S. Trade Representative to launch an investigation of the violation of workers' rights as an unfair labor practice, and they refused and they refuse to this day.

Do any of you have any thoughts as to why that might be the case? Why does the USTR not undertake that initiative?

Mr. KERNAGHAN. They are much more concerned for their corporations that that comes first and in any way promoting the rights of workers, the legal rights of workers, if that would damage the economic relationship with China, they will not go near it.

But on the other hand, just like you said, we are having our clocks cleaned as the stuff just flows into the United States made under illegal conditions.

But, no, no one has been able to stand up to that yet within the Administration.

Chairman SMITH. Mr. Li, you bring out a very good point in your investigation of 10 of Apple's suppliers that the auditors appear to have corruption issues, and you mentioned that one whistleblower was exposed.

Could you tell us what happened to that whistleblower?

Mr. LI. Well, they disclosed the name of the informant and death threats were made to him. So he was forced to leave his job to go back to his hometown.

Before this, Intertek actually had entered into an agreement promising anonymity. However, out of their own interest, they selectively used the information that was favorable to them.

Chairman SMITH. Could I ask you—Mr. Kernaghan, you might want to answer this, or any of you. Chinese companies not only pay their workers 10 to 50 cents per hour, but they also do not have OSHA protections, occupational health and safety; they ignore or have inferior environmental protections.

What has been the impact? Has anyone ever been able to quantify it? I know it is a dictatorship, so getting information is hard. But what has the impact on the workers' health been? We know that, or at least we believe that, according to official numbers, something on the order of 125,000 people die in work-related accidents, and that number perhaps has gone up. That was a few years ago. The official number usually is a mere shadow of what the real number is.

And I am wondering, has anybody looked at the health consequences attributable to this outrageous worker rights abuse network in the PRC?

Mr. KERNAGHAN. Just from the little research we did with the VTech company, they did not pay social security benefits to the workers for at least the first six to eight months. So you are talking about $8 to $12 million went into the pocket of the company by not paying for social security, which would cover work injury insurance and some medical insurance.

When they force the workers, what they do at VTech is they keep one month's back wages. So, for example, your wages at the end of June will not be paid until July 31. Well, that is the way they keep the workers in the factory, because the worker tries to leave these miserable conditions, they will lose a whole month's worth of wages.

So they have them, and it is all manipulation. And, no, again, just concretely, in VTech, there was absolutely no knowledge of the thinners that they were using and what was affecting them. All they knew is they got paid an extra, like, 10 cents if they did the dangerous work, if they worked at night, and they worked with the thinners. But I think the AFL–CIO would know a lot more.

Chairman SMITH. Mr. Li?

Mr. LI. I would like to add one thing, and that is most of these workers work under very strenuous conditions and a lot of them work for only a few years before they have to leave. And when they do leave, they are not fairly compensated by their employers.

Chairman SMITH. Can I ask you, how integrated is the laogai system and its use of gulag labor with feeders and supply chains in China?

Right after Tiananmen Square, Congressman Frank Wolf and I visited Beijing Prison No. 1, where jelly shoes and socks were being made for export. We saw factory workers' heads shaved, very gaunt, and at least 40 Tiananmen Square activists in large vats with dye all over their bodies. Obviously, the dye is penetrating their skin and being absorbed into their systems.

And we complained to the Administration that we knew, because we brought back the socks and the jelly shoes, that were being made by convict labor, including political prisoners, and it was showing up on our shores. An import ban was imposed and that place shut down, although I am sure they just relocated.

We have a memorandum of understanding that I believe is not worth the paper it is printed on. It is like Swiss cheese—with exceptions, big holes—which says that if we suspect gulag-made goods, we tell the Chinese and then they do the investigation and tell us what they found. That is like telling the drug dealer that you are going to do a drug bust or you are going to be looking at a certain location for illegal drugs.

It is absurd, and yet that is our policy. But my question goes to the heart of, how integrated are these feeder parts that end up perhaps in something that is being produced by those 10 factories. Do they have any convict labor?

We know that all throughout Africa, we have grave suspicions that convict labor is being exported to build roads and bridges and buildings throughout Africa.

So how integrated is it, Mr. Wu?

Mr. WU. In the 1990s, American Customs Service issued more than 30 of those products for import to the United States, and five to six American companies were sued by American Customs and went to the court. But you never heard anything from Customs Service in 2000 and even today.

I just do not know why. Have the Chinese really stopped prison-made products for exportation? Actually, they are very busy. All the prisoners are working overtime. For example, in Shandong Province, you are working 13 hours a day today. And in Guangdong Province, all the prison camps right now are almost—they transferred farming into working indoors making garments. Where are the garments, only for domestic? No, they are for export.

So the national trading companies sell it to Americans or the company and they indirectly sell it, that is it. But anyway, if the product partially or wholly is made by the prisoners, it is illegal. So I want to say these are the kind of things that today, the American Customs Service really cares or does not care.

For this insurance process and training program and workers' rights, I think basically there is one point. The workers do not have the rights for association or for free speech. This is the problem.

Thank you.

Chairman SMITH. Mr. Li, in your testimony about the 10 factories that were investigated, you point out that most of the factory workers are young females.

In a hearing here in this room just a few months ago, we heard from a woman who had been forcibly aborted because the enforcement of the one-child-per-couple policy is done at the factory level.

I am wondering if you or perhaps any of our other witnesses have looked into U.S. corporations' complicity in that barbaric policy that relies on forced abortion to implement its one-child-per-couple policy.

Have you looked into that? And before you answer, on one trip to Beijing, I met with the U.S. Chamber of Commerce in Beijing and asked that question, and only one corporate head or government person who was in that room said they insisted that the language to enforce that barbaric policy was taken out of their contract.

Do you find that that is the case here? Are these women—this woman who testified told us that one of her factory workers noticed that she was pregnant and informed on her. And so informants who comply with that policy, we are told, are commonplace.

Did you find this in any of these factories or did you even look for it?

Mr. LI. Well, I did not—we did not come across things like that in our investigations.

Chairman SMITH. But did you look for it? Did you inquire?

Mr. WU. I got information, in Hunan Province, there is more than 1,100 high school teachers fired because of violating the so-called population control.

Chairman SMITH. In Hunan.

Mr. WU. 1,100 in Hunan Province, because by law, if you violate the population control, you definitely were fired.

Chairman SMITH. Mr. Li?

Mr. LI. This would be something that we will be looking into.

Chairman SMITH. I appreciate that very much.

We recently had Nicholas Eberstadt testify here from AEI [American Enterprise Institute]—and this will be my next to last question—and he said China has to grapple with a coming implosion economically and otherwise, because of its increasingly male population because of the one-child policy—they are missing about 100 million girls, the numbers vary on both sides of that equation, and an increasingly older population, as he said, increasingly male and increasingly gray.

Does that have any impact on the push by these courageous activists who are trying to form labor unions? As I said before—and I have met some of them inside of Beijing—they are amazing. They want to form labor unions, and they are willing to take the consequences.

But China will soon face, I believe, a huge economic upheaval directly attributable to the missing girls and the senior population that will soon be almost the equivalent of the number of people that are working.

How will that affect labor rights? This is a mega-trend we are talking about.

Mr. WU. China has a national policy, so-called population control. That very clearly is the number-one policy. It means above all the other policies. So if the local Communist secretary cannot care about the policy, he will be fired.

So this is the number-one policy, and the population control policy until today, they say, "Well, we reduce probably 400 million population." And this is a large number and this number is confirmed by the Chinese Government. And I really hope this serious problem is related to the workers' rights.

Thank you.

Chairman SMITH. Mr. Kernaghan, on child labor, do you find that China is using more children or less? Is there a trend line that is positive at all, because, obviously, worker rights are non-existent for everyone else, but they are certainly even worse for them?

Mr. KERNAGHAN. I think that one thing that is maybe changing slightly would be the child labor, because that is the one thing that U.S. companies are afraid of. So in some ways, the workers—just an hour of experience when we were doing this work, it seems to have gone down significantly, but that is just anecdotal information from the few factories we have been able to investigate. So they may know much more.

Mr. LI. In our investigations, we did come across child laborers, and their products are sold into the United States. And in our latest investigations, we, by the same token, came across child laborers.

When plants and factories are running shortages of labor, they would definitely hire child laborers in order to fill their orders from the United States.

Chairman SMITH. Let me ask the final question, Mr. Li. Did you convey your findings to the U.S. Labor Department and U.S. Department of State, with regard to Apple and, if so, what was their response? Did they take this and say—as well as the Human Rights Bureau at the U.S. Department of State?

Mr. LI. I have. We had contacted the U.S. Department of Labor, U.S. Customs and Border Protection, and U.S. Department of Homeland Security. We sent the report to the officials in the Department of Labor, but did not submit an official report according to their procedures.

Chairman SMITH. How long ago was that?

Mr. LI. Last year.

Chairman SMITH. What time last year?

Mr. LI. In the August-September timeframe.

Chairman SMITH. And still no word a year later. Did they at least enter it on an interim basis, get back to you, and say we found this to be credible or not credible? Do you know if our mission in Beijing or our embassy is investigating this?

Mr. LI. No. I have not heard from them.

Chairman SMITH. That speaks volumes.

I thank you so very much and appreciate your insights and your testimony. We all do, and it gives us a great basis for going forward. It also helps us with the human rights report that the staff is working doggedly on. So thank you so very much.

I would like to now invite to the witness table Thea Lee, the Deputy Chief of Staff of the AFL–CIO, who has also served as a policy director and chief international economist.

Previously, she worked as an international trade economist at the Economic Policy Institute in Washington and as an editor at Dollars & Sense magazine in Boston. She received her BA from Smith College and MA in Economics from the University of Michigan.

Ms. Lee is co-author of "A Field Guide to the Global Economy." Her research projects include reports on the North American Free Trade Agreement, the impact of international trade on U.S. wage inequality, and the domestic steel and textile industries.

She has appeared on a number of TV and radio shows, and she has been before the House on many occasions to testify.

She also serves on advisory committees, including the State Department Advisory Committee on International Economic Policy, the Export-Import Bank Advisory Committee, and the board of directors of the National Bureau of Economic Research.

We will then hear from Mary Gallagher, who is an Associate Professor of Political Science at the University of Michigan, where she is also the Director of the Center for Chinese Studies. She is also a faculty associate at the Center for Comparative Political Studies at the Institute for Social Research.

Professor Gallagher received her Ph.D. in Politics in 2001 from Princeton and her BA from Smith College in 1991. She was a foreign student in China in 1989 at Nanjing University. She also taught at the Foreign Affairs College in Beijing from 1996 to 1997.

She was a Fulbright Research Scholar from 2003 to 2004 at East China University of Politics and Law, where she worked on her current project, "The Rule of Law in China: If They Build It, Who Will Come," which examines the legal immobilization of Chinese workers.

Her book, "Contagious Capitalism: Globalization and the Politics of Labor in China," was published by Princeton University Press in 2005. She has published articles in World Politics, Law, and Soci-

ety Review, Studies in Comparative International Development, and in Asian Survey.

She is the co-editor of several new volumes of Chinese Law and Politics, including Chinese Justice: Civil Dispute Resolution in Contemporary China and From Iron Rice Bowl to Informationalization: Markets, Workers, and the State in a Changing China.

We will then hear from Mr. Earl Brown, who has represented trade unions and employees in U.S. labor and civil rights litigation since 1976. Mr. Brown is now Labor and Employment Law Counsel for the American Center for International Labor Solidarity, and International Workers' Rights, an NGO affiliated with the U.S. labor movement.

Mr. Brown previously served as General Counsel, International Brotherhood of Teamsters, Associate General Counsel, United Mine Workers of America, and a partner in a U.S. labor and employment law firm.

He is a fellow of the College of Labor and Employment Lawyers, and is union co-chair of the International Labor Law Committee of the Labor Law and Employment Law Section of the American Bar Association.

A graduate of Yale University and the University of Virginia Law School, Mr. Brown has taught labor, employment, and discrimination law, and labor history at both U.S. and Thai universities, and has published on U.S. and international labor law topics.

He is a member of the Alabama and District of Columbia Bar Associations and numerous Federal court bars. He served as a law clerk to the honorable James C. Turk, Chief Judge, U.S. District Court, Western District of Virginia.

Ms. Lee, if you would proceed.

**STATEMENT OF THEA LEE, DEPUTY CHIEF OF STAFF, AFL–CIO**

Ms. LEE. Thank you, Chairman Smith. I would like to thank you and commend you for your leadership on this topic and for holding this hearing today. This is an important issue that does not get enough attention, in my opinion, both in terms of the economic impact on American workers and American business, and, also, the moral issue that is at stake here.

I will summarize my testimony and go straight to the heart of what I think is the issue at hand here, which is how the U.S. Government does or does not use its leverage with respect to the Chinese Government to bring about change.

The violations of workers' rights in China are very well documented, including by many of the people who spoke on this panel before you just now, as well as the U.S. Government, the State Department, and various nongovernmental organizations. And, yet, so little happens, as you say. You and I both have a long history of frustration at the inaction on this topic, but I think that change is possible.

As I said in my written testimony, we would like to see our own government, both the Administration and the Congress, put protecting workers' rights at the center of the U.S. and Chinese Government dialogue, not as an afterthought behind other trade and foreign policy concerns.

You asked the first panel whether this has happened or not. This, obviously, does not happen. The U.S. Government has several formal dialogues with China that happen several times a year, both the Strategic and Economic Dialogue and the Joint Commission on Commerce and Technology [JCCT].

Workers' rights could easily fall in either one of those areas. They are all about trade and they are about the economic relationship between China and the United States. While dialogue is not the most powerful way for the U.S. Government to raise the workers' rights issue, it certainly is the first way. We would think that as a starting point, whatever we think about the other stronger measures that could and should be taken, the very least that our government could do is to shine a spotlight on this issue.

Yet, when you see the agenda for the Strategic and Economic Dialogue, or the JCCT, actually, I think workers' rights is never one of the prime topics. I am often informed by somebody in the U.S. Government that, in fact, workers' rights will be discussed, it is just not important enough to actually put on the published agenda.

The same goes for when many members of the Administration visit China and make speeches. There are a lot of issues that come to the top, whether it is foreign policy concerns or intellectual property rights concerns or market access concerns. But we very seldom hear a top official of the U.S. Government raise workers' rights, unfortunately, and that goes for both Republican and Democratic administrations.

Why not? Well, there are a couple of reasons. One is there are other priorities, like a burning foreign policy issue or other trade issues that are important. The second issue is often that it is irritating to the Chinese Government. That is very likely the case. I can believe that it is not welcome to the Chinese Government to raise some of these issues around workers' rights, and, yet, I do not believe that that should be the deciding factor for our own government.

Actually, I think what I would like to say about freedom of association is that, as you heard from the first panel, there are many, many, many problems that workers in China face. There is a failure to enforce basic Chinese labor laws, whether it is with respect to maximum hours, minimum wage, safety and health, prison labor, or child labor.

But the pivotal worker right is freedom of association and the right to organize. And if workers do not have the right to form their own associations at the workplace and to bargain for themselves with their employers, free of interference from either their government or their employer, nothing else falls into place. And it is a cornerstone of democracy and it is a cornerstone of fairness at the workplace.

One of the things that I find interesting and frustrating about the way multinational corporations engage in China, and I go into this a little bit in my testimony, is that I think you would be hard-pressed to find a multinational corporation that would welcome the union at the workplace or welcome labor laws that facilitated the formation of unions.

And, yet, many of these multinational corporations are suffering in China. They are suffering from a dilemma, and the dilemma is that they are in a competitive environment where the labor laws are not enforced, unions are illegal, workers are routinely treated badly. They cannot get a straight answer from their own auditors that they hire, they cannot get a straight answer from their own compliance forces that they send out to monitor. They spend millions and millions of dollars monitoring their factories, and, yet, the monitors come back with inaccurate, inadequate, lame, untrue reports.

The answer, actually, is a union. The thing that these multinational corporations are missing is a union, because only a union is on the ground every day. It is of the workers, by the workers, and for the workers, and that is the only kind of monitor that a multinational corporation needs. And, yet, we have this dilemma that they resist that with all their might, and I think that is unfortunate.

The Chinese Government is also facing a dilemma. The dilemma that the Chinese Government faces is that it is not a democratic government and what it fears above all is loss of political power. So giving workers democratic rights at the workplace is contrary to the political goal of maintaining power and maintaining autonomy for the Chinese Communist Party.

So the Chinese Government is also in a bind, because, on the one hand, I think the Chinese Government can see that workers need more purchasing power, they need more voice. They have a situation which is chaotic right now, where, as you mentioned, there are 30,000 incidents of labor unrest. You also have worker shortages in certain parts of the country, and you also have other governments complaining constantly that the Chinese Government runs these enormous current account imbalances and that that is taking a toll on other countries, it is unfair, and so on and so forth.

So there is pressure on the Chinese Government to fix these issues, and, again, the answer is a union and freedom of association. And, yet, the Chinese Government is not in a position to grant freedom of association, because that would threaten its own political power.

So you have this problem. And how can we solve this problem? Well, the U.S. Government could solve this problem because of the very trade imbalance that the U.S. Government runs with China, which is, as you know, $295 billion a year.

It is an extraordinary imbalance. It is the source of our weakness. We import much more than we export to China, and that costs us jobs and puts us in debt to China, both literally and figuratively. Yet it is also the source of our strength, or it could be if the U.S. Government chose to use it, because the truth is that the Chinese Government's economic strategy depends on maintaining access to the U.S. market.

Multinational corporations are very motivated to maintain access to the U.S. market from China. And so the U.S. Government has something that the multinational corporations and the Chinese Government need, which is control over market access. And, yet, our government has chosen not to use that.

So let me just end there, because I am anxious to hear from my co-panelists, but to put that on the table as the key thing. You raised the issue of the Section 301 workers' rights case that you co-signed with the AFL–CIO several years ago. This is a tool that is in the reach of the U.S. Government, but has been left on the table.

The tool does not work if you do not use it, if you do not apply it. The Bush Administration twice rejected the Section 301 petition that the AFL–CIO filed, with your support, and, yet, the U.S. Government could, any day, initiate on its own a Section 301 case to bring China to the World Trade Organization, to insist that China live up to its own obligations to respect international workers' rights.

I thank you for your time and attention. I thank you for holding the hearing. I look forward to the discussion.

Chairman SMITH. Thank you.

Ms. Gallagher?

[The prepared statement of Ms. Lee appears in the appendix.]

**STATEMENT OF MARY GALLAGHER, ASSOCIATE PROFESSOR OF POLITICAL SCIENCE AND DIRECTOR, CENTER FOR CHINESE STUDIES, UNIVERSITY OF MICHIGAN**

Ms. GALLAGHER. Thank you, Chairman Smith. And thank you for convening this hearing on this important topic and, also, inviting me to participate.

In the early summer of 2010, more than a dozen workers at Foxconn, a Taiwanese-owned electronics conglomerate, committed suicide by jumping off the roof of the factory dormitories.

In the same few months, workers at a Honda automotive parts factory went on strike for higher wages and better working conditions. And these events are related, but I want to point out that they are also different.

The Foxconn suicides depict the isolation and alienation that young migrant workers feel as they leave their hometowns in rural China for industrial or low-level service employment in China's coastal cities.

The Honda strikers represent a more optimistic trend, the successful collective mobilization of workers and the emergence of proto-collective bargaining between labor and management that led to significant increases in wages for many automotive workers.

These events highlight the transformative changes that have occurred in Chinese labor over the past decade, both the negative and the positive trends. And while these changes are the result of economic and demographic changes and shifts in China, they are also considerable political and legal changes.

The Chinese state's motivation for these reforms are grounded deeply in its own fear of instability and worker-led political unrest. Therefore, these changes are not all in one direction toward greater liberalization and rule of law institutionalization. In fact, these changes are really more in the other direction.

Although they include new progressive legal codes to improve working conditions, they also include initiatives to strengthen the role of the party state to manage labor relations directly.

In my written testimony, I go through these demographic shifts, including the labor shortage that had been mentioned by other

panelists. China's working-age population will peak in 2015 and fall from 973 million people in 2010 to a predicted 870 million in 2050.

The change in China's demographic trajectory has enlarged the political and economic space for Chinese workers as diminishing returns to labor-intensive industrialization and creates domestic political support for changes to China's economic growth model.

I think it is important to highlight that in addition to concerns about social unrest and inequality, this political shift and greater support for labor protection is linked to the government's economic strategy and its long-term economic goals, including increased domestic demand, moving up the production cycle toward higher end goods, making China not the workshop of the world, but the laboratory of the world and the R&D center of the world.

These demographic shifts are then highlighted in the social context of Chinese migrants. The new generation of migrant workers is better educated, they come from smaller families, and they desire to become permanent urban citizens.

Given this generation's higher levels of education, their better access to technology, the increased integration into urban culture, they have a greater potential to articulate collective interests and to act collectively to press for their interests and rights. These are the employers and the government alike. This was apparent in the 2010 Honda strikes and has been apparent in strikes since then.

As I argue in my concluding remarks, however, the government has not responded effectively to this new bottom-up push for collective representation.

In response to these economic and demographic and social changes, the Chinese state has moved since 2003 to pass labor laws and regulations that strengthen worker rights, enhance employment security, and widen access to social insurance.

As I show in my written testimony, the law, particularly, the Labor Contract Law of 2008, has improved some aspects of employment relations in China. This does not mean that widespread violations do not continue to occur. They do, as other panelists have already attested.

But there have been some significant shifts in the right direction. In the written testimony, I discuss the reduction in informality and the increase in access to social insurance, as well as the increasing awareness of Chinese workers themselves of their own protections and in the labor laws and regulations; and, also, a diminishing gap between what a real migrant knows and what an urban worker knows.

Despite these positive changes, one glaring trend is the marked increase in labor subcontracting, already discussed by Li Qiang, through middlemen employment agencies that then serve as the formal employer. This cuts labor costs, allows subcontracted workers to be paid less to receive little or no social insurance, and to be dismissed at will.

The NPC, the National People's Congress, has announced this year that it will revise the Labor Contract Law and focus on abuse of labor subcontracting. Labor subcontracting also gets to the issue of child labor, since many subcontracted workers are student interns.

However, successful revision of the Labor Contract Law will not be enough to curtail abuse of labor subcontracting. Improved implementation and enforcement of the changes are also required, as with all Chinese labor laws.

Finally, I want to get to the issue—well, it is not quite finally, but I first want to get to the issue of labor disputes and talk about how these increased expectations by workers at the workplace and the new laws has resulted in a massive increase in disputes since 2008 when the laws went into effect.

Labor disputes increased by nearly 100 percent nationwide, with some localities reporting increases of 300 percent. Disputes tax the capability of local arbitration committees and civil courts to settle disputes fairly and quickly.

While the number of strikes is not openly available in China, it is safe to say that strike activity has also continued to increase since that time.

In 2010, there were nearly 1.3 million labor disputes overall, with 70 percent of the disputes mediated, which shows, also—which is my next point—that the government has been successful in keeping disputes out of the court and into government-sanctioned mediation.

Greater reliance on mediation and informal settlement is especially pronounced when labor conflict threatens local, social, or political instability, or when it threatens stability. Those negotiated settlements rely on cooperation between intergovernmental departments and Communist Party units, acting as stability preservation committees, going directly to the site of the conflict to encourage both sides to end the dispute and to compromise.

Researchers have noted that while individual leaders and activists may be dealt with harshly, striking workers may receive some compensation in exchange for ending the strike and returning to work. This return to mediation and turn away from the rule of law has been roundly criticized by legal scholars and has been discussed at previous hearings held by this Commission. It is not surprising then that we see it also in the labor realm.

It underscores the Communist Party's ambivalence toward its recent legal reforms that open up channels for formal legal resolution and private disputes.

While mediation might appear to be more harmonious, it often relies on very active government intervention into disputes, violence or the threat of violence to force negotiated settlements, and violates the spirit and letter of China's own procedural codes.

One challenge revealed that the post-2008 increase in labor conflict that had not been solved by this heavy-handed push of mediation and the new legal protections is the lack of institutional capacity in China for labor capital bargaining around interest disputes.

The vast majority of the nearly 700,000 labor disputes in 2009 were rights disputes, violations of Chinese law. However, Chinese workers, with their rising expectations, have many disagreements and conflicts over their interests, such as wage increases, working conditions, and quality of the cafeteria food.

Interest disputes simmering over a long period of time are likely to continue to lead to increased labor conflict in China, because

there are no institutions in China to handle them preemptively, particularly as the government has shown little change in its opposition to freedom of association.

Reforms to the All-China Federation of Trade Unions, the only state-sanctioned trade union, have failed. The trade union remains severely constrained in its dual role as representative of labor and as the eyes and ears of the local party state at the workplace.

The failure is a political one. Liberalizing the forums related to freedom of association have been rejected. In their place, the government has decided to inject itself more deeply into the dispute resolution process through the promotion of government-run mediation and other measures that maintain and even strengthen the role of the government in managing labor relations at the expense of the rule of law and civil society.

As with other aspects of China's political economy since 2008, this greater reliance on the state and the empowerment of state actors at the expense of civil society, the market, and the legal system are additional signs of China's retrenchment and retreatment from reform.

Thank you. I am happy to answer questions.

Chairman SMITH. Thank you, Professor Gallagher.

Mr. Brown?

[The prepared statement of Ms. Gallagher appears in the appendix.]

**STATEMENT OF EARL BROWN, LABOR AND EMPLOYMENT LAW COUNSEL AND CHINA PROGRAM DIRECTOR, SOLIDARITY CENTER, AFL–CIO**

Mr. BROWN. Thank you, Chairman Smith, for this opportunity. I am going to try to be brief and summarize things in my testimony and focus on some aspects that have not yet been completely addressed.

I want to thank the Chair and this Commission for demonstrating continuing interest and attention to Chinese labor law. It is a very important topic. We are witnessing right now in Chinese labor law, how Chinese workers have agency. They are becoming actors now in the dialogue about labor policy and labor standards like nowhere else in the world.

Chinese workers are acting outside an institutional framework that works, as Professor Gallagher and others have pointed out, outside a true labor relations framework that represents workers, addresses grievances, provides for collective bargaining from an equal, or at least, a position of some power, and comes up with credible solutions that will persuade the workers to go back to work. That stable institutional framework is absent. Therefore, workers in China, many of them who are, in fact, excluded from Chinese labor law, by very crabbed interpretations of Chinese labor law, are forging their own direct bargaining relationships with employers.

Now, I think it is very dangerous to make universal perscriptions for any country, particularly a country as huge and diverse as China. But, I also do not believe that any industrial country can escape the need to have a democratic grassroots voice at the workplace to solve interruptions of production in a vast economy with

hundreds and hundreds of thousands of employers. No government bureaucracy, however adequately funded, could begin to do that.

These young Chinese workers, completely without the benefit of law, in any way, but with a rights-consciousness deriving from rights discourse are forging industrial relationships. We can see that in the Honda strikes in the summer of 2010.

So Chinese workers acted and created a collective bargaining relationship. They forced the company to bargain, to throw out the stale law books and deal directly face-to-face with grassroots workers to forge solutions. What a novel solution!

The second aspect I would like to focus on about these workers is that the real activists in that strike, about a third of the Honda workforce at this particular factory, were interns. Now, in 2008, China passed comprehensive labor legislation, not to set up an industrial relations system, but merely to establish some basic rights for workers and to cover all workers.

Professor Gallagher has aptly described in a prior book of hers the ad hoc nature of Chinese labor law that made it almost impossible to decide who was covered and what was stipulated. At Honda, many of the striking workers were interns. The employer took the position, vetted by agencies of the Chinese Government, that somehow these interns could not be workers because they are from technical schools, although they are receiving no particular educational training and are not, indeed, acquiring any particular educational benefits. They are simply working on the line. Empirically, they are workers. Yet, because they do not fit some ontological Marxist category of worker, they are deemed ontologically to be students and, therefore, not covered by labor law.

These student workers are a lot of the industrial workforce. They make up a third of this factory that struck. A third of the workforce of this Honda factory that struck in 2010 were interns. That is a sizeable proportion of any workforce. The interns are getting less than standard wages. They are working right next to other Chinese workers who are getting better wages, and Japanese workers who are getting even higher wages.

Anybody with a glancing acquaintance to human relations or common sense would tell you that that is a recipe for labor disputes, yet they are excluded.

So I think that if we look at the broad thrust of Chinese labor law, it is an effort to stage Hamlet without the Prince of Denmark, without the union. No auditing system works alone. Factory inspection does not work without unions; no one system will ever work in that diverse Chinese economy without including all workers in a workable system of industrial dispute resolution to secure uninterrupted production.

So I think the remedy for this is simply, as many Chinese propose and many Chinese recognize, to start off with what the workers at Honda asked for in 2010—let us elect our grassroots leaders.

I would now like to move to visualize this. I have three pictures here today that I want to show some of the deficits of Chinese labor law. They are taken from video feeds, so I could not enlarge them too much.

We have heard people talk about Foxconn, and this here is the Foxconn factory. Foxconn is a major supplier of Apple. I do not

know if you can see here some nets, some very close, dense factory dorms and some netting [holds up poster]. This netting is Foxconn's answer, to workers so pressed by speed-up, by intolerable production quotas that we heard Mr. Kernaghan talk about, that they are diving to their death from dorm balconies.

So instead of improving wages, hours, and working conditions or even talking to the workers, let us set up some nets.

The next picture is from a PR extravaganza staged by the Foxconn company, a Taiwanese corporation, to turn its bad image around. When workers dive out of factory dormitories to their death, people tend to have a bad view of it. So Foxconn's answer: "Let's put on a PR extravaganza."

We have had a big debate at our office whether some of the people in these pictures [holds up poster] are professional actors or actresses. The signs say "I love Foxconn."

And, finally, in an era where we want to get away from the culture of personality, here we have the owner of Foxconn, Mr. Gou, and people parading around with homemade—perhaps or perhaps not—pictures of himself.

Now, I bring these pictures to show the conditions and to show that workers need a net of protection of labor law and not nets to prevent suicide. If you want to equalize trade advantages and a global economy that works for all workers in every country, we have to pay attention to Chinese labor and we have to pay attention to the agency of Chinese workers.

And I want to make two very brief final comments. One is there is a tendency in the United States to look for substitutes to worker voice. Just as Mr. Gou of Foxconn is looking for substitutes, setting up nets and PR extravaganzas, so too multinational employers and governments who do not want to face the issue of workers agency, want to put in mediation techniques instead. Mediation between unequals is not always a happy process.

They want to put in these techniques. But, if you compromise and mediate a minimum wage law and the worker walks away with a third of the minimum, you have just lowered the minimum wage of any country by two-thirds. Techniques do not work without context.

So they are using HR resources, corporate social responsibility techniques to avoid the obvious need to simply sit down, recognize workers, talk to them and bargain with them.

Finally, Cochairman Brown asked a question which I want to just jump in and answer here, and that is what could Congress legislatively do? One contribution would be to really entrench the due diligence requirements for compliance with Chinese and international labor law standards in U.S. law and to make that a hard enforceable obligation that directors and corporations had to pay attention to.

It worked with civil rights law. We were a segregated country in our workplace. The civil rights laws made employers pay attention and desegregate. Entrenching these in U.S. law and in U.S. Federal law, and not shying away from them because they involve conditions overseas, would go a long way.

A second way to do it and a second element would be the vast purchasing power of the U.S. Government and requiring that sup-

ply chains be monitored and inspected, and that representations be made by people who subcontract in those supply chains.

Thank you very much, Chairman Smith.

[The prepared statement of Mr. Brown appears in the appendix.]

Chairman SMITH. On that last point, Mr. Brown, the new law going into effect in California on supply chains, do you think—and virtually every large corporation I would say will be swept up in that due diligence standard that they have established—do you have hope that these Chinese corporations or those multinationals that are in China, that this will lead to some positive outcomes?

Mr. BROWN. I think it will lead to more information, but it is largely a law of transparency. I think we need to go a bit further, Chairman Smith, if I may say so, to entrench it as an obligation with some financial consequences for employers that violate it, not to make it too onerous.

And in this respect, I would say American lawyers in China are insisting that their multinational clients obey Chinese labor law, which is a very good thing and helps enforce labor standards.

But I think insisting that all employers, who sometimes may not follow their lawyer's advice, comply with applicable labor law standards would be very important.

Chairman SMITH. Would a code of conduct—but, obviously, calibrated and focused on China, similar to the MacBride principles for Ireland and the Sullivan principles—be helpful in advancing worker rights?

Ms. LEE. I am not sure it would if it is a voluntary code of conduct. There are two problems with a voluntary code of conduct. One is that it is self-enforcing, and in many cases, corporations, as I think we have heard some testimony here, do not really want to know the truth. They want to get off the hook. They want somebody to report to them that everything is fine so that they are no longer to blame for it.

Chairman SMITH. They are as good as your auditors.

Ms. LEE. The auditors work for you and they do not want to give you news that is unwelcome. But I think the other problem is that not every company will sign up to the voluntary code of conduct. And so you always have the problem of the bottom feeders, the companies that do not have a big brand name that they care about. These are the folks who are subcontractors and buy things without putting their name on it, and they do not particularly care. If they get caught violating their own code or the labor law, they can just close down and open up the next day under a different name.

Chairman SMITH. Let me just ask you. Approximately 155 or over 155 students come to the United States and study here from China every year. As a matter of fact, it is up—it grew 23 percent in one year, and that includes undergraduates and, of course, those who go for even higher credentials.

Do they take back any of this? Is there any evidence that it gets to the workplace—maybe they are not to the point of forming a union, but in terms of treating people with respect. They go to our best business schools. Are they learning that it is not just making money and profits, it is also how you treat your workers? Is any of that being brought back?

Mr. BROWN. I co-taught a course at Rutgers in your State, sir, for at least 20 Chinese master students in industrial relations. And we played an NPR [National Public Radio] documentary that took China's history and included Tiananmen. And I watched these students watch film about Tiananmen for the first time in their life and listened to the discussion that came out after that.

I cannot believe that it does not help and that the interchange helps us relate to a very complicated country of China and China relate to us. I cannot believe it is harmful in any way.

Chairman SMITH. I would not say it is harmful, but does it have a——

Mr. BROWN. I think it has to.

Chairman SMITH [continuing]. Has anybody ever been able to quantify any of it? We know that in the health professions, particularly in places like Africa, those who come here and learn public health management and bring those skills back. It has an enormous, almost disproportionately positive influence.

Ms. GALLAGHER. If we take a longer term perspective, I think there have been a lot of improvements related to workplace conditions in China and particularly related to public health, because so much more research is being done in China on public health and workplace safety.

But you have to take a very longer term perspective and look back to the very beginning of the 1990s when conditions were, I would argue, worse than they are today.

But one of the reasons I think why you see both improving conditions and, also, worsening conditions at the same time even now is that these benefits are accruing to workers who have education and skills and are industries that have the need for workers with education and skills.

When we are talking about labor-intensive manufacturing that really requires workers with very low skills, these are the areas where we do not see improvement and, in fact, in some cases, we see things getting worse as these factories move inland to poorer places in China, with lower standards, with lower wages, and with just—even if the government officials had the will, they certainly do not have the capacity to enforce the central laws.

Also, at the same time, you have local governments in China that see industry moving to other places, either inland in China or to other countries, and they have, again, very little incentive to enforce laws that will hurt their local economy and that will hurt themselves professionally.

Ms. LEE. I think that last point is really important. I think international exchanges are a wonderful thing and they have immeasurable benefits to both countries and in both directions.

I had an intern from China several years ago and he was actually from a very well-off family, with highly placed parents. But I like to think that his summer at the AFL–CIO was a good education for him and that maybe he is the next generation of leader in China.

But on the other hand, you also cannot substitute for change in the laws and a change in the institutions. And so having a few high-minded or well-intentioned individuals, I think, is definitely not enough if you have a competitive system where everybody is

scraping for that last penny, and the accepted norm is to beat down your workers and squeeze the last hour or minute out of their work.

So we need a more systematic answer, as valuable as those exchanges are.

Chairman SMITH. Honda decided to give in and provide additional wages to the Honda workers. Was that under any corporate guidance from its main headquarters or was it a China-specific decision, made inside of China by the Chinese?

Ms. GALLAGHER. My understanding of what happened with the bargaining is that it rose to a very high level within Honda in China and that the major negotiations were done by the chairman of the joint venture, the assembly joint venture between Honda and its Chinese joint venture partner, although I would imagine that given that its entire production supply in China was shut down, that the Japanese—the officials in Japan for Honda would also have a large say in what happened.

But, again, it really underscored—the Honda strikes underscored a lot of different aspects of what is happening in China. They underscored, in particular, the complete failure of the union to do anything positive during the negotiations, such that they had to draw in very high-level management officials, government officials in order to manage the strike, which is the mode of these large conflicts—the mode of resolution for these large conflicts, which is incredibly ad hoc and subject to a lot of abuse.

Chairman SMITH. You mentioned the conflict resolution, the groups that meet, stability preservation committees, you named it, I think, or maybe that is the name. But do they take sides? Do they go with the management or is there a propensity to be on management's side? Because the worker is, unfortunately, subjected to other kinds of coercion in this society, why not here?

Ms. GALLAGHER. Well, it is because it is an ad hoc process. It depends on the issue at stake, it depends on the level of conflict and violence that has already occurred. It depends on the actors involved.

Certainly, the fact that Honda is a Japanese company had something to do with the fact that it was so widely publicized in China and that the strike was allowed to go on for a long period of time.

So it allows the government—this kind of resolution system allows the government a lot of discretion in how it chooses to handle those. So in some cases, it does come down on the side of workers. But in most cases, it comes down on the side of companies.

But it allows the government a discretion that violates a lot of the procedural issues related to disputes.

Mr. BROWN. One major critique that has been heard here is the link of the union to the government. But one of the problems with that link is that the link is to the local government. You can bet employers have an outsized influence in local government.

So when the union and then the labor institutions, the mediation and arbitration committees meet, I would bet, but I do not have the empirical data to back it up, but I would bet, as a labor lawyer, the universal rule is that the local government is not your friend if you are a trade union. For obvious reasons—unions up the costs of going in there and set a floor and resist the race to the bottom.

So these many mediation projects are designed to get rid of these disputes. I think, at this point, the Chinese Government has made a bet that they can disaggregate and manipulate industrial unrest and avoid the need to have autonomous unions, and I think, over time, that this will not work.

Chairman SMITH. Professor Gallagher, you pointed out that the Labor Contract Law would be revised this year with a focus on labor subcontracting, and you gave that number of 10 to 28 million—estimates, I should say—of workers who are subcontracted.

Is there any breakout into what industries where that is more likely to happen? And do the people who really put together these policies at the National People's Congress, do they take inputs from the ILO, do they take it from the United States, do they—I mean, how do they form their view of what these reforms should look like?

Ms. GALLAGHER. With the Labor Contract Law, even when it was first passed in 2007, there was a wide—there was wide input received from domestic actors, international actors, the ILO [International Labour Organization], certainly, business associations, both the American Chamber of Commerce, the U.S.-China Council.

And in the revisions, the revisions are also relatively public, more transparent than they had been in the past, and so these actors are, again, allowed to comment or to submit suggestions to how this law should be revised.

The interesting aspect of labor subcontracting which would make it very difficult for the law to be revised successfully is that although we see labor subcontracting of labor-intensive manufacturing, we see student interns in Honda and other places, labor subcontracting is used very widely by state-owned enterprises, by government units, by hospitals, by universities in China.

It has simply run amok and the government's attempt to revise it will really threaten some very important interests within the government and within the state sector itself.

Chairman SMITH. Ms. Lee, if I could ask you. Does the AFL–CIO contemplate asking the U.S. Trade Representative to initiate an investigation of worker violations, worker rights violations as an unfair trading practice?

Ms. LEE. Thank you for the question, Mr. Chairman. We actually have been contemplating it and we have been working with folks to update the Section 301 case that we filed several years ago.

It has been a little bit slower process than we would have liked. We have raised this issue a lot in our dialogue with the U.S. Government, whether it is at the U.S. Trade Representative's office or the State Department or the Labor Department.

But we have been frustrated by the failure of our own government to raise this issue in a bilateral context, in an effective way, and to move forward on it.

And given that frustration, I think the next step is logically to press for some more concrete trade action.

Chairman SMITH. I appreciate that. Please count on me to support that in any way. And I appreciated you including me as a part of that complaint or request, whatever it might be called, last time.

Do you know if it was raised, worker rights, in the most recent, just concluded, U.S.-China dialogue on human rights, commenced

by Michael Posner, our Assistant Secretary for Democracy, Labor and Human Rights?

Ms. GALLAGHER. I am not sure, but there has been a worker rights component and it has been fairly narrow. I think that there has been an attempt on the part of the U.S. Government not to put on the table issues that are too irritating or challenging to the Chinese Government, and that is how they got agreement to keep meeting over and over again.

So that, for example, they do not talk about freedom of association. They have not really talked about collective bargaining. They do talk about hours and I think they certainly do talk about safety and health. As you mentioned, the memoranda of understanding from several years ago, those are sort of these safer areas of discussion.

But as I said, the pivotal, the core worker right on freedom of association, I think, is a little bit too threatening to the Chinese Government. So to my knowledge, it has not been raised yet.

Chairman SMITH. Would any of you like to make any concluding remarks?

Ms. GALLAGHER. Just in relation to this issue, I think in regard to the human rights dialogue, it is my understanding that they do raise—at last when I had meetings with them earlier, not for this most recent one, but that there was a discussion of collective bargaining and collective negotiations, maybe not directly about freedom of association.

The Chinese Government has talked a lot about collective bargaining and negotiations and reviving certain practices, but never with the intention to allow that to occur with unions that have been independently established.

So most people who study this are quite pessimistic about freedom of association. But, again, I would say that the U.S. Government should not shy away from raising that issue. I think what we have seen with this kind of institutional vacuum, this lack of capacity to solve disputes before they become strikes is a sign that China's current situation is not tenable over the long period of time, and that some kind of independent organizations—maybe they will not be called unions for a while—are necessary in order to reduce the degree of conflict that is currently.

Mr. BROWN. I would only like to sweep in within the embrace of freedom of association grassroots worker centers and grassroots worker rights advocacy networks that are springing up all over China and are being forced under the umbrella of the official trade union. Many people fear just for control and suppression. If it is important that the U.S. civil society attempt to keep up a discussion with these Chinese grassroots civil society elements that are worker voice, as well.

Chairman SMITH. I do have one final question. Do we have any indication that the Obama Administration has picked or raised individual cases of labor union activists who are currently incarcerated, and that means torture, by definition?

Is it on a list that we are saying we want so-and-so to be released? They should not be in jail simply because they wanted a labor union.

Mr. BROWN. I do not think so.

Chairman SMITH. I appreciate that.

Thank you so very much for your very detailed testimony and information. It certainly helps our Commission do a better job, and your recommendations will be very helpful going forward.

So thank you so much. The hearing is adjourned.

[Whereupon, at 4:34 p.m. the meeting was concluded.]

# A P P E N D I X

# PREPARED STATEMENTS

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## PREPARED STATEMENT OF CHARLES KERNAGHAN

JULY 31, 2012

### CHINA'S WORKERS STRIPPED OF THEIR RIGHTS AND LOCKED IN A RACE TO THE BOTTOM

I want to thank you for the opportunity to testify regarding worker rights before this important public hearing of the Congressional-Executive Commission on China.

#### I. AS OF 2008, PHONES ARE NO LONGER MADE IN AMERICA

The reason is simple. The mean hourly wage for telecommunications workers in the U.S. is $16.85 an hour, which is 151/2 times higher than what VTech pays its phone workers in China. VTech pays just $1.09 an hour, which is well below subsistence level, and the workers have precious few if any legal rights.

VTech is the world's largest manufacturer of cordless phones and is the leading supplier of corded and cordless phones in North America. VTech produces goods for AT&T, Motorola, Philips, Deutsche Telekom and Telstra in Australia. Vtech, which makes 172,800 products a day, posted revenues of $1.785 billion in fiscal year 2012.

What I hope to do today is to put a human face on the workers at VTech in China.

Suppose your daughter worked at VTech. She would work 12 to 15 hours a day, from 7:30 a.m. to 7:30 or 10:30 p.m., six and seven days a week. She would be at the factory 70 to 85 hours a week, while working 63 to 77 hours, including 23 to 37 hours of mandatory overtime. This would exceed China's legal limit on permissible overtime by 178 to 345 percent.

Your daughter would be forced to stand for the entire shift. Her feet would swell up.

The production line never stops. Every 11.25 seconds a circuit board moves down the assembly line and each worker must plug in four to five parts. The workers have to complete one operation every 2.25 to 2.8 seconds, producing up to 1,600 operations an hour, 17,600 operations during the 11-hour shift and 105,000 operations a week. The pace is furious, mind-numbing and exhausting. Workers who fail to reach their production goals are forced to keep working without pay until the goal is met.

Workers say they feel like they are in prison, as security guards patrol the lines as if they were police, sometime beating the workers. Workers are body-searched on the way in and out of the factory.

Bathroom breaks are strictly monitored. According to the workers, the factory cafeteria food is "*awful*." Indeed, pictures smuggled out of the factory show coarse yellow rice and visibly rotten potatoes being served.

Eight workers are housed in each primitive dorm room. They sleep on narrow plywood bunk beds, often without mattresses. "*It's filthy, like living in a pigsty,*" workers told us. To wash, workers must fetch hot water in small plastic buckets to splash on themselves.

Management hands out "Employee Criminal Records" to punish workers who make a mistake on the production line, which can lead to 29 hours wages being docked from their pay.

Workers are instructed to spy on one another. "*Those who report others' mistakes would be rewarded monetarily*."

One young woman told us: "*Sometimes I want to die. I work like hell every day for such a dull life. I can't find a reason to live. Given that living is so tiring, seeking death might not be a silly thing!*"

After just one month of work, on December 27, 2009, a 20-year-old young man jumped to his death from his 6th floor dormitory. His supervisor had constantly scolded him.

On January 20, 2010, a young woman took an overdose of sleeping pills, as she could no longer stand the abuse.

Conditions are so miserable for the over 30,000 workers at VTech's three factories in Dongguan, that 80 percent of them try to flee VTech each year. To keep the workers from fleeing, management withholds one month's back wages, including overtime. Instead of being paid at the end of June, for example, VTech withholds June wages until July 31. Workers can leave when they want, but they will lose a full month's wages.

VTech management also cheats their workers of the legal social security benefits due them, and in the process pockets millions of dollars owed the workers.

Since there is no avenue for the workers to voice their grievances publicly, they write down their hatred and anger on the bathroom walls.

The so-called All-China Federation of Trade Unions is moribund and does nothing to represent the workers or lead the workers to fight for their rights.

II. SOME GOOD NEWS–IMPROVEMENTS ARE BEING MADE AT VTECH

Most of the major customers at VTech—Philips, Motorola, Deutsche Telekom and Telstra in Australia—have conducted in-depth on-site audits over the last several weeks at VTech and have confirmed many of the serious violations the Institute documented.

VTech is now responding to the audit recommendations and is working on its remediation plan to improve working conditions at the company's three plants in China. The corporate customers along with VTech are in agreement that concrete, positive changes must be made.

The Sustainable Trade Initiative's Electronics Program, which is funded by the government of the Netherlands, along with private partners Philips, Hewlett-Packard and Dell, is attempting to go beyond traditional audits. Their goal is to build worker capacity and involvement so as to improve worker-management communications in China's factories. Their belief is that only when a worker-management dialogue is in place can a company work on improving labor conditions. Philips has asked VTech to join the Sustainable Trade Initiative.

The United States Government and corporations should consider partnering with the Sustainable Trade Initiative.

III. RIGHT NOW, THROUGHOUT GUANGDONG PROVINCE, LOCAL CHINESE GOVERNMENT AUTHORITIES AND POLICE HAVE LAUNCHED A WITCH HUNT TO SUPPRESS INDEPENDENT LABOR RIGHTS NGOS

Independent non-governmental labor rights organizations are being spied on. Local authorities are shutting down these NGOs, forcing them to leave, tearing up rental leases, while cutting off their water and electricity. After local government authorities visit the landlords, the NGOs find out they now have no lease and must move immediately.

We have always been aware that the Government of China has its own way of operating, which is often outside the margins of international law. But this is an ominous development, which will only further weaken and disenfranchise China's workers.

IV. A HUMAN AND LABOUR RIGHTS LEADER IN CHINA HAS REQUESTED THAT HIS STATEMENT BE INTRODUCED AT THE HEARINGS OF THE CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

> *"The deprivation of the freedom of association severely infringes the basic freedom of the Chinese people, making the working class lose its ability to bargain with employers. This is beneficial for the government because they make production costs low and retain strong competitiveness in the world. This harms the rights of not only Chinese workers but also workers around the world.*
>
> *"We think opposing the current autocratic regime in China and encouraging transformation toward democracy conform to the benefits of Chinese workers and all human beings. This we call upon all justice countries around the world, especially the United States, to oppose the Chinese Government—a government that suppresses a demand for democracy from its people. Ask the Chinese Government to protect human rights; grant its people freedom of association; let workers organize unions freely. In the meantime, [the U.S. Government] should boycott sweatshop products from China and broaden support for grassroots organizations in China and American organizations that deal with labor issues in China. We oppose sacrificing human rights in exchange of short-term economic gains. This is not only harmful for the improvements of working conditions in China but also unfavorable in terms of long-term interests for these countries. Also, [the U.S. Government] should pressure the Chinese Government to grant Chinese workers a right to strike, freedom for association and press freedom, letting Chinese workers freely express their demands."*

V. ONLY ENFORCEABLE LAWS, BACKED UP BY SANCTIONS, CAN PROTECT WORKERS' LEGAL RIGHTS AND END THE RACE TO THE BOTTOM IN THE GLOBAL ECONOMY

On January 23, 2007, then-Senator Byron Dorgan of North Dakota along with 25 co-sponsors including Senators Sherrod Brown, Lindsey Graham and then-Senators Barak Obama, Joe Biden and Hillary Clinton, introduced the Decent Working Conditions and Fair Competition Act (S. 367) which when passed will amend the Tariff Act of 1930 to prohibit the import, export or sale of sweatshop goods in the U.S.

On April 23, 2007, Representatives Michael Michaud of Maine and Chris Smith of New Jersey, along with 175 co-sponsors introduced the companion bill (HR 1992) in the House.

I want to especially thank both the chairman of this Commission, Representative Chris Smith, and co-chair, Senator Sherrod Brown, for your leadership and commitment to introduce the Decent Working Conditions and Fair Competition Act in 2007.

Workers must have at least the same legal protections as are currently afforded to corporate products.

Seventy-five percent of Americans agree, according to a Harris Poll in June 2006.

> *"We keep hearing now, from just about everywhere, 'monitoring doesn't work,' said U.N. expert John Ruggie. 'Just about everybody, at least off the record, will tell you that monitoring of suppliers factories doesn't work because people cheat.'"*
>
> —Women's Wear Daily, June 4, 2009

Multinational corporations have demanded and won all sorts of laws in the global economy—intellectual property and copyright laws, backed up by sanctions—to defend their corporate trademarks and products. But there are no similar laws to protect the rights of the human beings who made the product. Indeed, corporations claim that extending protections similar to those currently afforded products to defend the rights of human beings would be an impediment to free trade! So, as things stand now in the global economy, the corporate trademark is protected, but not the rights of the worker.

The Decent Working Conditions and Fair Competition Act is largely based on the Dog and Cat Protection Act of 2000, which prohibits the import, export or sale of dog and cat fur in the U.S. The Dog and Cat Protection Act was passed in response to public outcry over the fact that the Burlington Coat Factory jackets were being made in China with dog and cat fur on the collars. The bill was passed by the House by an overwhelming 411 votes and was approved unanimously in the Senate. Congress has shown their commitment to animal rights with the passage of the Dog and Cat Protection Act. It is time for us to let our Congress members know that we expect them to show equal commitment to human rights with the passage of the Decent Working Conditions and Fair Competition Act.

SUPPLEMENTARY MATERIALS (SEE BELOW)

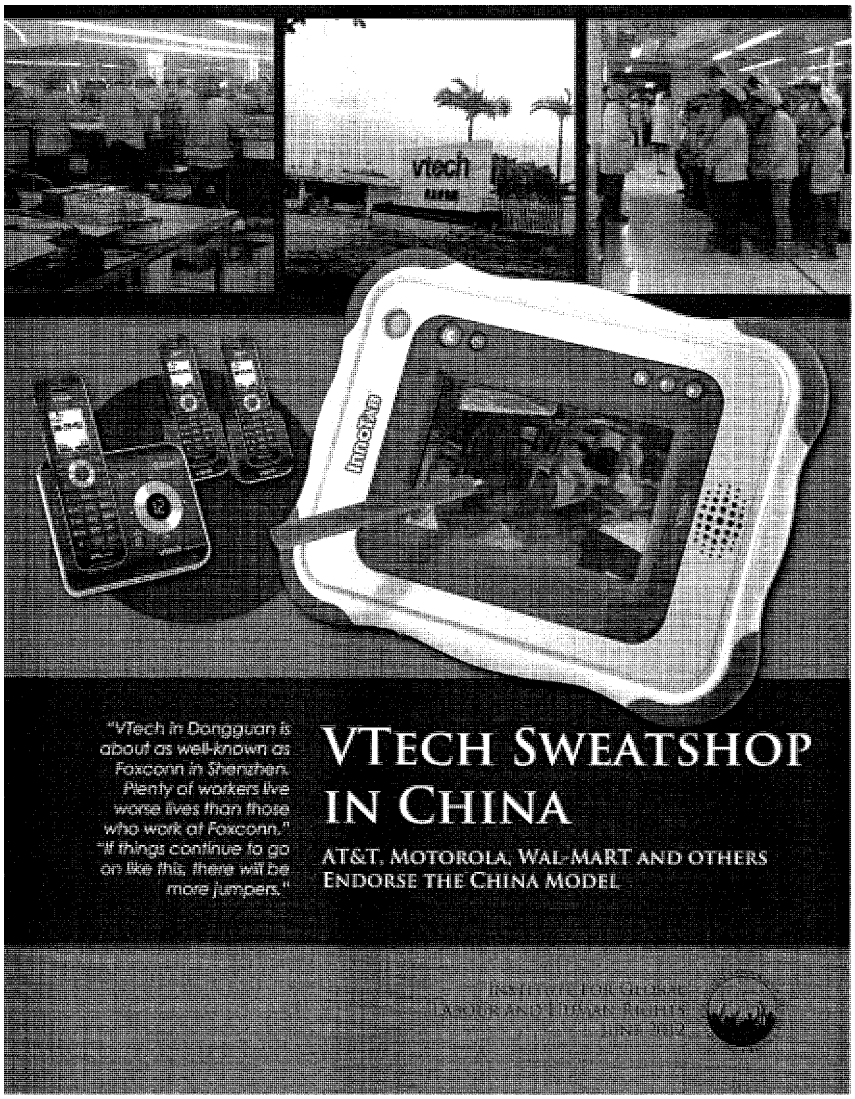
(1.) "VTech Sweatshop in China"; AT&T, Motorola and Wal-Mart and others Endorse the China Model," Institute, June 20, 2012

(2.) Update/Response: "VTech is Not 'A Responsible and Caring Employer'," Institute, July 12, 2012

(3.) Independent Worker Rights NGO's under Attack in China, Institute, July 28, 2012

(4.) "Decent Working Conditions and Fair Competition Act" to legally protect local and internationally recognized worker rights standards. (House Bill HR 1992; Senate Bill S.367)

Attachment #1



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June 2012

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**PREFACE**

## 2.8 Million Jobs Lost as U.S. Trade Deficit with China Reaches $295.5 billion!

By Charles Kernaghan

> *"China is also shifting its exports toward higher-technology products like telecommunications gear and power plant turbines.* ***So an expansion in Chinese exports could also displace sizable numbers of workers in the United States, Europe and Japan*** *who produce goods similar to those from China."*
>
> The New York Times
> June 1, 2012, Keith Bradsher

The U.S. trade deficit with China reached $295.46 billion in 2011, costing of 2.8 million jobs in the United States. In May 2012, Chinese exports to the U.S. soared by 23% from a year earlier.

According to the U.S. Bureau of Labor Statistics, no phones have been manufactured in the United States since 2008.

In fact, China has become the world's largest manufacturer and exporter of telephones, including cell phones, cordless and corded phones, and telecommunications apparatus. In 2010, China exported $29.7 billion worth of phones, up 35.8 percent since 2009.

In the U.S., there are still approximately 28,760 workers involved in manufacturing communications equipment. The hourly mean wage for these U.S. telecommunications workers is $16.85 an hour and $134.80 for an eight-hour day. These wages are 15 ½ times higher than the wages at VTech in China. The Chinese workers earn just 6 ½ percent of what U.S. workers earn. The wage differential is even more pronounced when you include benefits in the U.S.

This report is about the lives of VTech employees in China, who toil under cruel, inhumane and illegal sweatshop conditions, stripped of any democratic or union rights, and with no way out of the jail of repression they are in.

This report on VTech is also a story about the race to the bottom and the hollowing out of U.S. manufacturing jobs, as massive sweatshop operations like VTech in China become the largest suppliers of cordless phones in the world. VTech is also the leading manufacturer of corded and cordless phones in North America, controlling over 50 percent of sales. Founded in 1976, VTech now has over $1.785 billion in revenues and operates in 75 countries across the world.

## VTech Sweatshops

VTech (Dongguan) Telecommunications Limited
Xia Ling Bei Management Zone
Liaobu Town
Dongguan City
Guangdong Province

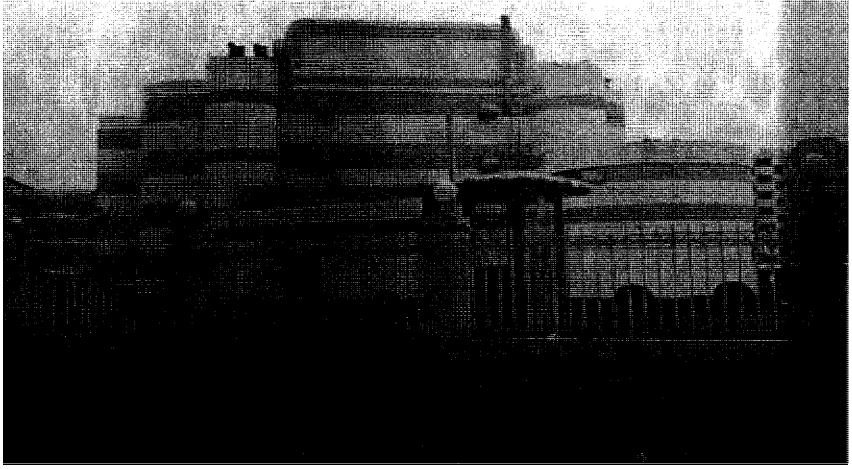
VTech (Dongguan) Communications Limited
Xia Ling Bei Management Zone
Liaobu Town
Dongguan City
Guangdong Province

VTech (Dongguan) Electronics Limited
Sam Tuen Management Zone
Houjie Town
Dongguan City
Guangdong Province

VTech is headquartered in Hong Kong with manufacturing facilities in the city of Dongguan, in Guangdong Province. Our main research focus was on the Dongguan VTech Communications Company, where 10,000 workers manufacture cordless and corded phones, phone components, circuit boards and interactive electronic learning systems for kids. However, working conditions and wages are the same for the 10,000 workers at the Dongguan VTech Electronic Telecommunications factory in Liaobu and the VTech Houjie Factory, which produces mainly children's electronic learning products.

## How the Research Was Done

The investigation was initiated by the Institute for Global Labour and Human Rights which contracted with a private for-profit professional business research firm in Guangdong. As per our agreement, we will not disclose the name of the consulting firm for reasons of confidentiality.

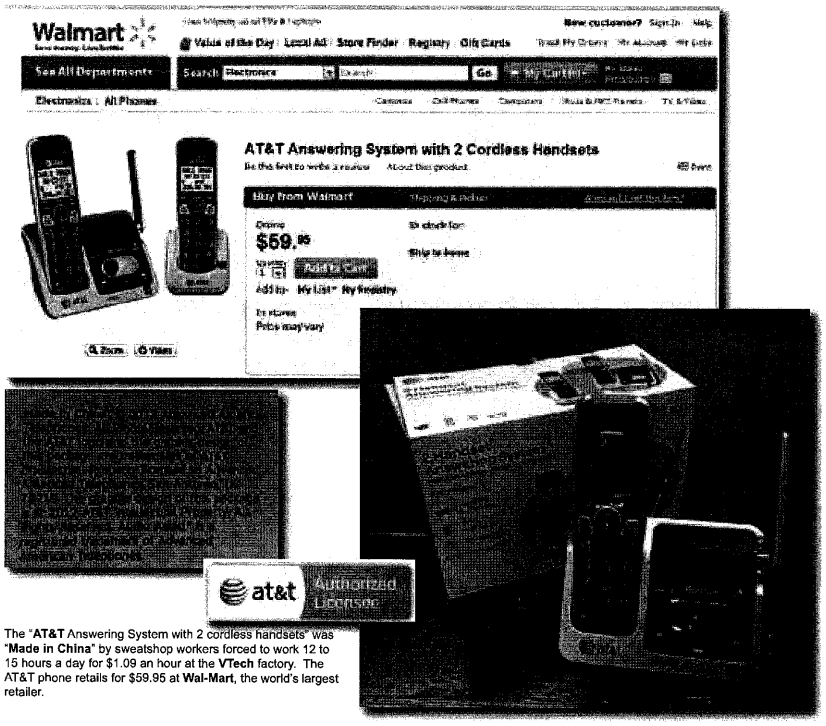


# Executive Summary

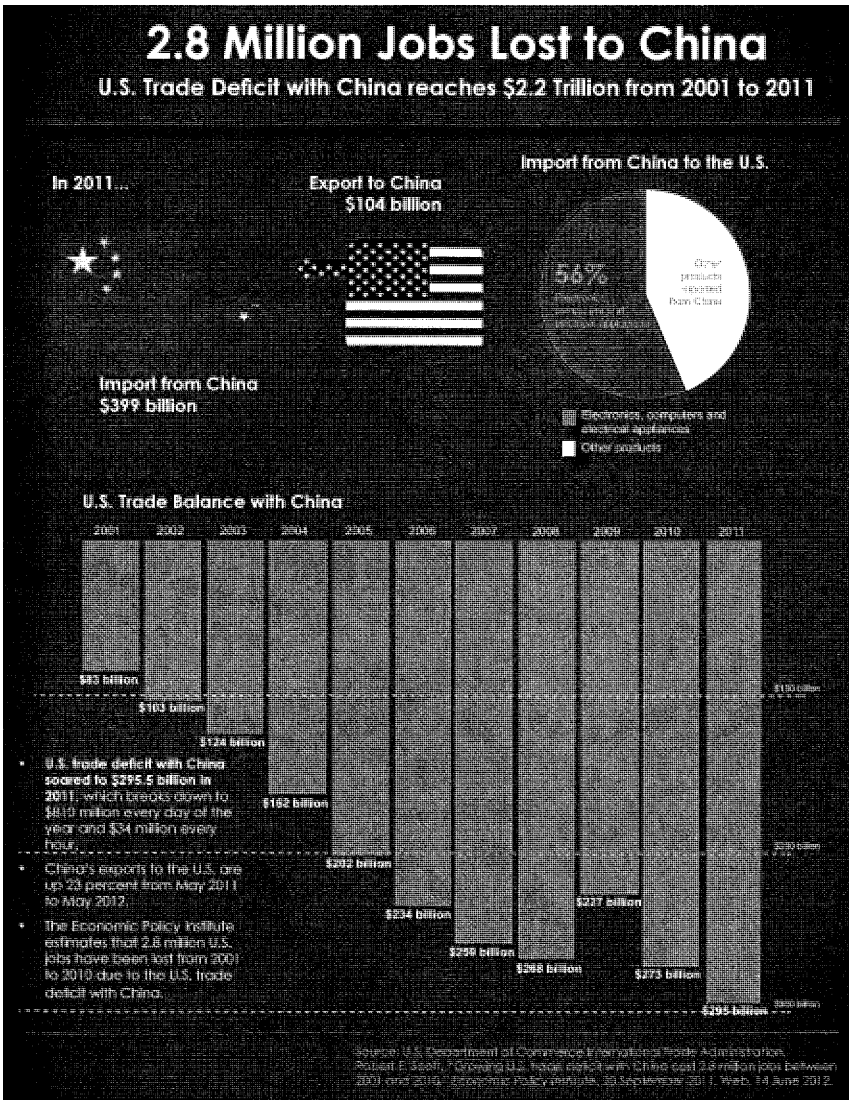
- VTech
  - VTech in China has licensing agreements with **AT&T** and **Motorola**. VTech is the world's largest manufacturer of cordless phones and is the leading supplier of corded and cordless phones in North America. VTech is an exclusive supplier for **Deutsche Telekom** and **Telstra** in Australia. VTech also produces infants' and children's electronic learning products and is a major original equipment manufacturer for **Sony** and **Philips**.
  - VTech telephones are sold in the U.S. at **Wal-Mart, Target, Staples, Sears** and other retailers.
  - In fiscal year 2012, VTech's revenues reached **$1.785 billion**.

- Thirty thousand workers at VTech's three plants in Guangdong, China are held under deplorable and illegal sweatshop conditions.
  - Workers told us: ***"The company treats us the way a slave driver treats his slaves,"*** and ***"security guards often beat the workers."***
  - Another worker explained, ***"Sometimes I want to die. I work like hell every day for such a dull life. I want to find a reason to live. Given that living is so tiring, seeking death might not be a silly thing!"***
  - Many young workers at VTech have leapt to their deaths rather than continue with the cruel and nasty treatment. ***"If things continue to go like this, there will be more jumpers."***
  - Mandatory 12 to 15-hour shifts, from 7:30 a.m. to 7:30 or 10:30 p.m., six days a week. Workers are at the factory 74 to 77 hours a week, while working 68 to 71 hours, including 28 to 31 hours of obligatory overtime.
  - Workers are forced to stand all day. It is exhausting, and their feet swell up.
  - Every 11.25 seconds a circuit board moves down the assembly line, and each worker must plug in four to five pieces — one operation every 2.25 to 2.8 seconds. The workers do this all day, all week, all month and all year.
  - Workers who fail to meet their mandatory production goals are forced to remain working, without pay, until the goal is set.
  - Workers earn a below-subsistence wage of just **$1.09 an hour**. One worker told us: ***"I'm afraid I'll never make a decent living in my life."***
  - Eight workers are housed in each primitive dorm room, sleeping on narrow plywood bunk beds. Workers report, ***"It's filthy, like living in a pigsty."*** The workers use small plastic buckets to fetch water to take a sponge-bath. Summer temperatures exceed 90 degrees Fahrenheit, leaving the workers dripping in their own sweat all night.
  - ***"The food is awful,"*** workers told us. Pictures smuggled out of the factory cafeteria show the "coarse yellow rice" and rotten potatoes served to the workers.
  - VTech workers are cheated in broad daylight of millions of dollars in social security benefits due them under China's laws.
  - Management illegally traps the workers. Conditions are so miserable that 80 percent of VTech employees try to flee the factory each year. But if a worker leaves, they will have to forfeit a full month's wages, including all the grueling mandatory overtime hours.
  - Workers handle a lot of thinners, used to clean the circuit boards, but have no knowledge as to whether or not the substances they are handling are toxic and could harm them.

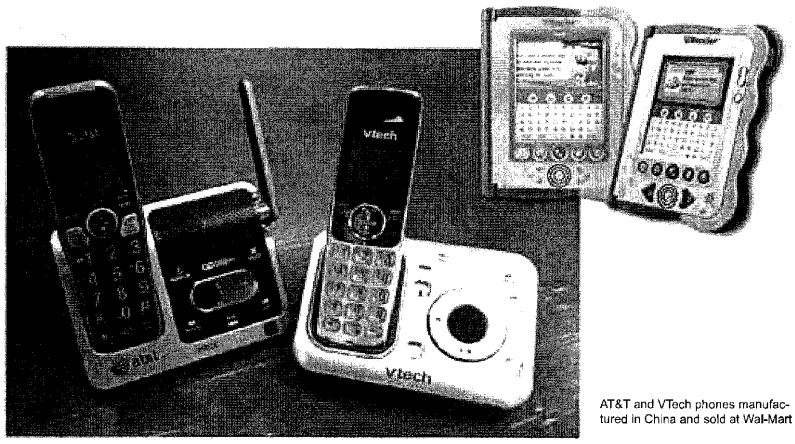
- Phones are no longer manufactured in the United States.
- In 2011, the U.S. trade deficit with China soared to **$295.5 billion**. At least 2.8 million jobs have been lost in the U.S. due to China's unfair trade practices since 2001.
- In the last 12 months, ending May 31, 2012, China's exports to the U.S. have skyrocketed by 23 percent!




The "**AT&T** Answering System with 2 cordless handsets" was "**Made in China**" by sweatshop workers forced to work 12 to 15 hours a day for $1.09 an hour at the **VTech** factory. The AT&T phone retails for $59.95 at **Wal-Mart**, the world's largest retailer.


2.8 Million Jobs Lost to China
U.S. Trade Deficit with China reaches $2.2 Trillion from 2001 to 2011
In 2011...
Export to China
$104 billion
Import from China to the U.S.
56%
Import from China
$399 billion
Electronics, computers and electrical appliances
Other products
U.S. Trade Balance with China
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
$83 billion
$103 billion
$124 billion
$162 billion
$202 billion
$234 billion
$258 billion
$268 billion
$227 billion
$273 billion
$295 billion
$100 billion
$200 billion
$300 billion
• U.S. trade deficit with China soared to $295.5 billion in 2011, which breaks down to $810 million every day of the year and $34 million every hour.
• China's exports to the U.S. are up 23 percent from May 2011 to May 2012.
• The Economic Policy Institute estimates that 2.8 million U.S. jobs have been lost from 2001 to 2010 due to the U.S. trade deficit with China.
Source: U.S. Department of Commerce International Trade Administration.
Robert E. Scott, "Growing U.S. trade deficit with China cost 2.8 million jobs between 2001 and 2010," Economic Policy Institute, 26 September 2011. Web. 14 June 2012.

At VTech, workers stand 12 to 15 hours a day, racing to meet excessive production goals as they make phones for AT&T, Motorola, Wal-Mart and VTech Electronic learning tablets for kids, including "V.Reader" and "Storio" for Europe.




AT&T and VTech phones manufactured in China and sold at Wal-Mart

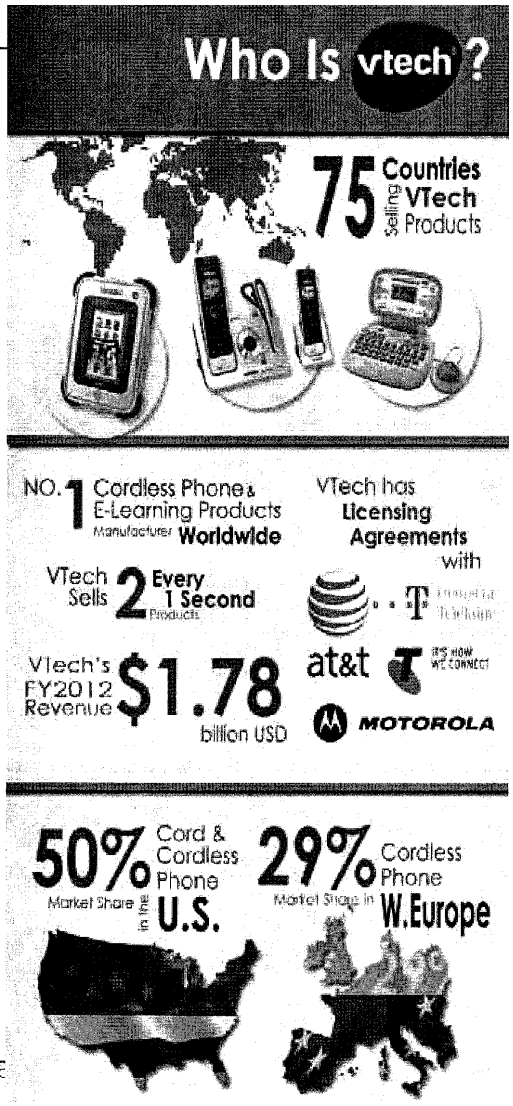
## How Would You Like Your Son or Daughter to Work at VTech?

VTech in China likes to brag that two of its products — which include cordless and corded phones and even infant and children's electronic learning games — are sold every second by companies and retailers across the U.S. and the world, such as AT&T, Motorola, Wal-Mart and others. It is impressive that VTech sells 172,800 products every day, and 63 million every year across 75 countries. How can you not be impressed? VTech has been in operation for over 35 years and, in its three plants in Dongguan city alone, there are nearly 30,000 workers. In May 2012, VTech announced annual revenues of **$1.785 billion**.

**But if you stop to think about it, over these 35 years, have we ever heard from even one VTech worker in China?** No, we haven't, and we have no idea how many hours they work or what they are paid. We do not know how they live or what their hopes are. They are human beings just like us, but we are walled off.

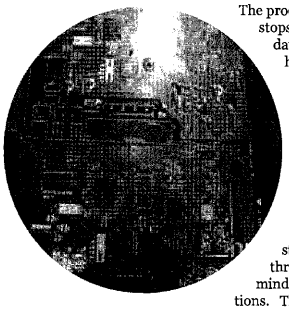
This cannot be by chance. Manufacturers like VTech, phone companies like AT&T and retailers like Wal-Mart do not want us to know. The less we know about China's workers — in terms of hours, wages, health and safety, the right to organize, and respect for human and worker rights — the better it is for the corporations.

The truth is when we purchase these phones, circuit boards and electronic children's games made at VTech in China, we do so with 100 percent certainty that we know nothing.



## Suppose your 18-year-old daughter worked at VTech in China producing circuit boards

Your daughter would be forced to work standing for her entire 12- to 15-hour mandatory shift, from 7:30 in the morning to 7:30 or even 10:30 in the evening. Her feet would swell up and she would be in constant pain.



The production line never stops moving and your daughter would have just **11.25 seconds** to **plug four to five pieces into each circuit board**. She has to complete one operation every 2.25 to 2.8 seconds! Furiously non-stop, she races through the same mind-numbing motions. This goes on all day.

Every hour, 320 circuit boards move down the assembly line as exhausted workers race to complete one operation every 2.25 to 2.8 seconds.

In one hour she must complete 1,286 to 1,600 operations, plugging pieces into the ever moving circuit boards. In her regular eight-hour shift, she will have plugged in 10,286 to 12,800 pieces.

All overtime is strictly mandatory and the workers toil at least three hours overtime each day. In the standard 11 hours of work, your daughter would have completed 14,146 to 17,600 operations.

She would do this six days a week, working 66 hours, to complete 84,876 to 105,600 operations non-stop as circuit boards race by.

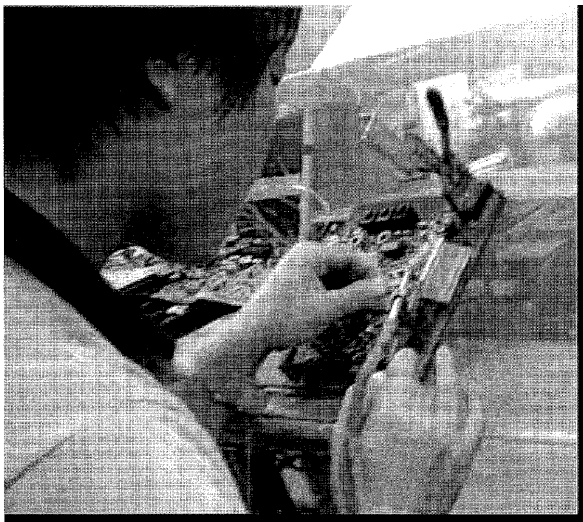
In a month, your daughter would have completed 367, 796 to 457, 600 operations, always standing, always the same motions.

If she made it through the year, she would have completed 4,413,552 to 5,491,200 operations, all exactly the same.

It gets even worse. When workers must race to reach their mandatory production goal of completing four to five operations in just 11.25 seconds, inevitably they make mistakes. This happens often. **Supervisors then confiscate the workers' time cards and punch them out as if their shift were over, only to keep them working without pay for another one or two hours, until the production goal is reached.**

Despite the 12-to-15-hour shifts, workers must report early to work, stand at attention and listen to a motivational lecture from their supervisor.

The workers must stand for the entire 12-to-15-hour shift. Their feet swell with pain.



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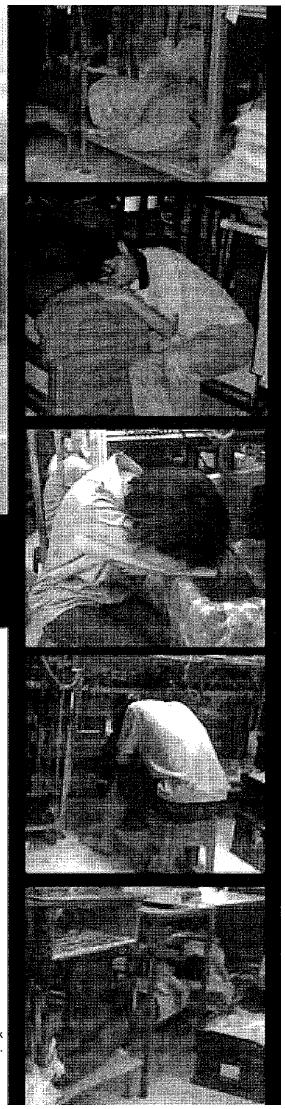


### Workers at VTech Refer to Themselves at Slaves

Workers told us: ***"The company treats us the way a slave driver treats his slaves."***

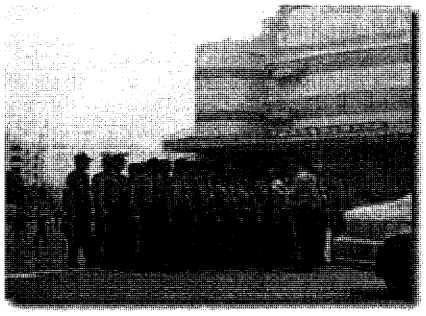
Company security guards patrol both assembly lines and workshops. ***"The company often utilizes the security guards as if they were 'factory police,'"*** workers say. *"The company uses the guards to impose a dictatorship on the workers."*

Workers are searched when they enter or leave the factory. Their bags and knapsacks are opened and searched by the guards. Workers are also "body searched" with handheld scanners.

According to the workers, ***"security guards often beat the workers."*** Most often the beatings take place outside of the production areas, at the gatehouse. If the guards suspect workers of violating company rules, they will beat them.

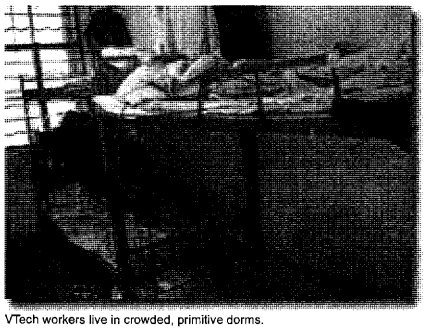
On May 25, 2010, a worker argued with guards at the security gate check about the guards' rude behavior. Later, at the end of the shift, *"the worker was beaten by three security guards."*

Exhausted, workers race back after lunch to sleep for 15-20 minutes.



Security guards— acting as a private police force — patrol both assembly lines and workshops. Workers report being frequently beaten.

Workers photographed the coarse yellow rice and rotten potatoes served at VTech's cafeteria.



VTech workers live in crowded, primitive dorms.

There are no showers at VTech. Workers fill small plastic buckets with water to bathe.

In the course of the investigation, even the professional research consultants told us that they were "***shocked by the overall high stress levels and the deep sense of depression the workers felt and described.***"

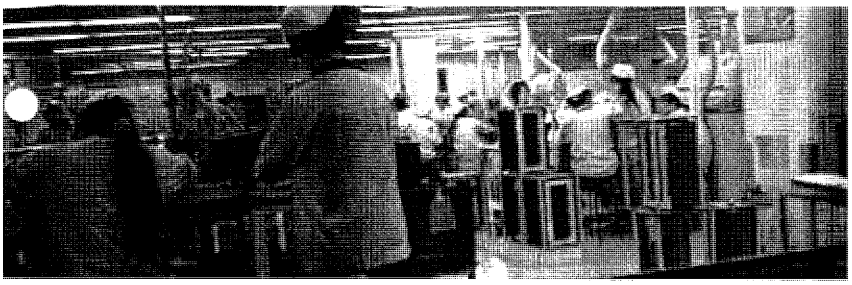
If a monkey were forced to work like this, animal rights advocates would rightfully complain and many people would rally to stop such abuse. But for the young Chinese workers, it is fine and there is no popular outcry by the American or European consumers.

The work is furious, mind-numbing, exhausting, meaningless and poorly paid. Bathroom breaks are monitored. Management makes the workers stand all day, believing that it will increase production. It is one hell of a life.

The only break your daughter will receive is during the afternoon lunch period when she gets to eat some coarse rice and visibly rotten potatoes.

And at night, when she finishes her 12- to 15-hour shift, she can return to her dorm and queue up to wait her turn to take a sponge bath, using a small plastic bucket to splash water on herself. Finally she can climb into her bunk bed and rest lying on a piece of plywood. If it is summer, she will sweat all night in the over 90 degree humid temperatures common in the south of China.

The Wal-Martization of our souls is a terrible thing. If we do not speak up for exploited workers in China and elsewhere, we will find ourselves trapped and alone, as our humanity fades away.

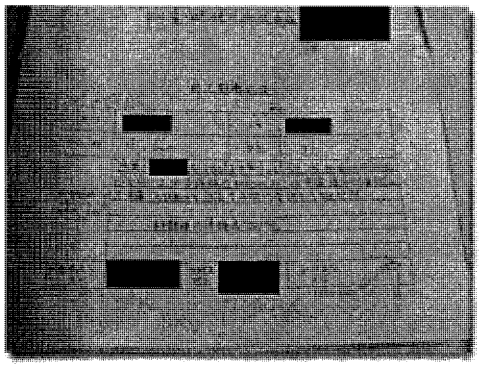


## VTech is run like a prison

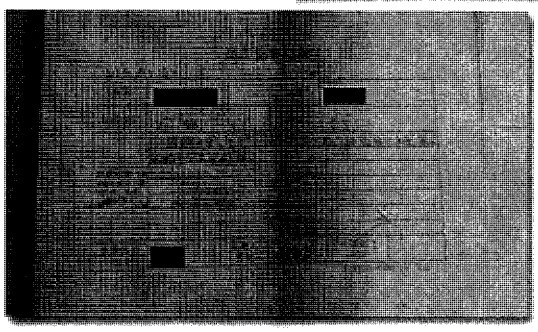
Management issues "**Employee Criminal Records**," handing out demerits, warnings and stiff fines to punish offender workers.

For a "mistake," a worker was docked 29.3 hours' wages.

Another worker dared take a day off and was punished with a "major demerit point."

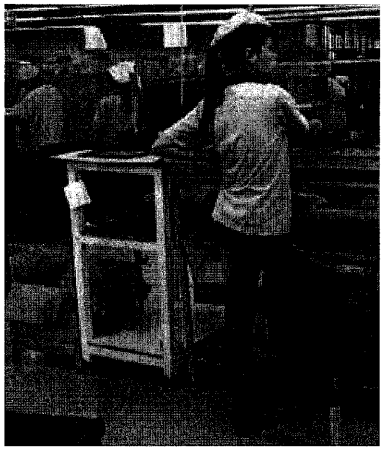


(Right) [Translation] "Employee Criminal Record. On May 26, while producing SINUS 205 126 50-8130-002-000-35-8039-002-100, employee _____ had two failed attempts in scanning a barcode, which resulted in tremendous delay [...] violating Article 15 of the Employee Handbook. Thus a major demerit point. Pay economic loss of 200 RMB." [USD $31.60]



[Translation] "Employee Criminal Record. "Absence on May 14 (skipping work at his will). Violated Article 26 of the Employee Handbook. A major demerit point."

## Death and Empty Dreams



After one woman worker jumped to her death at VTech, a young woman told us the following:

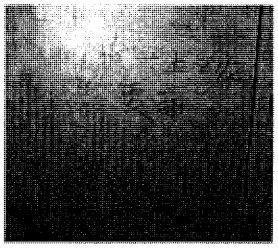
> ***"Sometimes I want to die. I work like hell every day for such a dull life. I can't find a reason to live. Given that living is so tiring, seeking death might not be a silly thing!*** *When I graduated from school, I thought as long as I was willing to work hard and was not afraid of suffering hardship, my life would become better and better. I might become a person of real ability in this country.* ***Now, thinking back, I'm so silly. Every single day, I plug and plug [parts into circuit boards]. Where's my future?*** *Not to mention the hardship and tiredness. Look, we are all adults. We have already tried very hard, and what you often get are disdainful looks, or we are scolded by supervisors. What a disgrace! My parents never scolded or beat me!"*

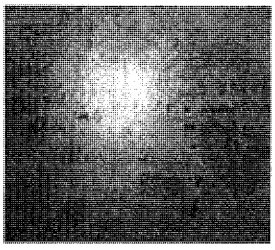
## Bathroom Democracy Breaks Out at VTech

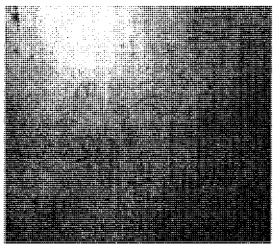
It is only when they are alone in the bathroom that China's workers can dare speak out without fear of punishment, writing down what they really think of VTech management on the bathroom walls.

- ***"Don't be too cocky as managers. One day you'll die at the factory gate."***
- ***"Working on New Year's Day is killing me.*** *[We're so]* ***screwed over."***
- [Note: New Year's Day is the first day of the Chinese New Year on a lunar calendar. Lunar New Year is as important as Christmas to Christians in the West.]
- ***"Managers are not human."***
- ***"Don't work at VTech."***
- ***"Comrades, just quit. This place is crooked."***
- ***"Being yelled at / Long hours / 12 hours standing at work / Stressed out / Can you not be tired?"***

There is a new job category at VTech, which is to do the rounds, continually painting bathroom after bathroom to whitewash away the workers' anger and despair.







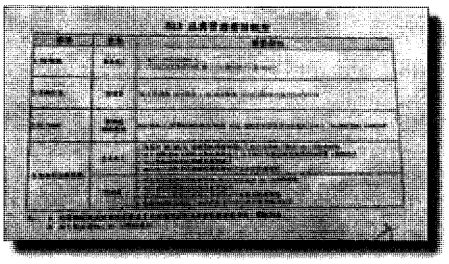
## The VTech Way: Controlling Workers' Every Movement

**VTech Factory Punishment Chart**

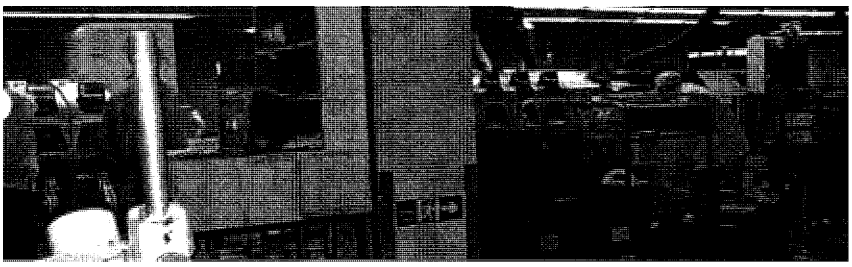
- "Wearing heels to work. Warning/A minor demerit point."
- "Not focusing, dozing off, chatting, doing personal business at work (reading books or newspapers that are irrelevant to work) or making a racket, running and eating during breaks. A minor demerit point. Possible labor service depending on severity."
- "Keep off the grass. No picking flowers or plants."
- "Refusing to wear work ID or to punch cards; refusing to obey security guards' warning. A major demerit point."
- "Disobeying supervisors and affecting productivity or team morale; disobeying orders, or threatening supervisors. Major demerit point."
- "When using a laptop, employees cannot let bystanders see any data on a screen."
- "Employees should value proper manners and avoid filthy or vulgar language. No littering or spitting."
- "No . . . posting or drawing on public walls at work or living areas or any other vandalizing activities."
- "Security guards retain the right to escort employees who stay in workshops or offices longer than they need to."
- "Leaving work position without authorization by supervisor. A minor demerit point. Possible labor service depending on severity."
- "Failing to wear uniforms at work."

## Reward and Punishment System

Managers who rat on their colleagues are rewarded.



- "Those who report others' mistakes would be rewarded monetarily."
- "Punishment will be reduced to half if employees self-report mistakes."
- "If defective products/mistakes/missing/redoing were found in bulk on the assembly line for which a supervisor is responsible, the supervisor will be fined RMB 50 [USD $7.91] every instance."



## Like Machines, Their Lives Function to Meet the Production Needs of the Factory

An anonymous observer of VTech:

"Working accounts for the vast majority of each day. Their lives function to meet the production needs of the factory, as if they are machines, and not flesh and blood. Most of the workers have no idea regarding the potential of their strength. Long hours, the high intensity and pressure of the work, and the constant overtime hours leave the workers without any time or energy to think about fairness and solidarity. Although workers detest the company, most of them lack confidence in unifying against the constant exploitation they face. They cannot voice their grievances publicly so they write down their hatred and anger on the bathroom walls — where they won't be seen — expressing their resentment against the repression and exploitation. The company's response is to keep white washing the bathroom walls.

"Many workers resort to resignation and switch to another factory, trying to cope with constant boredom, exhaustion and despair over their life and work. They feel trapped. One young worker who was about to leave the factory told us: '***If I stay any longer, I'm going to jump off our dorm like the Foxconn workers do.***' Workers have no hope even concerning the future. Company managers tell workers that they can make suggestions and file complaints to management, but the workers do not trust this channel. Most workers have no idea that there is a 'union' at the VTech factories, or for that matter what a union is. This despite the fact that there is a sign in the factory that reads 'union committee.'

"In China the government has suppressed freedom of association. Solidarity and free association among workers are hindered and sabotaged not only by employers but also the government. **The Chinese government mandates that the All-China Federation of Trade Unions (ACFTU) is the only legal union.** However, the union does not represent workers' interests or lead workers to fight for their rights. Workers have no hope in the ACFTU despite the fact that the ACFTU keeps claiming to the world that it will soon be reformed."

When asked what we as Americans can do to help provide solidarity to Chinese workers, our commentator suggested,

"Call on the Chinese government to guarantee freedom of association to its people and on central and local governments to also abide by the core ILO internationally recognized worker rights standards. The government must effectively enforce the country's labor laws; renounce policies that suppress workers and prevent them from defending their rights; ensure the right to collectively bargain with corporations under the premise of freedom of association and freedom to elect representatives; increase wages and shorten work hours; and ensure work safety.

"This is our hope."

> ***"If I stay any longer, I'm going to jump off our dorm like the Foxconn workers do."***

## What Must Be Done

Something has gone so terribly wrong at VTech's manufacturing plants in China that it is difficult to know even where to begin to clean up the mess. VTech has a glossy code of conduct, which reads well and guarantees every labor right under the sun. But in reality, these factories are run like prisons, where workers have no rights, no dignity and no voice.

The good news is that there are so many corporations and retailers across North America, Europe and Australia sourcing production at VTech, that these companies have the power to speak out and demand change. Imagine if AT&T, Motorola, Wal-Mart, Sony, Philips, Deutsche Telekom in Germany and Telstra in Australia demanded improvement, this could make a world of difference for VTech's exploited workers.

- Let workers sit: There is no good reason why VTech workers must stand all day for their mandatory 12- to 15-hour shifts. Workers could sit on stools and get the exact same work done. Standing 12 to 15 hours is exhausting, not to mention the pain of swollen feet.
- Production goals must be reasonable and not wildly excessive: It is common for workers who have failed to reach their production goals to be required to remain working — without pay — for two or more hours until the target is reached. This is illegal and must stop. All overtime work must be strictly voluntary.
- A horrible dynamic has evolved among low- and mid-level supervisors and managers at VTech who treat workers as if they are not quite human. According to the workers: "The company treats us in the way a slave driver treats his slaves." Security guards act as a police force to punish the workers. Conditions at VTech are so miserable and nasty that 80 percent of workers try to flee each year. Young workers at VTech are also jumping to their deaths rather than remain at VTech. Management at VTech must undergo a complete overhaul to guarantee that supervisors and managers learn to treat workers with respect and dignity.
- Workers refer to their dorms at "filthy, like living in a pigsty." Management must rehabilitate the dorms so they are fit for human beings.
- Cafeteria food must be drastically improved. The workers deserve more than coarse yellow rice and rotten potatoes.
- VTech management must cease the practice of illegally withholding one full month's wages, including overtime. Workers desperate to flee from VTech are trapped. If they leave, they will lose their full month's wages. Workers must be free to leave when they so choose.
- Social security benefits for the workers must be properly paid. Right now it appears that VTech management may be involved in fraud, withholding for months the social security benefits owed the workers.
- VTech workers have the right to know if the thinners they are routinely handling are potentially harmful.
- VTech workers have nowhere to turn for help. The All China Federation of Trade Unions is moribund, playing next to no role in assisting the workers. Nor is the government of China particularly enthusiastic about promoting human, women's and worker rights or allowing independent unions. Given this reality, VTech management must open a channel, so that workers can be directly in contact with the corporations in the U.S., Canada, Europe and Australia that source production from VTech. These corporations can play an important role in holding VTech accountable to respect China's labor laws as well as implementing their corporate codes of conduct.

This would be a small step forward for China's workers.

(Left) VTech highlights its relationship with AT&T.

(Right) A VTech hiring ad guarantees: "Employees work five days a week, eight hours a day, with paid vacation days, marriage leaves and maternity leave." Workers report that this is fantasy and a complete lie.

# VTech Sweatshop Production in China

## $1.785 Billion in Revenues in 2012

VTech has licensing agreements with **AT&T** and **Motorola**. VTech is also a major original equipment manufacturer for **Sony, Philips, Telstra** of Australia, **Deutsche Telekom** in Germany as well as for **France, Japan and the United Kingdom**.

In the U.S., VTech products are sold at Wal-Mart, Target, Staples, Office Depot, Circuit City, Best Buy, Costco, Sears, Kmart and others.

- U.S. and Canada: "In North America, we [VTech] are the largest player in the market, selling both AT&T and VTech branded products in major retail stores."

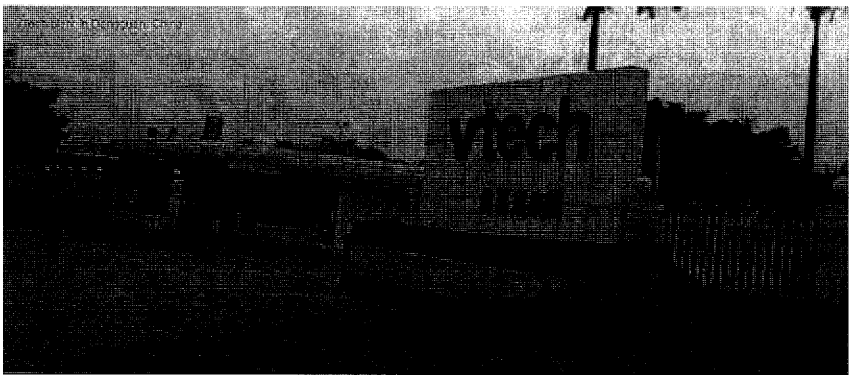
  "North America continued to be the group's largest market, accounting for 51.1% of Group revenues."
- VTech is the world's largest manufacturer of cordless phones.
- VTech is the largest corded phone supplier in North America.
- "Two VTech products are sold every second and 75 countries and regions sell VTech products."
- "VTech shipped over 45 million headsets in the financial year 2011."
- "VTech also develops electronic games and toys, including electronic gaming products such as gaming consoles with developmental activities. Its toys and games are developed for children ranging from infants to grade school-aged kids." (But what VTech cannot teach children in North America and Europe is respect for human and women's rights, freedom of speech, democracy, caring, empathy, political freedom, or respect for workers' rights.)

VTech Annual Report 2011

### The Advanced American Telephone Company (AAT) is not really an American Company

AAT is owned by VTech and its phones are made in China at VTech sweatshops. Good old AT&T telephones are no longer made in the United States. They are now made in China. However, AT&T's revenues have remained strong at $126.7 billion in 2011, with a net income of $4.184 billion.

"Advanced American Telephones (AAT) designs, manufactures and distributes AT&T branded telephone products in the United States and Canada under a brand license agreement with AT&T Intellectual Property II, LP. AAT is owned by VTech holdings Ltd. Vtech is a widely recognized leader in corded and cordless telephones." (VTech press release, May 2012)

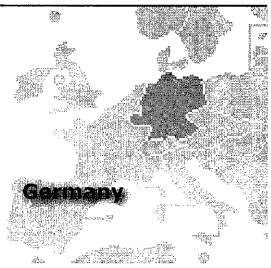


## Europe and Australia

**VTech is the "exclusive supplier to Deutsche Telekom for all its corded and cordless telephones in Germany."**

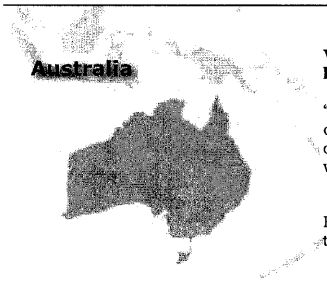
"To meet our corporate responsibility worldwide, we regularly review the work of our suppliers directly at their production sites. With these social audits, Deutsche Telekom ensures and promotes compliance with social and climate standards." Social Responsibility, Deutsche Telekom

But, Deutsche Telekom's commitment to social responsibility is badly failing when it comes to protecting human and worker rights in China.



Deutsche Telekom

IT'S HOW WE CONNECT




**VTech is "the direct supplier to Telstra for all its fixed line telephones."**

"As a good corporate citizen, Telstra's responsibility is to manage our business ethically, to produce an overall positive impact on our customers, employees, shareholders and other stakeholders as well as the wider community and the natural environment."
Sustainability at Telstra

But Telstra's sustainability is badly failing when it comes to protecting human and workers' rights in China.

Other major VTech customers include the **United Kingdom, France and Japan.**

# A Rare Inside Glimpse
# Chinese Workers Speak Out

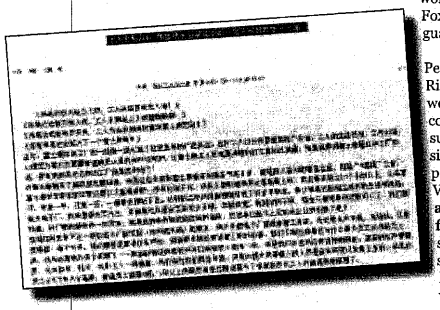
### Young woman cries out for help.
### VTech is a place of brutality, blood and tears.

- "We work nonstop, standing, enduring the torture of soreness in our legs and pain in our feet. We don't know how long we can keep up."
- "Managers often yell: 'If you don't like it here, then get the hell out.'"
- "Maybe the boss really doesn't care about us. It's like a slave driver treats slaves. They don't care about the workers."
- "At a huge corporation like VTech where there are tens of thousands of workers, less than 20 percent of employees stayed last year."
- "Our voice is so feeble; our power is so weak."
- "All we hope is that friends with true love and conscience can give us some support, cheer us and fight for us, for the equality and respect we deserve."

> "VTech in Dongguan is about as well-known as Foxconn in Shenzhen. Plenty of workers live worse lives than those who work at Foxconn. Dongguan VTech is a workshop of blood and tears."

<u>Standing While Working at VTech; Workers Complain with Tears about Brutality</u>
Author: We Workers Have No Power
Date: March 5, 2011

Last year, consecutive suicide jumps at Foxconn's Shenzhen plant generated broad attention in the society. In Guangdong Province where worker population is the most condensed, there is often a lack of attention and care by companies regarding workers' living, working and psychological conditions. Plenty of workers live worse lives than those who work at Foxconn. If Shenzhen Foxconn is a workshop of blood and sweat, then Dongguan VTech is a workshop of blood and tears.



People who have a "basic" understanding of the Pearl River Delta know that VTech in Dongguan is about as well-known as Foxconn in Shenzhen. Both are famous corporations known by everyone. Before the consecutive suicide jumps, job seekers mostly had positive impression of Foxconn. It is not the case for VTech. Many people know standing while working is required at VTech. **Workers stand for more than 10 hours a day, over the years, day after day, standing forever.** This work environment scares off many job seekers. As a result, VTech has lowered its recruitment standard year by year. Electronics factories typically hire female workers while VTech hires both male and female workers, with a broad age range and no educa-

tion requirement. Now one only needs an ID to apply. We all know that good factories always have strict and high recruitment standards. I am afraid VTech's low bar has not matched its image as a well-known corporation.

. . . . In most electronics factories, workers sit while working. No matter if they produce cell-phones, phones, connectors or electronics parts, most likely they sit at work. Also, there is no need to stand while working. We do not understand why VTech requires employees to stand while working and we will never get an answer unless we see the boss in person and ask him. But we would never have such a chance. . . . There are eight employee levels at VTech. Regular workers are all Level 0. Allegedly Level 1 or higher employees have seats just to demonstrate that they enjoy better treatment.

We do have opportunities to communicate our problems and feedback to the company. However, the reply from company management is always: **"There are 10,000 workers at this factory, and they all work standing up. Why are you the only one who can't work standing up?"** Of course, the human resources and communications departments are always full of kind and wonderful suggestions like: "Buy a pack of salt and soak your feet" or "don't wear high heels or leather shoes."

Some managers show understanding for workers, but there are managers who often yell: **"If you can't stand this, just leave!"** or **"If you don't like it here then get the hell out!"** At a huge corporation like VTech, where there are tens of thousands of workers, **less than 20 percent of employees stayed last year.** Most of them resigned before the Chinese New Year. Now most of the employees are new. Workers became "senior" within one month and started training newly hired workers. After a two-day training, newly hired workers were at their posts as "experienced workers." Every day a few hundred newly hired workers came into the company and a large number of experienced workers left. It was easy to get in; however, if a worker wanted to leave, the company always tried to keep them, claiming there were rush orders and a lack of labor.

In fact what we want is simple: to have a normal, fair and, physically as well as psychologically, non-harmful working environment. This is a little request. Why is it so hard?

Food cost is not included; the quality of food is appalling; overtime is excessive. . . . Maybe the boss really doesn't care about us. It's **like how a slave driver treats slaves.** They don't care about workers.

I am in tears as I write this post. We know some people would sympathize and understand; some would rail and attack. **We are not stupid. Organize a union? Go on strike? File a complaint to a labor agency? Talk to the government? If you were a worker and understood the hardship a regular laborer endures, you would know how far those things are from us and how impractical they are. Our voice is so feeble; our power is so weak.** Who would touch those people high up and those interest groups for us? We are a disadvantaged minority group. Our interests are often ignored or sacrificed. Who pays any attention to us? Who tries to understand us? Who cares about us? And who can in reality help us?

> "All we hope is that friends with true love and conscience can give us some support, cheer us and fight for us, for the equality and respect we deserve."

Today on behalf of over ten thousand workers who stand at work and all fellow colleagues who came here, went through this, stood here and experienced this, I — a regular worker who entered Dongguan Liaobu VTech VTT department in 2011 — call upon people from all sectors in this society: please show your consideration about working conditions of the workers; and please care more about the living conditions of this minority group. **We need your care and support so much!**

We don't know whether there will be a miracle in the future. **We work non-stop, standing, enduring the torture of soreness in our legs and pain in our feet. We don't know how long we can keep up.** Our only hope is to hear more support until someone stands up to solve the problems for us. We don't know how much hope we have. [...] All we hope is that friends with true love and conscience can give us some support, cheer for us, and fight for us for the equality and respect that we deserve!

Written on March 4-5, 2011

A post from an online forum for migrant workers.

**A 19-year old dies at work.**
**According to VTech management his life was worth just $3139.**

**They Are All 19 Years Old**
Dongguan Times. October 10, 2010

**One suddenly died while working**

On October 6 around 7:00 p.m., Liu Xiaoqin, a 19-year-old from the Hunan Province, suddenly died while working at the VTech Electronics Factory in Liaobu Town.

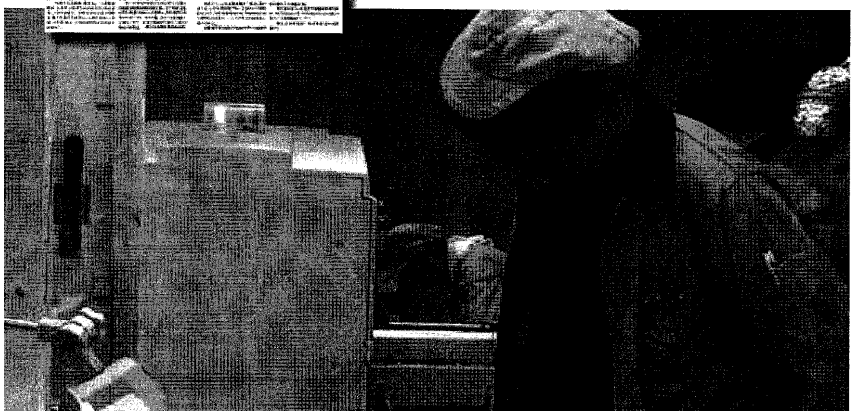
. . . . On October 6 around 7 p.m., the company abruptly notified [worker Liu Xiaolin] that his brother Liu Xiaoqin had been sent to Tonji Guanghua Hospital for emergency resuscitation. He stopped his work and rushed to the hospital.

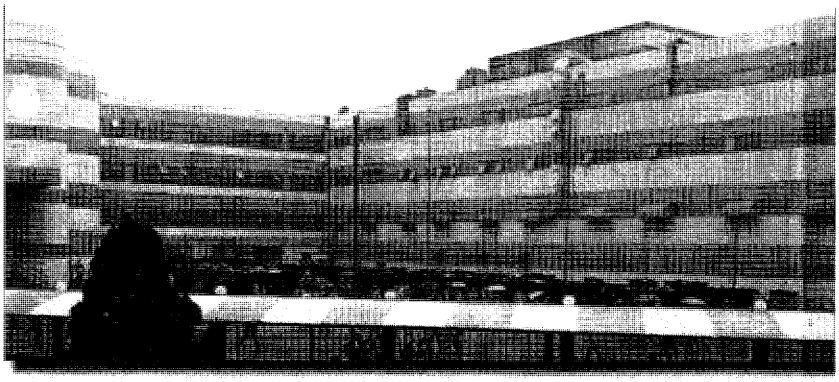
Liu Xiaolin said that a colleague of his brother's revealed that Liu Xiaoqin fainted while working in a workroom on the third floor.

His colleagues immediately moved him downstairs and called the company's dispensary. When doctors from the dispensary arrived, they realized Liu showed very weak vital signs and called 120 [911] for emergency assistance. Then Liu was sent to Tonji Guanghua Hospital for emergency resuscitation.

"My brother had no signs of life when he arrived at the hospital. His body was sent to a funeral home by the company," said Liu with his eyes tearing up. "My parents have not been able to see my brother's body."

Liu's family approached the company for 500,000 [USD $78,565.50] in compensation. The company was only willing to provide a 20,000 [USD $3,139] humanitarian subsidy.





**After being constantly taunted and criticized, a 20-year-old leaps to his death at VTech.**

**Died from suicide jump at a dorm one month into employment**
Southern Metropolis. December 28, 2009

In VTech electronics factory, suicide suspected to be caused by company staff's insults

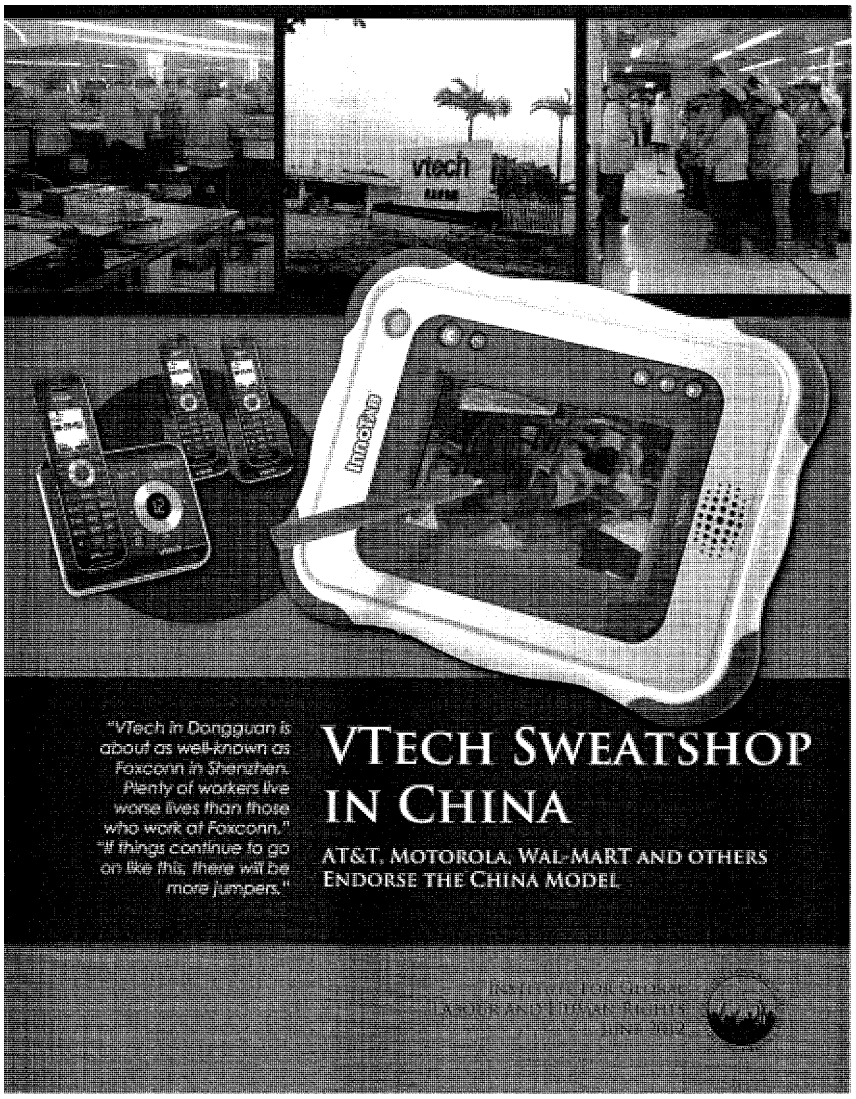
At 2 a.m. the day before yesterday, a 20-year-old male worker at VTech plant in Liaobu Town leapt from the sixth floor of the company dormitory. He died when medical rescue efforts failed. VTech is one of the largest cordless phone suppliers in the world, with over 10,000 employees. **After the worker's death, the company quickly cleaned up the factory and then went into information lockdown.** Employees at the factory have widely different viewpoints as to why the man committed suicide.

VTech electronics factory is located on Guanzhang Road. The company dormitory where the accident happened is right next to the third door. One insider pointed out that around 2 a.m. the day before yesterday, a man suddenly fell down from the sixth floor of dormitory D1, falling into a cement ditch between a wall and trees, on the verge of death. Doctors of Tongju Guanghua Hospital confirmed that they performed emergency rescue at the scene after receiving a call. After more than 10 minutes of emergency rescue efforts, the man died from serious injuries.

Many VTech employees indicated that after the man died, the company washed off the blood stains in a hurry and has banned workers who know from disseminating information. The reporter learned from many insiders that the man had started this job less than one month ago, working on an assembly line. . . .

Yesterday the reporter found that employees at the VTech factory have widely different viewpoints as to why the man committed suicide. A worker from Hunan revealed, "I heard that he was frequently scolded by the manager. The manager would tell him, 'You're not doing this right; you're not doing that right.' **Before he jumped, he had been scolded yet again. He was young, and he took the criticism a bit harder than he should have. After he got off work, he returned to the dorm. Then he just jumped."** An anonymous internet user posted: "This kid was scolded and abused by the dorm manager before he jumped." . . .

The reporter tried in vain to contact VTech. **Its lead security guard, Zhang Jingzhen, claimed that "I'm not obligated to talk with you," and refused an interview request.** Liaobu police revealed that the man was around 20 years old, from Sichuan, and his last name was Huang.




*"VTech in Dongguan is about as well-known as Foxconn in Shenzhen. Plenty of workers live worse lives than those who work at Foxconn."*
*"If things continue to go on like this, there will be more jumpers."*

# VTech Sweatshop in China

## AT&T, Motorola, Wal-Mart and others Endorse the China Model

Revolutionary Worker
Workers and Liberation Politics
June 2012

"This kind of work-related suicide jump happens a lot at VTech."

A post from an online forum for migrant workers.

**Inside Story of Suicide Jump of a Man Insulted by Managers at Dongguan VTech!!!!**

This person is an employee at the 8th assembly line at the VTech VTT B3 (2) department. He started less than one month ago. Around 1:00 a.m. he had a work-related argument with a manager at a workshop. **He was insulted by the manager and cried. He jumped from the 6th floor of D1 dormitory before dawn on December 26 and unfortunately died!** . . . VTech always announces to the outside world that it promotes humane management practices. I've been at this factory for a long time, and I have never witnessed any of these "humane management practices." Now this happened. This kind of work-related suicide jump happens a lot at VTech. The suicide jump happened in a dorm. It was dorm room 604 on the 6th floor of dorm D1, facing the cafeteria. . . . **The company quickly washed the blood stains off the ground and asked employees who knew not to spread the word.** . . . However, Director Chen at Liaobu police office confirmed that around 2 a.m. yesterday a VTech employee named Huang, from Sichuan, leapt off a building and died. I am extremely furious about what happened. I want to say something to the leaders of VTech: The events leading up to today's incident most likely didn't develop over just one or two days. **Many of the managers here are truly too arrogant and aggressive. They act one way in public and another behind the scenes. I feel great sorrow for my dead colleague. He sounded an alarm bell at VTech. Isn't it time for VTech to put its house in order?** . . . VTech management should be trained and this manager should be brought to justice. Although I don't know you [the deceased], we worked in the same department. Rest in peace.....

"She had argued with her manager over her resignation before she died. She might have been too upset and then committed suicide."

**Female worker died in dorm**
Southern Metropolis, January 20, 2010

On January 16, a woman died in the dormitory of the VTech factory in Liaobu. In this plant where there are tens of thousands of employees. A puzzling suicide jump of a man happened last month. Thus after this woman died, there has been widespread speculation as to the cause of death. Employees at the factory widely believe that the woman purposefully overdosed on sleeping pills following an argument with her manager. . . .

Yesterday a reader of this newspaper exposed the following: On January 16 around 7 a.m. at dormitory D4 of VTech electronics factory, a roommate found that a female worker was not reacting to anything. "I could not wake her up no matter what I did. So I called the police." After the police arrived, it was confirmed that the woman had died. The leaker, Zhu, said, **"I heard that this woman died from overdosing on sleeping pills. She had argued with her manager over her resignation before she died. She might have been too upset and then committed suicide."**

. . . . Liaobu police revealed that the deceased was born in 1976 in Guangxi.

. . . . VTech is one of the largest cordless phone providers in the world, with tens of thousands of employees. On the 26th of last month [December 26, 2009], a man leapt from the dormitory and died. After his death, the company cleaned up and blocked all information very quickly.

> “Since I started at VTech, I have not been happy for one single day... It feels like fleeing from hell.”

Yay!!! I'm leaving VTech!

Finally I'm about to leave VTech. My heart! Such excitement! It feels like fleeing from hell. Finally I'll be reborn!

Before I started working, I thought having a job and working would make people happy and gave people a sense of achievement. I eagerly hoped to graduate and start working. I learned how cruel this world is after I started working. At an electronics factory, there's no dignity and happiness. **Since I started at VTech, I have not been happy for one single day. My feet are swollen; my back is sore; I was scolded** — these are all very common and normal. I am still young; I am 18. I can't destroy my youth here in this factory. Leaving VTech is your only choice!

> “She's one of the best at insulting people in this workshop... I feel helpless. Now my only hope is to leave this place...”

I work at VIT B23. My manager is called Lihuy Mo. She has been scolding employees at VTech for more than ten years but is still a Level 0 employee. You do whatever she says even if it doesn't make sense. If you listen to her and make mistakes, you say nothing. Otherwise you will be insulted and scolded. She doesn't make much sense when she's yelling but her voice is loud. **She's one of the best at insulting people in this workshop. She made a couple of people leave last month.** Don't know who she's going to go after this month... **Anyway I've been here for two months and I've had enough.** I should have listened to them so that I wouldn't have had to bear this for so long. It's like even killing her wouldn't ease my hatred. I feel helpless. Now my only hope is to leave this place...

February, 2010

Yes. That Lihuy Mo I know at VIT B23 is a good example. She's short and chubby. When she scolds, she's louder than normal people using a speaker.

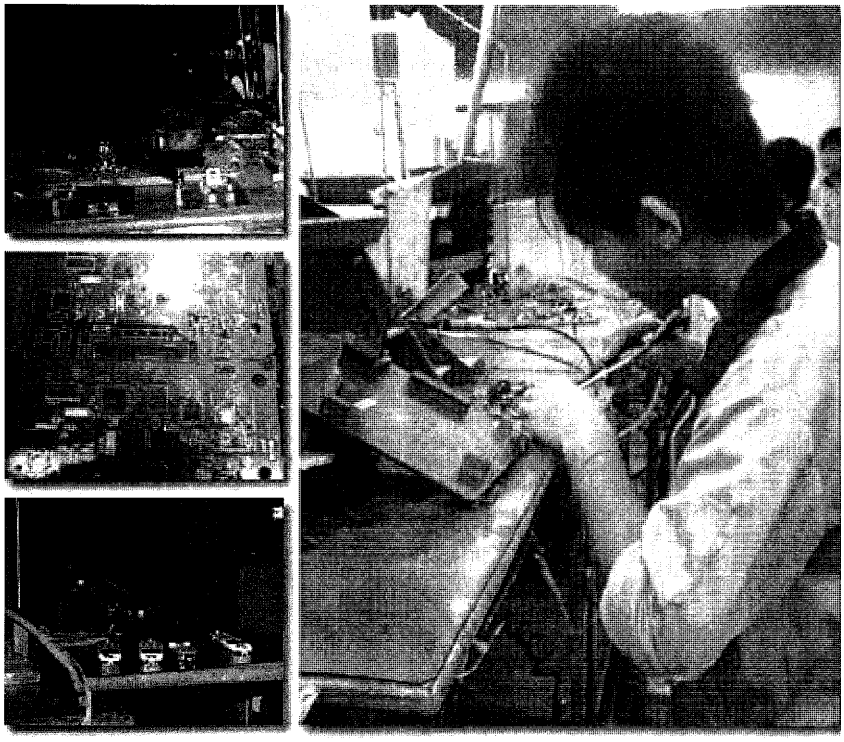
February, 2010

I am an entry-level manager at VIT B23, too. I've worked here for many years. . . . Most importantly the workload is tremendous while employee benefits and wages stay the same. The management is inconsistent. They say nice things and do something different. **They often teach us how to deceive workers.** I won't say much about that. Like these internet users said, **we are less than human.**

February, 2010

**VTech is hell.** People only see its prosperous business. But who knows anything about what's behind the scenes. To my understanding, most of people who work in VTech are young people aged from 18 to 25. Those innocent and kindhearted young people. They dedicate their youth and passion to VTech, watching VTech prosper, while they suffer so much. Most of them come from rural areas. . . . **So-called humanity and the so-called dignity can only be imagined here in this living hell.**

February, 2010



**Another Death at VTech: "Some Died from Overwork"**

- "On the evening of January 15, 2010, there was another employee at the second floor of Dorm #4 who died. In recent months, employees have been working overtime for more than 180 hours a month on average. Some died from overwork." [Workers are routinely forced to toil a minimum of 82 hours a week — 40 regular hours and another 42 hours of mandatory overtime.]
- "The deceased was a 15-year-old male. He was so young."
- "They work overtime in the evenings all the time. Of course people die."

January 2010

# VTech Operates 24 Hours a Day

- The standard shift is 12 to 15 hours, from 7:30 a.m. to 7:30, 8:30, 9:30 or 10:30 p.m.
- Workers are at the factory 74 to 77 hours a week, while toiling 68 to 71 hours.
- All overtime is mandatory and routinely exceeds China's legal overtime limit by 237 to 273 percent!

The typical shift, Monday through Saturday, is from 7:30 a.m. to 7:30, 8:30, 9:30 or 10:30 p.m. The workers have a one-hour lunch break each day from 12:30 p.m. to 1:30 p.m. On Sunday the plants are closed.

During the seven-month peak season, which is typically from April through October, the workers report toiling 68 to 71 hours a week, including 28 to 31 hours of forced overtime. This exceeds China's legal limit on permissible overtime by 237 to 273 percent! Under this schedule, workers are at the factory 74 to 77 hours a week.

**Typical Peak Season Shift**
**Monday through Saturday**

| | | | | |
|---|---|---|---|---|
| 7:30 a.m. | to | 12:30 p.m. | Work: | 5 hours |
| 12:30 p.m. | to | 1:30 p.m. | Lunch: | 1 hour |
| 1:30 p.m. | to | 7:30 p.m. | Work: | 6 hours |
| | or | 8:30 p.m. | | or 7 hours |
| | or | 9:30 p.m. | | or 8 hours |
| | or | 10:30 p.m. | | or 9 hours |

Even during the slow season, the workers typically work at least a 12-hour shift, Monday through Friday, and a nine-hour shift on Saturday.

## All overtime is strictly mandatory.

Workers missing overtime will have their entire day's wages docked.

If for whatever reason, no matter how serious, a worker cannot remain for overtime after their regular eight-hour shift, management punishes the offending worker by marking him or her absent for the entire day. Not only will he or she be docked the eight hours, their attendance bonus could also be cut.

Of course the official, written policy is that workers can occasionally apply for permission to skip overtime. But such requests are rarely, if ever, approved. The official overtime policy is just for show. The obligatory and excessive overtime hours routinely demanded at VTech are illegal. But this means nothing to management.

## Below Subsistence Level Wages

**$1.09 an hour base wage is below subsistence levels, forcing workers to rely on grueling overtime hours in order to barely survive.**

In January 2012, the legal minimum wage in Dongguan City was raised to 1,200 RMB ($189.59) a month, which amounts to an hourly wage of $1.09. This was a nominal nine percent wage increase, from the $1.00 an hour wages set by the government in 2011. However, the workers refer to the wage increase as a "wash," with rising food prices — especially vegetables and grains — wiping out any gains.

Minimum Wage as of January 2012
(1,200 RMB at $1.00 = 6.2398 RMB)

$1.09 per hour
$8.75 per day (8 hours)
$43.75 a week (40 hours)
$185.59 a month
$2,274.88 a year

In fact, the current minimum wage leaves workers trapped living in primitive dorms, eight workers to a room, forced to subsist on coarse and sometimes rotten food supplied by the company cafeteria. Moreover, the workers could not survive without the grueling and excessive overtime hours, which are also obligatory.

Workers who are still desperate to increase their base wage can volunteer to accept more dangerous work positions, such as handling potentially harmful thinners, which are used to clean the circuit boards. Workers taking these "position stipends" can earn an additional 100 RMB per month to

their wages — which amounts to $15.80 a month, $3.65 a week and nine cents an hour. Many workers have no choice but to risk their health to earn an extra nine cents an hour.

In the same vein, workers can also volunteer for a "night shift" stipend — working all night — which will add 80 RMB ($12.64) a month, $2.92 a week, or seven cents an hour to their wages.

But it is only the long, seven-month peak season, with its grueling mandatory overtime hours, that allows the workers to barely survive. In the peak season, workers can earn up to 1,800 RMB ($284.37) a month, or $65.62 a week.

## "I'm Afraid I'll Never Make a Decent Living in My Life"

This is what a young couple working at VTech told us:

> *"**Now we haven't had kids. If we do, our lives will be miserable.** Although the minimum wage increases every year, it definitely does not catch up with the increase in the cost of living. Factories in Guangdong seem to always pay workers according to the minimum wage. We can only maintain a minimum basic standard of living. You [researchers] talk about a decent wage. **I'm afraid I'll never make a decent living in my life!**"*

This couple are hardly slackers. They work all the grueling overtime hours, year round, both in the peak and "slow" seasons. It is common for them to work 68 to 71 hours a week. They skimp on everything, including living in a tiny box of an apartment. Their possessions amount to almost zero. They do not drink, smoke or even go out once a month to eat a cheap meal at McDonald's. All this couple wants to do is to save enough money to get married. And even if they can raise the money to marry, they still will not be able to afford a child.

The couple ran through some of their most basic monthly expenses:

| | |
|---|---|
| Rent | $ 47.37 |
| Water and electricity | $ 15.79 |
| Food | $ 134.20 |
| Daily supplies | $ 9.47 |
| (toothpaste, soap, laundry soap, toilet paper etc) | |
| Clothing and bedding | $ 27.63 |
| Support for both their parents | $ 157.90 |
| (Both sets of parents live in the countryside.) | |
| SUBTOTAL | $ 392.36 a month |

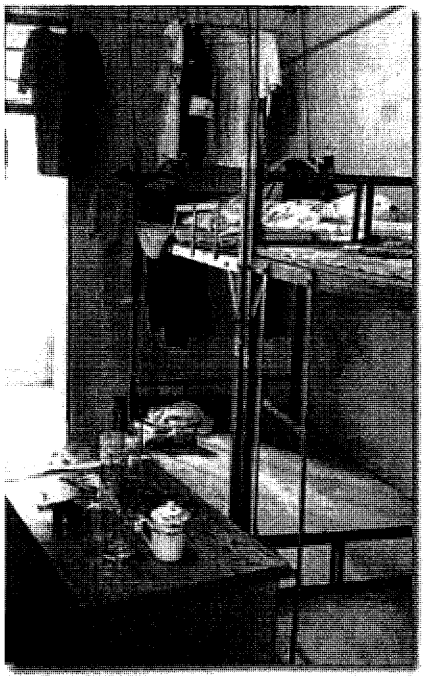
At the very best, including all overtime, their earnings are $257.91 each per month and $515.82 together. After taking out their most basic expenses, **they are left with just $123.46 per month.** As mentioned, they are trying to save money in order to marry. And there are dozens of other expenses, such as purchasing train tickets to go home to their villages for the New Year and buying simple gifts for their parents and relatives.

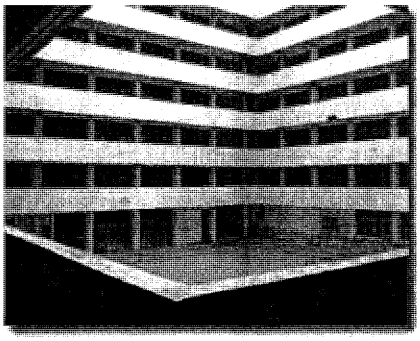
Despite the grueling hours, VTech's wages leave its workers trapped in poverty, eking out a hand-to-mouth existence while living in primitive conditions.

### Workers at VTech Describe Their Daily Lives as Dull, Monotonous and Meaningless

This is how workers describe their lives: "three points and a line." They explain, "Day in and day out we do exactly the same routine. We wake up in the dorm, go to the workshop to work all day, eat at the cafeteria, and go back to sleep in the dorm. All these activities have a center — the production line. The "three points" are the dormitory, the workshop, and the cafeteria. The "line" is the production line."
Working on the assembly line consumes most of the workers' lives, day in and day out.

- Workers lack time for rest, entertainment, and developing their lives.
- Even on their one day off, they do not have spare money to go out to enjoy themselves. They cannot relax in a café or even a McDonald's.
- For most workers, on their day off they catch up on sleep in the dorm or go window shopping in some low-end markets to relax.
- Although there is a TV room in the factory compound, workers say they do not feel at home there. "Watching TV in a TV room is very different from doing so at home."





## Primitive Dorms

"It's filthy, like living in a pigsty," is the way the workers described their dorms. Eight workers share each dorm room of roughly 13 ½ by 16 ½ feet, sleeping on narrow plywood bunk beds without mattresses. There is just one light bulb in each room and a few very small cabinets for storage. There is no air conditioning in the dorms; just two fans. During the long scorching and humid summer in Dongguan, the fans provide no relief, leaving the workers drenched in their own sweat. Even as they sleep, they are sweating. There are no curtains on the windows, which is a real hardship for the night shift workers, who have to try to sleep during the day in the burning sunlight.

Even washing off the sweat is an ordeal. It is not like the workers can go into a private shower to wash. There are no showers. Rather there is a hot water outlet on each floor with three spigots. To bathe, the workers fill small plastic buckets with hot water which they take to their dorm rooms. Each dorm room has a small bathroom where the workers can take a sponge bath one at a time. The women have to queue up and wait for their turn.

As it is late in the evening when the day shift workers return exhausted from the factory, the men choose to bypass the bathrooms and wash in the dorm room, keeping their shorts on, which is something the women cannot do.

Even with the sponge baths, the workers commented that in the dorm: "you can't escape the constant smell of foot odor all the time."

## VTech Runs Like a Minimum Security Prison
## Dormitory Management Regulations, Rules, Warnings, and Punishments

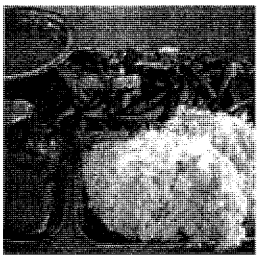
- "Employees shall adhere to room and bed assignment by dormitory management."
  (Note: Divide and Isolate: It is typical for management to separate migrant workers who are from the same villages. This way they have few trusted friends, are isolated, and are unlikely to join together to challenge factory and dorm abuses. The vast majority of workers at VTech are migrant workers from rural provinces.)
- Dorm leaders monitor workers and must act immediately to inform management of "illegal behaviors," such as "spitting from a balcony or a hallway."
- Workers must "maintain public peace and order and cooperate with dorm management and managers' rounds."
- "When carrying bags or personal items out of the factory compound, Level 0 employees should go through bag check at the dormitory duty room and claim a bag pass."
- In response to violations, dorm management will "submit an **Employee Criminal Record** according to the **Employee Handbook**, and report this infraction to the pertinent authority. **An Employee Criminal Record is valid with a signature of a third party even if the party involved does not sign.**"
- "Stay in line for hot water. Do not wash clothes or hair at hot water spigots."
  (Note: There are no showers at the VTech dorms. To wash, workers must use a small plastic bucket to fetch water from a spigot, carrying it to their dorms and waiting in line to take a sponge bath.)
- Workers receive warnings for:
  - "Failure to obey bag check."
  - "Entering or leaving the dormitory through illegal paths."
  - "Placing plants on a balcony or hallway."
  - "Washing baskets, hair or clothes at hot water spigots."
  - "Failure to maintain public order in the dormitory."
  - "Air-drying clothing at windows or handrails in a hallway (except on holidays)."
- Workers will be punished with demerit points for:
  - "Tossing articles high into the air."
  - "Vexatious conduct, drinking and arguing."

# The Factory Cafeteria

"The food is awful," the workers told our researchers, and "the rice is rough and yellow." Workers are afraid they are not being provided even the most basic nutrition.

Pictures smuggled out of the cafeteria show that the **potatoes they are served are rotten and black.**

Each month, the workers spend from 240 to 360 RMB for cafeteria food, which is $37.97 to $56.96, or an average of $47.47, which amounts to $1.56 a day. It does not sound like a lot of money, but food takes up 25 percent of the workers' regular wages.



# Social Security in China

## VTech Scams the Social Security System, Robbing the Workers of $7.4 to $12.3 Million Dollars a Year

## And We Are Speaking about Just the Three Vtech Factories in Dongguan City

China's law regarding social security is very clear. Article 70 of the country' Labor Law guarantees social security benefits to Chinese workers.

"**The country has developed a social security system which establishes a social security fund in order that workers receive assistance and compensation when they are old, sick, injured, pregnant, or unemployed.**" (Article 70 of China's Labor Law)

Under China's social security system there are five insurances and one stipend. The stipend refers to the Housing Fund, which amounts to from five to 20 percent of the average salary earned by a worker in the previous year. (VTech should be paying $1.5 to 5.8 million dollars per factory, per year to the **Housing Fund** for the workers.) The five insurances covered by social security are: retirement pension, unemployment compensation, work injury insurance, medical insurance, and maternity insurance.

In the case of VTech, like any other company, management is legally responsible for paying an amount equal to **16.8 percent** of wage in social security benefits, based on the average yearly wages of its workers.

It is very straightforward. The average yearly wage per worker at VTech's three factories in Dongguan City is $2,938.37. As there are approximately **10,000 workers** in each factory, the average yearly wage — including overtime and stipends — per plant would total **$29,383,700**. By law, Vtech management must pay social security benefits of 16.8 percent of the total average yearly wages of each plant.

But it appears clear that VTech makes up its own rules. It is common for VTech management to wait at least six months, and even up to ten months, before inscribing its workers into the social security system.

**For example, if VTech fails to inscribe 10,000 workers in each plant for six months of mandatory social security benefits, VTech management could possibility be pocketing $2,468,231 per plant, and $7,404,693 for the three Dongguan Vtech factories. If they shortchange the workers of 10 months of mandatory social security benefits, then VTech management could be pocketing $4,113,554 per plant and $12,340,662 for the three plants in Dongguan City.**

Dongguan City Social Insurance

| | Employer Responsibility | Individual Responsibility |
|---|---|---|
| Company retirement pension | 10% | 8% |
| Local retirement pension | 3% | |
| Work injury insurance | 1% | |
| Medical insurance | 2% | |
| Physician visit insurance | 0.3% | 0.5% |
| Unemployment compensation insurance | 0.5% | 0.5% |
| **Total** | 16.8% | 9% |

Thirty thousand VTech workers in Dongguan City are being robbed, big time.

Moreover, conditions are so miserable at the VTech plants that an estimated 80 percent of its workers try to flee the factories each year, which means the workers will not be staying around to collect their social security benefits.

**In fact, a brave VTech worker filed a complaint against the VTech Company at the Social Insurance Agency because Vtech management was not paying the social insurances for workers as required by law.**

The worker asked that VTech management be obligated to pay the social security benefits and insurance for the workers.

However, a staffer at the Social Insurance Agency lied to the worker, claiming that the social security agency has no mandate to require employers to pay the social insurances. One can only imagine how much money VTech paid to the staffer at the Social Insurance Agency so that the scam could continue full steam ahead.

## It Is Common Across China That Workers Are Cheated of the Social Security Benefits Legally Due Them.

- Companies often make contributions to social insurance, but only for management and executives and not the workers.
- Regarding the social security insurances and benefits, management is responsible to pay 16.8 percent of the benefits, while workers must pay 9 percent, and since the workers' wages are already below subsistence levels, management has a strong hand to encourage workers not to be part of the social security system. In doing so the workers can save nine percent of their wages, which they can pocket rather paying into social security. It is illegal, but some factories allow its workers to apply for a "waiver of social security benefits."
- Other social security scams involve paying social security premiums based just on the workers' minimum wage and not including the very considerable overtime pay.
- Some companies attempt to pay just the work injury insurance, which is one percent, and skip the rest of the legal social security benefits.
- It also appears that a majority of factories do not contribute to the Housing Fund for production line workers, although they do so for management staff.

**There must be a thorough investigation into VTech's practices, given the company's evident failure to uphold its legal responsibility to its workers to pay into the government's social security system.**

# It is easy to get a job at VTech, but almost impossible to get out.

Workers can quit. But in doing so they will forfeit a full month's back wages, including all overtime, which management illegally withholds.

Still, conditions are so crude and nasty at VTech that 80 percent of the workers flee each year, running away even though they will lose their wages. It is a profitable scam for VTech. Working at least 68 hours each week including overtime, the workers can earn $284.36 a month. Let's do the math. At the extreme, suppose 80 percent of the workers flee and in the process each lose $284.36 in back wages due them. As there are 10,000 workers each in VTech's three Dongguan plants, this means 8,000 fleeing workers, each losing $284.36, for a subtotal of **$2,274,880**. For the three factories, the total would be **$6,824,640**. Not a bad chunk of change for very little work, other than illegally withholding the workers' wages.

Let's get conservative. As a low estimate say that just 40 percent of the workers flee each year, losing their $284.36 in wages withheld. This means that 4,000 workers in each plant are robbed of $284.36, or **$1,137,440** and **$3,412,320** in all three VTech plants.

Of course, this is all illegal, but what does VTech care? How often have you seen the Chinese government or the phony All China Trade Union Federation stand up to protect China's workers? Never.

### VTech in China Is Very Much Like Hotel California
### "You can check out any time you like but you can never leave!"

Welcome to the Hotel California
Such a lovely place (Such a lovely place)
Such a lovely face
Plenty of room at the Hotel California
Any time of year (Any time of year)
You can find it here
Last thing I remember, I was
Running for the door
I had to find the passage back
To the place I was before
"Relax, " said the night man,
"We are programmed to receive.
You can check-out any time you like,
But you can never leave!

("Hotel California" by Eagles)

## Crude and Nasty Treatment Is the Norm at VTech

Managers on the production lines take every opportunity to hurl insults and abuse at the workers. For example, if a worker does not look alive and thrilled to be working at VTech, the insults will follow. Every day you can hear supervisors shouting:

> "If you can't take it [the work], you can leave!"
>
> "If you're not happy, then get the hell out!"

So many workers flee the abusive sweatshop conditions at VTech that we were astonished when the workers told us that after just two days of training, newly hired workers are considered "experienced" workers. So many workers flee VTech that after just one month, a worker is classified as a "senior" worker, who can start training the new workers.

Once workers experience the furious production goals, the mind-numbing monotony, along with being forced to stand all day long while being shouted at — the vast majority of workers want to quit and leave as soon as they can.

By now, even in China, workers have the right to quit.

The regulations on wage payment in Guangdong Province stipulate that **workers must be paid once a month without delay.** Moreover, the Labor Contract

Law stipulates that employees need to provide **a 30-day notice to quit and terminate their contract**. However--and VTech is not alone in this—factory managers blatantly and illegally withhold one month's wages from the workers. For example, the workers' wages for May will not be paid until June 30!

When workers ask to leave the company, management tells them that they cannot, certainly not now when there is so much work that has to be done in time. If a worker insists on leaving, they can voluntarily quit and forfeit one month's full wages.

**In April 2011, one female worker at VTech who was forced to work month after month as management refused to approve her resignation was so desperate that she set fire to a pile of inflammable materials, threatening to set fire to the whole workshop. This finally got management's attention.** They were frightened she would burn the workshop down, so they fired her, while paying all of her back wages.

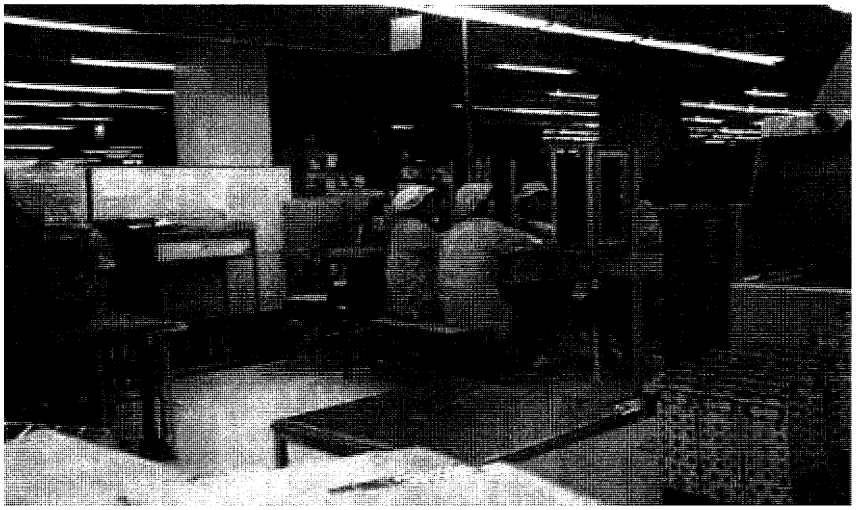
Another VTech worker explained:

> ***"Entering this lion's den is like becoming a shackled piece of livestock. Our wages are being withheld, so even when we want to leave, we can't. We have no choice but to continue on in bondage to the company. So the management can be unscrupulously rude to workers without any concerns that workers might leave."***

The workers are stuck with a grim choice. They can either quit and give up their full month's wages or they can continue to work at VTech, hoping that in some fit of beneficence management will allow them to leave with their back wages.

### Workers in China Have No Way of Knowing Whether Factories Are Good or Bad

The company hires a lot of people every day. Lacking information, workers usually blindly look for jobs. There is no solid source of information, for the workers to find out which factories are good and which are bad. That is why, as appalling as these factories are, they have no trouble hiring workers.



# Phony Code of Conduct
# Nothing More Than a PR Scam

## What VTech says....

VTech's Corporate Social Responsibility
(Excerpts from VTech Holdings Ltd Annual Report 2011)

## Is not what VTech does!

VTech workers speak out
***"This place isn't fit for human beings."***

"VTech cares for its employees and recognizes that harmonious staff relations and a committed workforce are vital to the success of the group."

**Employees**

**"What shit! Serious bullshit. This place isn't fit for human beings. It's tragic. So many people have died.** There are deaths every year! Two more died last week! The goddamn managers aren't human."

"VTech strives to create a supportive, enjoyable workplace and treats employees with respect. We put emphasis on people-oriented management to ensure harmonious staff relations across the groups, especially in our manufacturing facilities in China."

**Workplace**

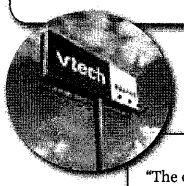
**"At VTech, the managers are worse than animals. I'm not kidding. If you make a little mistake, they really tear into you.** They have no character at all. Is this all the managers know how to do?"

"The middle management at VTech is worse than human scum. I hate working in this kind of environment, so I am getting ready to quit. The pressure there is so high, even for regular workers. Listen to me everybody: Don't work here!"

## Personal Development

"We value our employees and believe it is crucial to enable them to utilize their potential at work fully. We encourage personal growth by providing training programmes tailored to different needs. Sponsorship is made available for external training programmes."

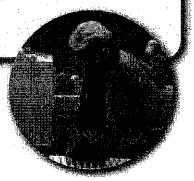
"The people who become managers at VTech are all garbage. None of them have any character or sense of personal cultivation. The workers are just their punching bags. When the managers aren't happy, they can be hard to take. **If things continue to go on like this, there will be more jumpers."**




## Code of Conduct

"The company has a code of conduct which employees are required to abide by and a whistle blower policy to facilitate the raising of concerns by employees."

"I heard other workers tell me that there was someone else who jumped off the roof before this guy. The thing was, this other guy wasn't killed by the jump."



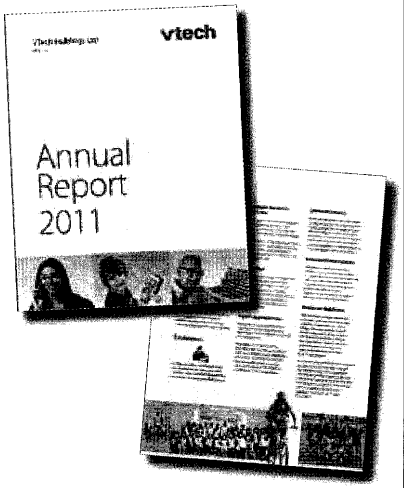
## Communications

"We value internal communications and encourage employees to voice their opinions. We maintain open communications with employees at all levels, through channels such as the website, internal newsletters, meetings and informal gatherings to communicate plans and policies."

"I have been at VTech for four years, and each year there have been one or two people the managers have hounded to death. I've seen so many of them [jumpers], it isn't news to me anymore!"

## Employee relations

"We organize recreational events to foster a better team spirit and promote life balance."




"It's not as if these suicides at VTech are a two or three-time occurrence. Management should really reflect on what is happening here. After all, this is human life we are talking about. To impress the leadership of the company, some of the middle managers at VTech have turned the lower level managers into rabid dogs! The low-level workers have naturally become their sacrificial lambs. It doesn't matter whether or not this boy jumped because a manager yelled at him. Somebody died out there. People in this company exploit those working underneath them to make themselves look better. Shouldn't they take responsibility? When news of this accident begins to spread around the internet, do you think it will help or hurt the company? When the company boss learns that this accident happened because there was a problem with his high-level management, what will he do?"

(Just a month into his job at VTech, a 20-year-old male worker leapt to his death off the sixth floor of his dorm after being constantly abused and humiliated by his supervisor. This happened in September 2009. Scores of VTech workers have expressed their anger and dissatisfaction with management online.)

# Workers Handle a Lot of Thinners

"So many people faint... The ventilation is bad. So many poisonous and harmful chemicals... I passed out once. The management is damned awful."

-VTech Worker, June 2011

Workers at VTech handle a lot of thinners, especially when they are cleaning circuit boards and other hardware. Workers in the cleaning department often report developing skin allergies, feeling dizzy and feeling sick to their stomachs.

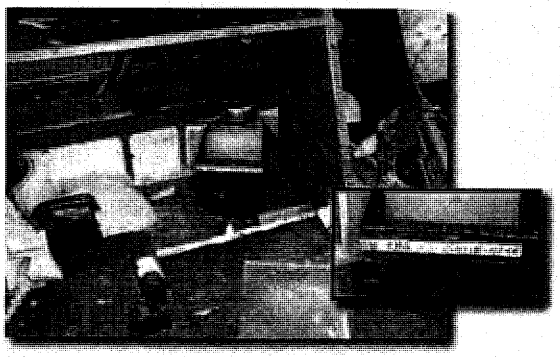
The workers have no knowledge as to whether or not they are handling potentially toxic thinners that could harm them.

Workers are kept in the dark. For example, one woman worker at the VTT Sort Department reported she was often dizzy and sometimes threw up at work. Not trusting management, she resigned, afraid for her health.

According to the workers, at VTech there has never been any education or discussion regarding potential hazards at work and how to prevent exposure to toxic chemicals.

**Workers Have the Right to Know**
**Potentially Harmful Thinners Can Affect VTech Workers**

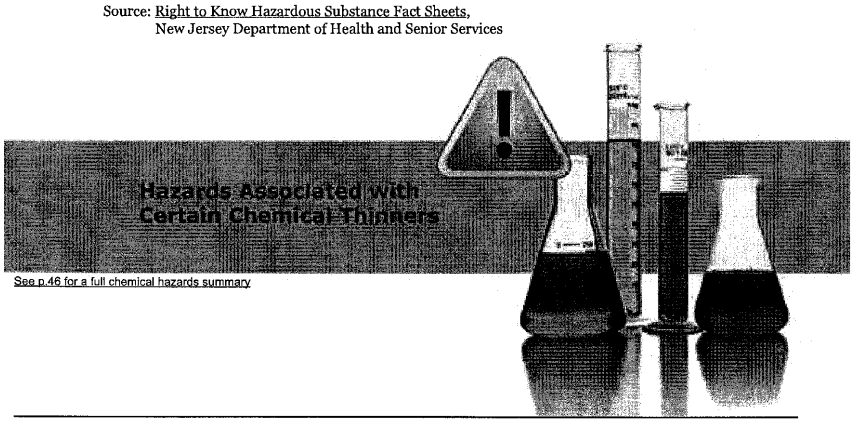
AT&T, Motorola, Phillips, Telstra (Australia), and Deutsche Telekom (Germany) must do a better job monitoring both health and safety and worker rights conditions at VTech.



A photo smuggled out of the VTech Dongguan Liaobu factory shows a bottle of thinner, which the workers use to clean circuit boards and other hardware. The white label reads: Name: Thinner / P/N:15-000/85-000-000." Clearly the workers have no idea if they are handling harmful thinners.

| | |
|---|---|
| Benzene | Benzene is a carcinogen and mutagen. Handle with extreme caution. |
| Toluene | Toluene may affect the nervous system causing headache, dizziness, and passing out. Repeated exposure may cause liver, kidney and brain damage. |
| Ethyl acetate | Long term exposure can affect the liver and kidneys. |
| Butyl acetate | Butyl acetate may affect the nervous system. |
| N-Butanol alcohol | Can damage the liver, kidneys, hearing and sense of balance. |
| Acetone | Exposure to high concentrations can cause headache, nausea and vomiting, dizziness, light headedness and even passing out. |
| Isoamyl Acetate | Exposure to high concentrations of isoamyl acetate can cause headache, drowsiness, dizziness, light headedness, fatigue and may cause you to pass out. Prolonged or repeated contact can cause drying and cracking of the skin. |
| Xylene | Repeated exposure to Xylene can cause poor memory, difficulty in concentrating and other brain effects. It can also cause damage to the surface of the eye, and even death. |
| Methyl Isobutyl | Breathing the vapors can cause headache, loss of appetite, nausea, vomiting and diarrhea. |

Source: Right to Know Hazardous Substance Fact Sheets,
New Jersey Department of Health and Senior Services




See p.46 for a full chemical hazards summary

A hiring poster at the gate of one VTech factory in Dongguan.

# New Labor Contract Law in China: Dead on Arrival

With considerable fanfare, a new labor contract law was passed in China, on January 1, 2008, which supposedly guarantees workers and management equal rights in negotiating a contract. Both parties are to recognize "the principle of equality" and accept that "voluntary and mutual consent should be respected" when signing a labor contract. (Article 3) In theory it sounds good, but in practice it is just a lot of bunk. In reality, there is absolutely no involvement of the workers in any equal negotiation of the labor contracts they are forced to sign.

VTech management provides two copies of the labor contract, and workers just sign their names and write down the date. Factory management then takes back both copies, fills in the blanks and then gives the workers a copy.

Nothing has changed in China. The workers have no voice or input into "their" labor contracts.

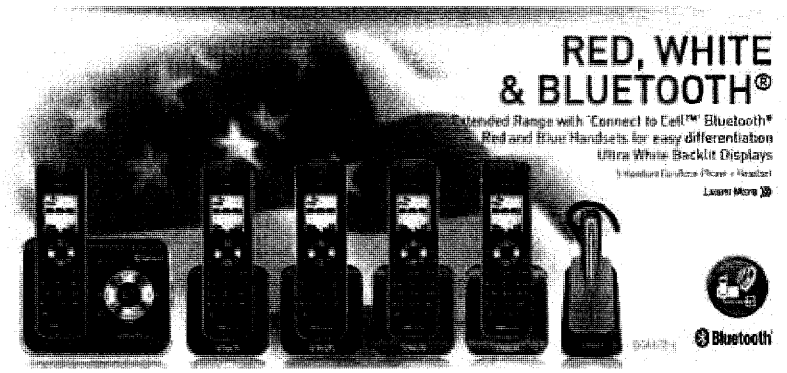
**VTech's Workers Have Nowhere to Turn for Help.**
**The All China Federation of Trade Unions does not function as a real union.**

There is a "union" at the VTech factory. But that "union" has never concerned itself with workers' wages, the working environment, the heavy workloads and excessive production goals or — for that matter — any issues relevant to worker rights and benefits.

It is a union in name only. In a factory of 10,000 workers, only a handful had even heard there was a union at their factory. The union has never reached out to the workers. The workers have no way to even communicate their grievances to factory management. So of course their problems are never addressed or solved. VTech management claims to have a "communications platform," but the workers describe it as useless.

And of course management has made certain that the workers will never have a way to communicate directly with the factory buyers in North America, Europe or Australia.

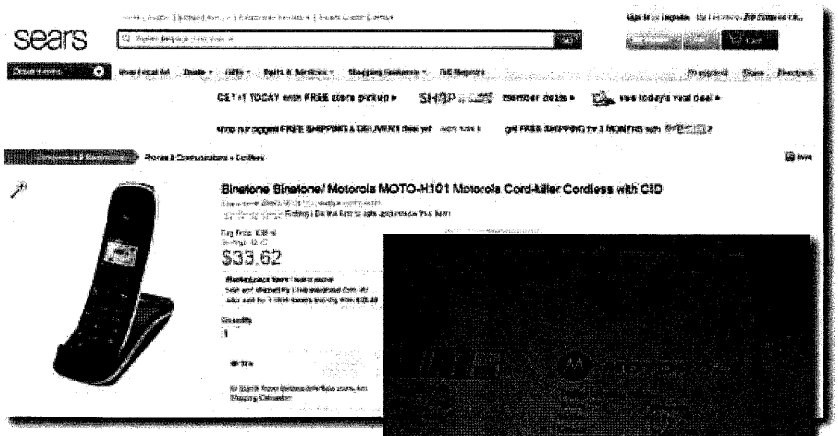
Shipping documents show VTech "Red, White and Blue" cordless phones made in Chinese sweatshop.

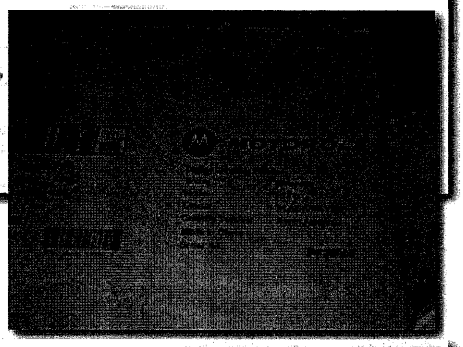



| Import Bill of Lading Details | | | |
|---|---|---|---|
| Shipper: | VTech Telecommunications Ltd.<br>23 F Tai Ping Industrial Centre<br>Block 1 57 Ting Kok Road Tai Po N.T<br>Hong Kong | Consignee: | VTech Technologies Canada Ltd.<br>12111 Jacobson Way<br>Richmond, B.C.,<br>Canada V6W 1L5, |
| Country of Origin: | People's Republic of China | Arrival Date: | 05/28/2012 |
| Port of Departure: | YANTIAN | Estimated Value: | #312,554.98 |
| Port of Arrival: | VANCOUVER BC | | |

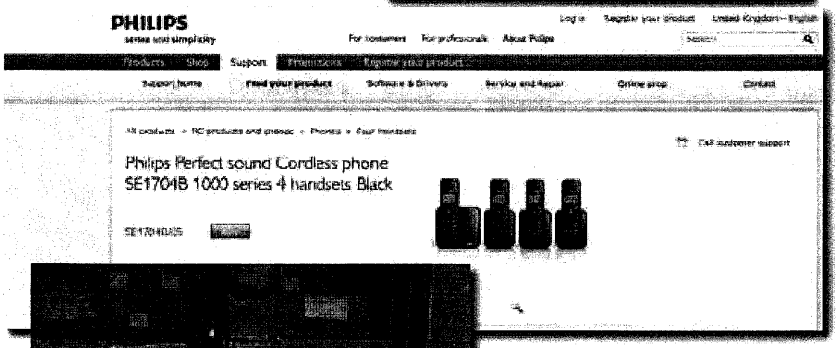
Commodity Description:

CORDLESS TELEPHONE 80 7959 01 05 AT SB67138 1.9G DECT US 4LCCXI CRD MK1 BDD GB CHGY CA QTY 300PCS INVOICE H S 8517110090 80 8345 00 05 VT DS6472 6 1.9G DECT DCX CI BT MK1 6H CLUB GB GM CA QTY 1000PCS INVOICE H S 8517110090 80 8260 01 05 AT CL83401 1.9G DECT DCX CCXI QT GB CA QTY 600PCS INVOICE H S 8517110090 80 8494 02 05 AT CL84202 1.9G DECT DCX CCXI CRD TRD GB SV CA QTY 2000PCS INVOICE H S 8517110090 80 8616 90 05 VT CS6629 4 1.9G DECT US CI HSDE56 QT BB SV CA QTY 76PCS INVOICE H S 8517110090



Photographs smuggled out of the VTech factory show "**Motorola H-101 Cordless" phones** being made under sweatshop conditions in China and exported to North America. The exact model Motorola phone made in China retails at Sears for **$33.62**.



This photograph shows shipping boxes filled with "Philips Perfect sound Cordless phone SE170 1000 series," which were made at the VTech sweatshop in China and exported to the United Kingdom.

# Addenda

## A. Company Information

**Headquarter – Hong Kong**

VTech Holdings Limited
23/F, Tai Ping Industrial Centre, Block 1
57 Ting Kok Road
Tai Po, New Territories
Hong Kong
Tel: +852 2680 1000
Fax: +852 2680 1300
corporate_mail@vtech.com

Annual revenue: $1.784 billion (FY2012)
CEO: Allan Wong Chi Yun
(Total Annual Compensation: $2.7 M)

**U.S. Offices**

VTech Has Four Offices in the United States in Illinois, Massachusetts and Oregon

Regional Office – Telecommunication Products
(VTech Branded Phones)
VTech Communications, Inc.
9590 S.W. Gemini Drive, Suite 120
Beaverton, OR 97008
United States
Tel: +1 503 596 1200
Fax: +1 503 644 9887

Regional Office – Electronic Learning Products
VTech Electronics North America, L.L.C.
1155 W. Dundee, Suite 130
Arlington Heights, IL 60004-1454
United States
Tel: +1 847 400 3600
Fax: +1 847 400 3601
www.vtechkids.com
vtechkids@vtechkids.com

Liaison Office – Telecommunication Products
(Original Design manufacturing)
MarketLink One Inc.
1243 Redfield Road
Naperville, IL 60563
United States
Tel: +1 630 416 1105
Fax: +1 630 416 9631

Liaison Office – Contract Manufacturing Services
VTech Telecom, L.L.C.
545 Concord Avenue, Suite 14
Cambridge, MA 02138
United States
Tel: +1 617 576 3300
Fax: +1 617 576 7753
www.vtechcms.com

AT&T Inc.
208 S. Akard St.
Dallas, TX 75202
United States
Tel: +1 210-821-4105

Annual revenue: $126.723 billion
(Ending Dec. 2011)
CEO: Randall L. Stephenson
Total annual compensation: $1.6M

Motorola Mobility Holdings Inc.
600 North U.S. Highway 45
Libertyville, Illinois 60048 USA
Tel: +1 847 523 5000
responsibility@motorola.com

Annual revenue: $13.064 billion
CEO: Dennis Woodside
Total annual compensation: $1.6M

SONY

**Headquarter – Japan**

Sony Corp
1-7-1 Konan, Minato-ku
Tokyo, Japan

Annual revenue: ¥5,526 billion (USD $69.59 billion)
(Ending March 2012)
CEO: Kazuo Hirai
Total annual compensation ¥101.0M (USD $1.27 M)

**U.S. Office**

Sony Corporation of America
550 Madison Avenue,
New York, NY 10022
Tel: +1 212-833-6800

Chairman: Howard Stringer

PHILIPS

**Headquarter – Netherlands**

Royal Philips Electronics
Amstelplein 2
Breitner Center
Amsterdam, 1096 BC
Netherlands - Map
Tel: 31 20 597 7777
Fax: 31 20 597 7070
philips.sustainability@philips.com

Annual revenue: $22.579 billion (2011 Annual Report)
CEO: Fran Adrianus van Houten
Total annual compensation $1.9 M

IT'S HOW WE CONNECT

Telstra Corporation Limited
Office of the CEO
Locked Bag 5639
Melbourne VIC 3001
Australia

Annual revenue: AUD $24.983 billion
(USD$ 24.733 billion)
(Ending June 2011)
CEO: David I. Thodey

Deutsche Telekom

Deutsche Telekom AG
Friedrich-Ebert-Allee 140
53113 Bonn, Germany

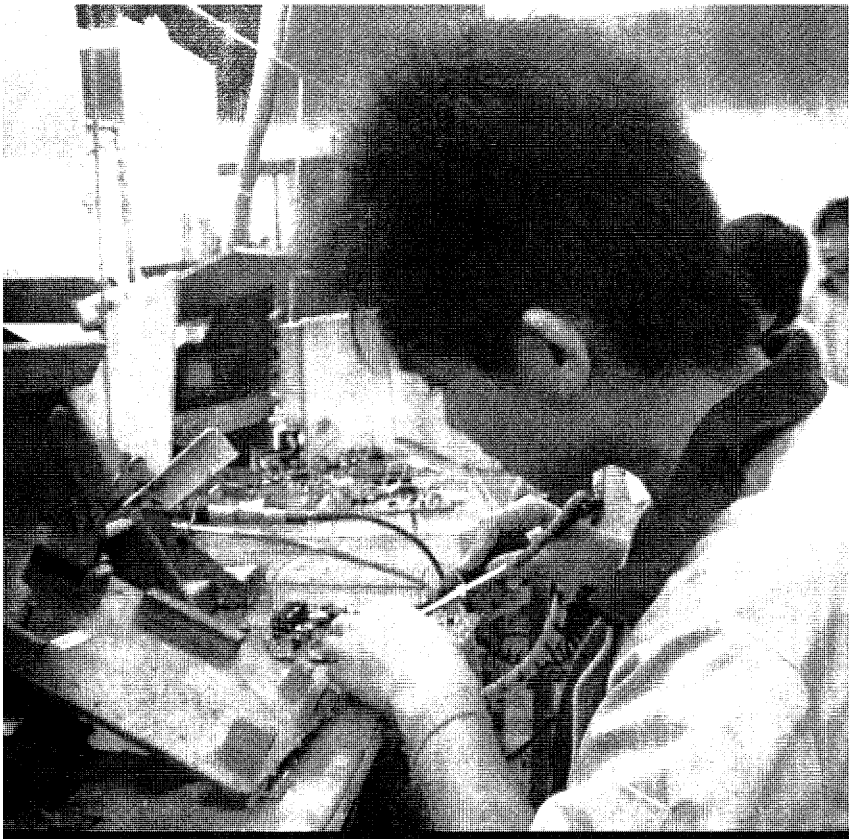
Annual revenues: € 58.7 billion (USD $73.5 billion)
Chairman: René Oberman

## B. Hazards Associated with Certain Chemical Thinners

| Chemical | Molecular Formula | Hazard Summary |
|---|---|---|
| Isoamyl acetate | $C_7H_{14}O_2$ | • Contact can irritate the skin and eyes.<br>• Breathing can irritate the nose, throat and lungs.<br>• Exposure to high concentrations of isoamyl acetate can cause headache drowsiness, dizziness, lightheadedness, fatigue, and may cause you to pass out. Prolonged or repeated contact can cause drying and cracking of the skin.<br>• Isoamyl acetate is a flammable liquid and a fire hazard. |
| Butyl acetate or n-Butyl acetate | $C_6H_{12}O_2$ | • n-Butyl acetate can affect you by ingestion and may be absorbed through the skin.<br>• Contact can severely irritate and burn the skin and eyes.<br>• Prolonged or repeated contact can cause a skin rash, dryness and redness.<br>• Inhaling Butyl acetate can irritate the nose, throat and lungs.<br>• Exposure can cause headache, dizziness, lightheadedness and passing out.<br>• Butyl acetate may affect the nervous system.<br>• Butyl acetate is a flammable liquid and a dangerous fire hazard. |
| Ethyl acetate | $C_4H_8O_2$ | • Ethyl Acetate can affect you when breathed in and by passing through your skin.<br>• Ethyl Acetate can irritate the skin, eyes and throat.<br>• Exposure to high levels can cause you to feel dizzy, lightheaded and to pass out.<br>• Repeated contact can cause drying and cracking of the skin.<br>• Long-term exposure can affect the liver and kidneys.<br>• Ethyl Acetate is a flammable liquid and a fire hazard. |
| n-Butanol or n-butyl alcohol or normal butanol | $C_4H_{10}O$ | • n-Butyl Alcohol can affect you when breathed in and by passing through your skin.<br>• n-Butyl Alcohol can irritate and burn the skin.<br>• n-Butyl Alcohol can irritate and burn the eyes with possible eye damage.<br>• Inhaling n-Butyl Alcohol can irritate the nose, throat and lungs.<br>• Exposure to n-Butyl Alcohol can cause headache, dizziness, nausea and vomiting.<br>• n-Butyl Alcohol can damage the liver, kidneys, hearing, and sense of balance.<br>• Ethyl Acetate is a flammable liquid and a dangerous fire hazard. |

| Chemical | Molecular Formula | Hazard Summary |
|---|---|---|
| Acetone | $C_3H_6O$ | • Acetone can affect you when inhaled and may be absorbed through the skin.<br>• Acetone can cause skin irritation. Prolonged or repeated exposure can cause drying and cracking of the skin with redness.<br>• Exposure can irritate the eyes, nose and throat.<br>• Exposure to high concentrations can cause headache, nausea and vomiting, dizziness, lightheadedness and even passing out.<br>• Acetone may affect the kidneys and liver.<br>• Acetone is a flammable liquid and a dangerous fire hazard. |
| Toluene | $C_7H_8$ ($C_6H_5CH_3$) | • Toluene can affect you when inhaled and by passing through the skin.<br>• Toluene should be handled as a teratogen—with extreme caution.<br>• Toluene may damage the developing fetus.<br>• Contact can irritate the skin and eyes.<br>• Inhaling Toluene can irritate the nose and throat.<br>• Toluene may affect the nervous system causing headache, dizziness and passing out.<br>• Repeated exposure may cause liver, kidney and brain damage.<br>• Toluene is flammable liquid and a dangerous fire hazard. |
| Xylene | $C_8H_{10}$, $C_6H_4(CH_3)_2$ or $C_6H_4C_2H_6$ | • Xylenes can affect you when breathed in and by passing though your skin.<br>• Contact can irritate the skin and eyes.<br>• Breathing Xylenes can irritate the nose and throat causing cough and difficulty in breathing.<br>• Xylenes can cause headache, nausea and vomiting. High levels can cause dizziness, lightheadedness, passing out and even death.<br>• Prolonged contact with Xylenes can cause dryness and cracking of the skin.<br>• Repeated exposure to Xylenes can cause poor memory, difficulty in concentrating, and other brain effects. It can also cause damage to the surface of the eye.<br>• Xylenes may damage the liver and kidneys.<br>• Xylenes are flammable liquids and fire hazards. |
| Benzene | $C_6H_6$ | • Benzene can affect you when inhaled and by passing thought the skin.<br>• Benzene is a carcinogen and mutagen. Handle with extreme caution.<br>• Benzene can irritate the skin and eyes with drying and scaling of the skin.<br>• Inhaling Benzene can irritate the nose and throat.<br>• Benzene can cause headache, dizziness, nausea and vomiting. Convulsions and coma, or sudden death from irregular heartbeat, may follow high exposure.<br>• Repeated exposure can cause damage to the blood cells (aplastic anemia).<br>• Benzene is a flammable liquid and a dangerous fire hazard. |

Source: Right to Know Hazardous Substance Fact Sheets,
New Jersey Department of Health and Senior Services



Institute for Global Labour and Human Rights
(formerly National Labor Committee)

5 Gateway Center, 6th Floor,
Pittsburgh, PA 15222, U.S.A.
Office +1 412.562.2406 | Fax +1 412.562.2411
inbox@glhr.org | www.globallabourrights.org

Attachment #2

**Institute for Global Labour and Human Rights**

5 Gateway Center, 6th Floor, Pittsburgh, PA 15222, U.S.A.
inbox@glhr.org | www.globallabourrights.org | Office +1 412.562.2406 | Fax +1 412.562.2411
[Formerly National Labor Committee]

## Response

## VTech Is Not "A Responsible and Caring Employer"

**July 12, 2012**

We have watched as VTech has repeatedly claimed to be a ***"responsible and caring employer wherever it operates, and this includes mainland China."*** VTech also claims to ***"abide strictly by the legal requirements relating to employment in all jurisdictions where it operates."*** VTech's stated goal is to emphasize ***"...people-oriented management to ensure harmonious staff relations."*** VTech also touts its ***"excellent human resources management"*** and ***"long track record of good labour relations."*** (VTech. Media Statement. 22 June 2012)

Unfortunately, after another review of VTech's operations, the Institute has once again been unable to find any concrete evidence at all that VTech is a ***"responsible and caring employer."***

We will explain in detail why we have taken this position. As we have stated numerous times, the Institute is more than willing to meet seriously with VTech management at any time.

It seems certain that the corporations sourcing production at VTech — AT&T, Motorola, Philips, Deutsche Telekom, Telstra, Sony and Wal-Mart — must adopt a more proactive, concrete and serious stance if conditions are to measurably improve at the VTech sweatshop.

**1.) Excessive Mandatory Overtime Is a Fact:**

Very little has changed at VTech. Today, VTech workers are still required to put **in 11.6** to **12.1** hour shifts, six or seven days a week. Working six days a week, workers are at the factory **70** hours a week, while those toiling seven days a week are at the factory **85** hours. On top of the regular eight-hour shift, workers are kept for **2.5** to **3** hours of overtime each day. At the low end, a worker toiling 10.5 hours six days a week **will exceed China's legal limit on overtime by 177 percent!**[1]

Many VTech production line workers are currently working seven days a week, putting in at least two Sundays a month on top of the routine six-day workweek.

At the extreme, toiling 11 hours a day, seven days a week, they would be working 77 hours a week, including 37 hours of overtime, ***which would exceed China's legal limit on permissible overtime by 345 percent!***

[1] (10.5 hours x 6 days = 63 hours; 63 – 40 regular hours = 23 OT hours; 23 x 52 weeks = 1,196 hours/year; 1,196 ÷ 12 months = 99.67 OT hours average per month; 99.67 – 36 legal OT hours = 63.66; 63.66 ÷ 36 = 1.77)

**2.) Forced Overtime Is the Rule. But There Is Also Another Incentive to Work Excessive Overtime--VTech's Poverty-level Wages:**

When you are earning a regular base wage of just 1200 RMB per month — which amounts to just $1.09 (USD) an hour — you are making **below subsistence-level wages.** No one can survive—even with the cheapest and most primitive cafeteria and dorm conditions—working just eight hours a day, five days a week for a regular 40-hour workweek.

Workers can only survive by piling on lots of overtime hours. It is not "voluntary." Rather, in real life, it is a necessity.

VTech management can hand out all the "**application for voluntary work**" forms they want, but this does not make the excessive overtime any less illegal. To cover up the obligatory and excessive overtime, VTech management prints tens of thousands of "**Application for Voluntary Overtime Work**" forms, which supervisors distribute to the workers to fill out and sign.

Under China's labor laws — and VTech clearly knows this — **workers are strictly prohibited from working more than 36 hours of overtime on any given month.** This is the law. Moreover, all overtime work must be voluntary, and not forced.

**3.) The "Employee Welfare Committee" is exposed:**

On June 25, 2012, VTech management fired off a statement defending the quality of the food served in its workers' cafeteria.

*"Steamed rice is provided at no additional charge and on an unlimited basis.* ***Employees' Welfare Committees*** *check the food for quality regularly. They also organize workers to monitor the quality of the food in order to achieve continuous improvement."*

This sounds reassuring. However, in recent interviews with a small sample of workers, less than 40 percent had ever heard of any such "Employee Welfare Committee" and those who had heard of it had absolutely no trust in them.

The ***"Employee Welfare Committee [is] a stooge for the company"*** we were told. ***"It always helps to justify the company's practices."***

It is important to now point out that members of the "Employee Welfare Committee" **do not eat in the workers' cafeteria. Instead, they eat in the cafeteria set aside for management.**

One thing is for certain. VTech management would never allow workers to organize an independent body of any sort to monitor the quality of the workers' cafeteria. **VTech does not allow any form of independent organizing.**

**4.) VTech Certainly Appears to Be Violating China's Social Security Laws:**

AT&T, Motorola, Philips, Deutsche Telekom, Telstra, Sony and Wal-Mart should ask VTech management to provide concrete documentation guaranteeing that VTech is in full compliance with China's social security laws.

**It appears that VTech withholds social security benefits for its workers for at least the first six months of their employment, or even longer.** And when VTech management finally gets around to paying into the workers' social security fund, they shortchange the workers by paying the insurance premium based only on the local minimum wage. By law, social security insurance premiums should be based on total compensation, including overtime, stipends and other rewards.

**5.) If VTech Is a "Responsible And Caring Employer," Why in The World Would So Many Workers Do Anything They Can to Flee the Factory?:**

Due to the harsh and illegal conditions at VTech's plants, workers rarely stay more than a few months. One trainer told a group of workers that **in 2011, 27,000 left the three VTech plants!** Of the original 31,000 manufacturing workers at the facilities at the beginning of 2011, only 4,000 remained for at least a year. If this is accurate, **87 percent** of the workers fled from VTech in a single year!

VTech should respond. If you are a **"responsible and caring employer,"** why do so many desperate employees flee your factories every year? Something does not add up here.

It gets even worse, as **VTech management illegally withholds a full month's back wages**, including overtime, from the workers. By law, the workers should be paid at the end of the month. But that is not how VTech operates. For example, rather than paying the workers their wages on at the end of June, management makes the workers wait to July 31 to receive their June wages.

This is just another trick up VTech's sleeve. By withholding a full month's wages, management can pressure the workers, forcing them to stay on for at least a few more months in the hope that at some point they will finally be allowed to leave the factory with all their wages.

We are aware that AT&T, Motorola, Philips, Deutsche Telekom, Telstra, Sony and Wal-Mart are concerned about these allegations. To start with, the multinationals should demand that VTech provide accurate documentation regarding how many workers have fled VTech's three manufacturing plants over the last three years.

The multinationals could post advertisements in local Chinese newspapers for a series of months, informing former VTech workers that if they have been shortchanged of their last month's wages, VTech management is now ready to pay them what they are owed. This would be the right thing to do.

**6.) Is VTech Management Prepared to Immediately End the Heinous Practice of Issuing "Employee Criminal Records"** — to punish and humiliate workers and encourage them to spy on each other? This is no way to treat a human being.

**7.) To date, workers are not seeing any improvements at the VTech plants.**

Can VTech management concretely describe the improvements they are making in working and living conditions? Has a concrete remediation program been put in place to end the violations?

**VTech Web Discussion**

*"...80% of the people say the quality of management is appalling. It's like a living hell. Makes me so scared."*

*"...How do I quit? How does the final pay work? If the company fires me, do I get full wages?"*

*"...They [VTech supervisors/mid-level management] only know how to exploit people, scold people, insult people, but don't know how to increase production... If the leaders are useless, no matter how hard the workers work, it is just a waste of labor. People suffer to work under trashy leaders like these."*

*"...As an employee, I am scolded all day. Supervisors pick on me all the time. I am a human being too. Those who come to the city come here for jobs, not for insults... How can we be bullied by managers all day? Don't treat employees like machines. They are human beings too."*

*"...8 hours a day with 3 hours overtime. One day off a week. If it gets really busy, then no days off a week."*

*"...we quit. How long do we have to wait to get wages that belong to us."*

*Baidu VTech forum. Web. 10 July 2012.*

**8.) Right Now, Throughout Guangdong Province, Local Chinese Government Authorities and Police Have Launched a Witch Hunt to Suppress Independent Labor Rights NGOs.**

Independent non-governmental labor rights organizations are being spied on. Local authorities are shutting down these NGOs, forcing them to leave, tearing up rental leases, while cutting off their water and electricity. After local government authorities visit the landlords, the NGOs find out they now have no lease and must move immediately.[2]

[2] Ming Pao. *Guangdong labor NGOs under political liquidation; the spring breeze of social reform brings freezing winter*. June 9, 2012. Web. July 12, 2012.; Zhi Ru Zhang. Shenzhen Spring Breeze Labor Dispute Service Center. Guangdong labor NGOs face purge; government puts equal emphasis on incorporation and suppression. June 11, 2012. Web. July 12, 2012. See the attached.

We have always been aware that the government of China has its own way of operating, which is often outside the margins of international law. But this is an ominous development, which will only further weaken and disenfranchise China's workers.

Hopefully, VTech management and the multinationals involved at VTech will ask the government to stop the witch hunt and will encourage the authorities to respect the rights of the NGOs.

We hope that the **Sustainable Trade Initiative Council (IDH)** — and especially its trade union participants, the **Federation of Dutch Trade Unions (FNV)** and the Dutch **Federation of Christian Trade Unions (CNV)** — will act immediately to support the rights of China's workers.

The following labor organizations have been forced to shut down or relocate: the Shenzhen Spring Breeze Labor Dispute Service Center [春风劳动争议服务部], the Shenzhen Yuan Dian Worker Service Center [圆典工友服务部], the Shenzhen Migrant Worker Center [打工者中心], the Shenzhen Green Grass Worker Service Center [青草工友服务部], and the Times Women Worker Service Center [时代女工服务部].

**9.) A Clarification on Wages at VTech:**

We never said that VTech workers were routinely and systematically cheated of their regular and overtime wages. In fact, this is one of the few areas where management may be in compliance with China's labor laws. (This does not mean that the workers are being paid a sustainable wage. The $1.09 (US) hourly wage is well below subsistence levels.)

What we did find is that workers forced to meet wildly excessive production goals often make mistakes, which have to be redone. In these cases, it is common for supervisors to confiscate the workers' time cards and punch them out. But the workers still have to continue working for one or two hours without pay until their mandatory production goal is reached.

**10.)**

We received this update from Philips this morning [July 12]: *"We sent a team of Philips experts to VTech to investigate the accusations.* ***We agreed with VTech that they would take a number of actions to improve working conditions."***

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Find the main report, updates and news articles at
http://www.globallabourrights.org/campaigns?id=0041

Attachment #3

## Institute for Global Labour and Human Rights

# Independent Worker Rights NGOs under Attack in China

**July 28, 2012**

**By Charles Kernaghan**

*"All the NGOs in Shenzhen have been running into trouble lately. The government is driving away labor NGOs. They can't shut these groups down, so they drive them away. They started inspecting and harassing these organizations since February. We are half shut down now."*

- Anonymous NGO leader

On June 9, 2012, a Ming Pao newspaper article, ***"Guangdong Labor NGOs under Political Liquidation; The Spring Breeze of Social Reform Brings Freezing Winter,"*** reported on the government crackdown of local, independent worker rights NGOs, primarily in Shenzhen. According to Ming Pao, worker rights NGOs are facing increasing surveillance, harassment and repeated government audits. Workers daring to attend events at these NGOs are also being threatened by the police and government officials. Electricity and water is being shut off at many NGO offices, forcing these groups to either relocate or shut down.

**A.) Migrant Worker Center:** Based in Longgang District, the Migrant Worker Center has been providing free legal service to migrant workers for more than 12 years.

Starting in November 2011, under pressure from the local government, the landlord informed the Migrant Worker Center that they would have to vacate their office and leave.

As of December, police officers from the Tongle Municipality began to visit the center frequently, checking their NGO license and collecting personal information on the staff.

In April 2012, the landlord again ordered the Migrant Workers Center to move out within a week, despite the fact that the Center had a legal three-year rental agreement which is still in force. Later in April, the Center faced violent attacks and increasing harassment. Then, on May 1, police officers showed up at the Center's May Day celebration to interrogate the staff and workers attending the event. Several workers were taken into custody and held for eight hours of questioning.

On May 2, the landlord shut down the supply of water and electricity to the office, and instructed other tenants not to provide water to the Center.

On May 7, 2012, the Guangzhou Daily News reported that the Migrant Workers Center would be forcibly shut down and required to relocate.

The Center then wrote letters seeking help from the mayor's office, members of the City and Province Councils, the union representing Shenzhen and the All-China Federation of Trade Unions. Next they visited the People's Congress of Shenzhen City. No one even responded. In the end, the Government of Longgang District stated they had no authority to intervene.

In June, the Migrant Workers Center was able to find new office space and signed a lease. But within a matter of days, the lease was revoked. This happened twice in June.

**B.) Government Takeover of the Panyu Worker Service Center:** Local Chinese Government officials offered a grant of 300,000 RMB ($48,079 USD) to the **Panyu Worker Service Center**, under the condition that the Center not receives foreign donations. Further, the agreement was that just one staff person, the founder of the group, could remain, while the rest of the group had to leave. The Government then assigned several social workers to join the Panyu Workers Service Center. The Center also had to form a new Board of Directors. If the new Board agreed to keep the group's founder as the director of the Board, the government would pay his salary. If not, he would be terminated.

**C.) Shenzhen Yuan Dian Worker Service Center:** Starting in mid-April 2012, the Shenzhen Yuan Dian Worker Service Center was the target of numerous government agency investigations. Some days, the Center had to host three government agencies in a single day. The following local government agencies visited the Yuan Dian Worker Service Center repeatedly:

- Administration of Taxation
- Social Security Office
- Labor Office
- Police Station
- National Security Agency
- Fire Department
- Market Supervision Administration of Shenzhen Municipality

Eventually, the Fire Department said they could not, as an NGO, conduct business in a residential building, which was against fire regulations, especially since there was no separate fire escape.

The NGO was told they would have to move immediately, or else their office would be sealed under government orders. The worker rights group had to move out no later than April 29. Next, the landlord also began demanding that his tenants move immediately. With no other option, the Yuan Dian Workers Service Center moved out on April 29.

After locating new office space in May, the Center's stay lasted just two days. Local government officials contacted the landlord, who immediately pulled the lease. The Center then tried using workers' names on the leases. But nothing has worked. The NGO has attempted several more moves, all of which have fallen apart once officials speak with the landlords. As of June, all attempts to find new office space have failed.

**D.) The Shenzhen Spring Breeze Labor Dispute Service Center and the Times Women Workers Service Center share one office and both are under attack.** In mid 2011, local government agencies such as the Market Supervision Administration began visiting the two NGOs, which are headed by a married couple. In February 2012, the landlord of their building in the Baoan Songgang neighborhood suddenly asked the Shenzhen Spring Breeze Labor Dispute Service Center to terminate its three-year contract, despite the fact that they were just three months into the new lease. The water and electricity was cut off and the landlord tore down the sign of one of the NGOs.

However, after a reporter from Hong Kong's Ming Pao newspaper began interviewing local government officials in Shenzhen, it appeared the government was starting to back off, allowing time for these two respected NGOs to keep functioning.

**E.) The Shenzhen Green Grass Worker Service Center is also under attack.** In May 2012, the NGO had to undergo a series of government inspections by numerous Shenzhen agencies, including the Labour Office, Social Security Office, Market Supervision Administration, the Police Station, Administration of Taxation and the Fire Department.

It did not take long. Under pressure from the local government agencies and now also the landlord, the Workers Service Center was shut down on June 10, 2012. However the Center is still operating out of a temporary office in a location its staff will not publicly disclose.

Atachment #4

HR 1992 IH

110th CONGRESS

1st Session

**H. R. 1992**

To amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**April 23, 2007**

Mr. MICHAUD (for himself and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Armed Services, Oversight and Government Reform, Rules, Energy and Commerce, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

**A BILL**

To amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the `Decent Working Conditions and Fair Competition Act'.

## SEC. 2. FINDINGS AND PURPOSES.

(a) Findings- Congress makes the following findings:

(1) Violations of core labor standards, as defined under the laws of the United States and the International Labor Organization, are widespread in factories that produce goods for sale in the United States.

(2) Factories that violate core labor standards are commonly referred to as sweatshops.

(3) Subjecting factory workers to sweatshop conditions that violate core labor standards is morally offensive to the American people both in their roles as consumers and as investors, and is degrading to workers forced to labor under sweatshop conditions.

(4) Workers have a right to be free of sweatshop working conditions.

(5) Consumers have a right to know that the goods they purchase are not produced in sweatshops.

(6) Businesses have a right to be free from competition with companies that use sweatshop labor.

(7) Shareholders have a right to know that their investments are not supporting sweatshop labor.

(8) It is a deceptive trade practice and a form of unfair competition for a business to sell sweatshop goods.

(9) Prohibiting the sale, manufacture, offer for sale, transportation, and distribution of sweatshop goods, regardless of the source of the goods, is consistent with the international obligations of the United States because the prohibition applies equally to domestic and foreign products and avoids any discrimination among foreign sources of competing products.

(b) Purposes- The purposes of this Act are to--

(1) prohibit the import, export, or sale of goods made in factories or workshops that violate core labor standards; and

(2) prohibit the procurement of sweatshop goods by the United States Government.

## SEC. 3. DEFINITION OF CORE LABOR STANDARDS.

(a) In General- In this Act, the term `core labor standards' means--

(1) the right of association;

(2) the right to organize and bargain collectively;

(3) a prohibition on the use of any form of forced or compulsory labor;

(4) a minimum age for the employment of children; and

(5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(b) Acceptable Conditions- For purposes of subsection (a)(5), acceptable conditions of work shall be determined by the laws, regulations, or competent authority of the country where the labor is performed.

**TITLE I--TARIFF ACT OF 1930**

## SEC. 101. IMPORTATION AND SALE OF SWEATSHOP GOODS PROHIBITED.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended to read as follows:

## `SEC. 307. PROHIBITION ON IMPORT AND SALE OF CONVICT-MADE GOODS AND SWEATSHOP GOODS.

`(a) Definitions- In this section:

`(1) CONVICT-MADE GOOD- The term `convict-made good' means any good, ware, article, or merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor.

`(2) SWEATSHOP GOOD- The term `sweatshop good' means any good, ware, article, or merchandise mined, produced, or manufactured wholly or in part in violation of core labor standards as defined in section 3 of the Decent Working Conditions and Fair Competition Act.

`(b) Prohibitions- It is unlawful for any person to--

`(1) import into the United States any convict-made good;

`(2) import into, or export from, the United States any sweatshop good; or

`(3) introduce into commerce, sell, trade, or advertise in commerce, offer to sell, or transport or distribute in commerce in the United States, any sweatshop good.'.

## SEC. 102. WAIVER AUTHORITY.

(a) In General- The President, for reasons of national interest, may recommend that the application of section 201 of this Act or section 307(b) (2) and (3) of the Tariff Act of 1930 (19 U.S.C. 1307) be waived in connection with the goods of any country with respect to 1 or more of the principles and rights defined as core labor standards in section 3 of this Act. Any such

recommendation shall--

(1) be transmitted to the House of Representatives and the Senate setting forth the President's reasons for the waiver;

(2) include, for each waiver recommendation, a determination that the waiver is necessary to protect the national interest of the United States; and

(3) include, for each principle or right for which a waiver is recommended, an explanation of why the President recommends waiving application of that principle or right.

(b) Period of Waiver- A waiver under this section shall be effective for a 12-month period unless Congress enacts a joint resolution described in subsection (c).

(c) Joint Resolution Requirements and Procedures-

(1) RESOLUTION DESCRIBED- For purposes of this subsection, the term `resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: `That Congress does not approve the waiver of section 201 of the Decent Working Conditions and Fair Competition Act or section 307(b) (2) and (3) of the Tariff Act of 1930 (19 U.S.C. 1307) recommended by the President to Congress on **XXXXXXX** with respect to the application of **XXXXXXX** to the goods of**XXXXXXX**.', with the first blank space being filled with the appropriate date, the second blank space being filled with the principle or right to be waived, and the third blank space being filled with the name of the country with respect to which the waiver of authority is disapproved.

(2) APPLICATION OF PROCEDURAL PROVISIONS- The provisions of section 152 (b) through (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b) through (f)) shall apply to resolutions described in paragraph (1).

(3) APPROVAL BY CONGRESS- If Congress approves the joint resolution, Congress shall send the resolution to the President before the end of the 90-day period beginning on the date that Congress receives the waiver recommendation described in subsection (a).

(4) EFFECT OF VETO- If the President vetoes the joint resolution, the resolution is enacted into law if each House of Congress votes to override the veto on or before the later of the last day of the 90-day period referred to in paragraph (3) or the last day of the 15-day period, excluding any day described in section 154(b) of the Trade Act of 1974

(19 U.S.C. 2194(b)), beginning on the date Congress receives the veto message from the President.

(5) INTRODUCTION- A joint resolution to which this subsection applies may be introduced at any time on or after the date the President transmits to Congress the waiver recommendation described in subsection (a).

(d) Termination or Extension of Waiver- A waiver with respect to the goods of any country terminates on the day after the waiver authority granted by this subsection ceases to be effective with respect to such country, unless an extension of the waiver authority is granted. The President may recommend an extension of the waiver authority in the same manner as the original recommendation, except that the President may not recommend an extension later than the date that is 30 days before the waiver authority expires. The President may, at any time, terminate by Executive order any waiver under this section.

**TITLE II--FEDERAL TRADE COMMISSION**

## SEC. 201. VIOLATION OF FEDERAL TRADE COMMISSION ACT.

(a) In General- It is unlawful for any person to introduce into commerce, sell, trade, or advertise in commerce, offer to sell or transport or distribute in commerce any sweatshop good.

(b) Sweatshop Good- For purposes of this title, the term `sweatshop good' means any good, ware, article, or merchandise mined, produced, or manufactured wholly or in part in violation of core labor standards, as defined in section 3 of this Act.

(c) Enforcement-

(1) IN GENERAL- The Federal Trade Commission shall enforce the provisions of this section with respect to the prohibitions under subsection (a) as if the violation were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE COMMISSION- The Commission shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person that violates the provisions of this title shall be subject to the

penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(3) INVESTIGATIONS- Notwithstanding any other provision of law, the Federal Trade Commission shall investigate any complaint received from a worker alleging a violation of this title with respect to a good, ware, article, or merchandise produced by that worker.

(4) REGULATIONS- Not later than 180 days after the date of the enactment of this Act, the Federal Trade Commission shall publish rules to carry out the provisions of this title.

**SEC. 202. PRIVATE RIGHT OF ACTION.**

(a) Private Suits- A person with standing to sue under subsection (c) may bring a civil action against any seller of goods, wares, articles, or merchandise on grounds of violation of section 201.

(b) Jurisdiction- The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this section.

(c) Standing to Sue- The following persons have standing to sue under this section:

(1) Competitors of the retailer of any good, ware, article, or merchandise sold in violation of section 201.

(2) Investors of the retailer of any good, ware, article, or merchandise sold in violation of section 201.

(3) Any employee of a person against whom an enforcement action has been brought for a violation of section 307 of the Tariff Act (19 U.S.C. 1307), as amended by this Act.

(4) Any labor organization representing employees of the manufacturer or contractor or representing employees in the same industry or sector.

(d) Damages; Injunctive Relief; Attorney Costs and Fees-

(1) DAMAGES- When a violation of section 201 is established in any civil action arising under this section, the plaintiff shall be entitled to recover $10,000 or the fair market value of the goods, whichever is greater.

(2) INJUNCTIVE RELIEF- The plaintiff may sue for injunctive relief against threatened loss or damage due to a violation of section 201.

(3) COSTS AND FEES- The court shall award the cost of the suit, including reasonable attorneys' fees, to a prevailing plaintiff.

(e) Interagency Cooperation- All Federal departments and agencies shall cooperate with the Commissioner of the United States Customs and Border Protection and the Federal Trade Commission, to the extent practicable in the enforcement of this title.

(f) List of Violators; Disclosure and Publication by Federal Trade Commission- On January 1 and July 1 of each year, the Federal Trade Commission shall publish in the Federal Register and post on an Internet website the following information:

(1) An alphabetical list of the name, address, and chief executive officer of each person that has, during the 2 years prior to publication, violated the provisions of this title, along with a summary description of each violation and the cumulative number of violations by each person on the list.

(2) A detailed description of each violation that includes the following information:

(A) The name, address, and chief executive officer of each violator.

(B) The circumstances under which core labor standards, as defined in section 3 of this Act, were violated in the course of the mining, production, or manufacturing of the goods in question.

**TITLE III--GOVERNMENT PROCUREMENT**

## SEC. 301. GOVERNMENT PROCUREMENT OF SWEATSHOP GOODS PROHIBITED.

(a) Amendment to Federal Property and Administrative Services Act of 1949- Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

## `SEC. 318. PROHIBITION ON PROCUREMENT OF SWEATSHOP GOODS.

`(a) Certification Requirement- The head of an executive agency shall ensure

that each covered contract entered into by such official for the procurement of property includes a clause that requires the contractor--

`(1) to certify to the contracting officer that the contractor has made a good faith effort to determine whether any product furnished under the contract is a sweatshop good, and that, on the basis of those efforts, the contractor is unaware that any such product is a sweatshop good; and

`(2) to cooperate fully in providing reasonable access to the contractor's records, persons, or premises if requested by the contracting agency, the Department of Homeland Security, or the Department of Justice for the purpose of determining whether any product furnished under the contract is a sweatshop good.

`(b) Investigations- Whenever a contracting officer of an executive agency has reason to believe that a product furnished under a covered contract is a sweatshop good, the head of the executive agency shall refer the matter for investigation to the Inspector General of the executive agency and, as the head of the executive agency or the Inspector General determines appropriate, to the Attorney General and the Secretary of Homeland Security.

`(c) Remedies-

`(1) IN GENERAL- The head of an executive agency may impose remedies as provided in this subsection if the head of the executive agency finds that the contractor--

`(A) has furnished under a covered contract a product that is a sweatshop good;

`(B) has submitted a false certification under subsection (a)(1); or

`(C) has failed to cooperate with an investigation under this section.

`(2) TERMINATION OF CONTRACT- The head of an executive agency may terminate a covered contract on the basis of a finding of a violation that occurs under paragraph (1) after the date the requirements of this section are implemented through the amendment of the Federal Acquisition Regulation under sections 6 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 405 and 421).

`(3) DEBARMENT AND SUSPENSION- The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has committed a violation described in paragraph (1). The debarment period may not exceed 3 years.

`(4) INCLUSION ON LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS- The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation each contractor that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency on the basis that the contractor has committed a violation under paragraph (1).

`(5) REMEDIES NOT EXCLUSIVE- This section shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding under paragraph (1).

`(d) Definitions- In this section:

`(1) COVERED CONTRACT- The term `covered contract' means a contract for a total amount in excess of the micro-purchase threshold, as that term is defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)).

`(2) SWEATSHOP GOOD- The term `sweatshop good' means all goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in violation of core labor standards, as defined in section 3 of the Decent Working Conditions and Fair Competition Act.'.

(b) Amendment to Title 10, United States Code-

(1) IN GENERAL- Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

**`Sec. 2334. Prohibition on procurement of sweatshop goods**

`(a) Certification Requirement- The head of an agency shall ensure that each covered contract entered into by such official for the procurement of property includes a clause that requires the contractor--

`(1) to certify to the contracting officer that the contractor has made a good faith effort to determine whether any product furnished under the contract is a sweatshop good, and that, on the basis of those efforts, the contractor is unaware that any such product is a sweatshop good; and

`(2) to cooperate fully in providing reasonable access to the contractor's records, persons, or premises if requested by the contracting agency, the

Department of Homeland Security, or the Department of Justice for the purpose of determining whether any product furnished under the contract is a sweatshop good.

`(b) Investigations- Whenever a contracting officer of an agency has reason to believe that a product furnished under a covered contract is a sweatshop good, the head of the agency shall refer the matter for investigation to the Inspector General of the agency and, as the head of the agency or the Inspector General determines appropriate, to the Attorney General and the Secretary of Homeland Security.

`(c) Remedies- (1) The head of an agency may impose remedies as provided in this subsection if the head of the agency finds that the contractor--

`(A) has furnished under a covered contract a product that is a sweatshop good;

`(B) has submitted a false certification under subsection (a)(1); or

`(C) has failed to cooperate with an investigation under subsection (b).

`(2) The head of an agency may terminate a covered contract on the basis of a finding of a violation that occurs under paragraph (1) after the date the requirements of this section are implemented through the amendment of the Federal Acquisition Regulation under sections 6 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 405 and 421).

`(3) The head of an agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has committed a violation described in paragraph (1). The debarment period may not exceed 3 years.

`(4) The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation each contractor that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an agency on the basis that the contractor has committed a violation under paragraph (1).

`(5) This section shall not be construed to limit the use of other remedies available to the head of an agency or any other official of the Federal Government on the basis of a finding under paragraph (1).

`(d) Definitions- In this section:

`(1) The term `covered contract' means a contract for a total amount in excess of the micro-purchase threshold, as that term is defined in section

32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)).

`(2) The term `sweatshop good' means all goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in violation of core labor standards, as defined in section 3 of the Decent Working Conditions and Fair Competition Act.'.

(2) CLERICAL AMENDMENT- The table of contents at the beginning of such chapter is amended by adding at the end the following new item:

`2334. Prohibition on procurement of sweatshop goods.'.

(c) Implementation Through the Federal Acquisition Regulation- Not later than 120 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation issued under sections 6 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 405 and 421) to provide for the implementation of the requirements of section 318 of the Federal Property of Administrative Services Act of 1949 and section 2334 of title 10, United States Code, as added by subsections (a) and (b), respectively.

(d) Report- Not later than 2 years after the requirements of this section and of section 318 of the Federal Property of Administrative Services Act of 1949 and section 2334 of title 10, United States Code, as added by subsections (a) and (b), respectively, are implemented through the amendment of the Federal Acquisition Regulation pursuant to subsection (c), the Administrator of General Services, with the assistance of other executive agencies, shall submit to the Office of Management and Budget a report on the actions taken under such sections.

**TITLE IV--EFFECT ON STATE LAW**

## SEC. 401. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to preempt any law of a State or political subdivision of a State relating to labor standards required in the mining, production, or manufacture of any good, ware, article, or merchandise purchased by the State or political subdivision.

*END*

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PREPARED STATEMENT OF LI QIANG

JULY 31, 2012

I appreciate the opportunity to speak before the commission today. My testimony is informed by 20 years of experience with advancing labor rights for Chinese workers, first as a worker and activist in China and since 2000 as director of China Labor Watch. Over the past dozen years, China Labor Watch has conducted a series of comprehensive assessments of a wide range of factories in China, relying on researchers based there as well as in the United States. In May 2000, the U.S. Congress debated giving China permanent normal trade relations (PNTR) status. I testified before Congress then and said that Chinese workers work like machines and that trade cannot be viewed simply in its own right, but that it is intimately linked to issues of human rights. So initiatives that facilitate trade need to be accompanied by efforts that advance worker rights. Clearly, voices like mine did not win out at that time. Let us hope that this hearing helps lead to the right approach.

Today, I will cover three major issues.

First, today, a full 11 years since China joined the WTO, labor conditions in Chinese factories remain unacceptably harsh, with long hours, low pay, and severe conditions in the norm. Here I will highlight the findings of our new report on 10 of Apple's suppliers in China.

Second, the main response from multinational corporations to these severe working conditions has been the establishment of supplier auditing systems. These systems, however, contain serious defects, including what is apparently rampant corruption, thereby leading at best to marginal improvements in working conditions.

Third, substantial advances in labor conditions in China are far more likely to occur only if two things happen: the multinational corporations operating there must push for appropriate improvements and, additionally, the Chinese government will have to take a more aggressive role in enforcing its own labor laws. Companies such as Apple have the resources and influence to assure that necessary changes are made. Consequently, it is imperative, to encourage these companies to act as responsible corporate citizens.

I. THE LABOR CONDITIONS

Over this past year the worldwide media has directed particular attention to the working conditions at the Apple supplier Foxconn. This attention, culminating in high-profile stories in major papers, has its basis in reports about abusive working conditions dating back to 2006 as well as in the tragic events of 2010, when 13 workers committed suicide by jumping to their death out of Foxconn dormitories in China. My organization has just released a 135-page analysis of working conditions at Foxconn and nine other Apple suppliers in China. We found that Foxconn is hardly an exception, as deplorable working conditions characterize all the factories examined, with conditions often even worse than those uncovered at Foxconn.

Specifically, the report found the following problems to be common in the ten factories:

1. Excessive Overtime: The average overtime in most of the factories was between 100 and 130 hours per month, and rising to as high as 150 to 180 hours per month during peak production season. These figures are well above China's legal limits.
2. In most factories, workers generally work 11 hours every day, including weekends and holidays during peak seasons. Frequently they are permitted to take just one day off every month, while in the peak seasons employees may go as long as several months without even one day of rest. (Under China's labor law, the official working hours are 8 hours/day and 36 hours/month for overtime hours, but the workers in the factories examined now typically work as much as a shocking 150–180 hours overtime each month.)
3. Low wages compel workers to accept long overtime hours. Most of the factories pay a basic salary equal to the minimum wage stipulated by the local law (around $200/month), a rate that is so low that workers have to work long hours simply in order to support a bare livelihood for themselves.
4. Workers are exposed to a variety of dangerous working conditions. Workers in all the factories reported safety concerns such as metal dust and hazardous working environments.
5. All too often, workers find the food offered in the factory cafeterias unsanitary. Besides that, their housing conditions are frequently overcrowded, dirty, and lacking in facilities.
6. Most factory workers are young females who are not familiar with unions and their functions. Nor are they aware of their legal rights under Chinese labor laws. They have little ability to push for reasonable working conditions.
7. Some factories do not pay for workers' social insurance, work injury insurance, and other insurance required by law.

The Riteng factory stands out for its particularly poor working conditions, even in comparison to Foxconn. On average the 20,000 Riteng workers are on the job nearly 12 hours a day, compared to 10 hours a day at the Foxconn factory. The Riteng workers get only about one day of rest each month. Their overtime hours dwarf those of the Foxconn workers, which themselves are well above the legal limit set in China. For Riteng workers, the average hourly wage is 8.2 RMB or $1.30, well below the still-meager average hourly wage of Foxconn workers of 10.2 RMB or $1.62. A full half of Riteng workers rated its safety and health as 'bad' compared to just 2% of workers giving this rating to the Foxconn factory.

*Serious problem of Labor Dispatching has been overlooked by Apple*

Labor dispatch companies are employment intermediaries similar to temporary employment agencies in the United States. Whereas workers typically enter into a

contractual relationship directly with their employer, labor dispatching introduces a third-party into the arrangement. Workers are contractually obligated to their dispatching company, and the company sends its workers to work in factories on an as-needed basis. Factories have no formal relationship with the dispatched workers and can send them back to their dispatch companies at any time.

Our research revealed that Apple's Social Responsibility Reports have entirely neglected the fundamental problems caused by the prevalent use of dispatched labor in Apple's supply chain. Except for Foxconn in its Shenzhen operations, which transferred all dispatched workers to direct-hire status in 2011, all of the other factories investigated overused dispatched labor, including the Jabil factory in Shenzhen where dispatched labor made up almost 70% of the workforce. The use of dispatched labor creates a series of problems for workers, as listed below:

1. Factories can use dispatched labor to employ people short-term without having to pay severance compensation.
2. Factories can use dispatched labor to shift responsibility for worker injuries onto another party.
3. Factories can use dispatched labor to prevent workers from organizing into unions or establishing democratic management systems.
4. Factories can reduce other forms of worker compensation, and thus their labor costs, by hiring dispatched labor. For instance, when companies do contribute to social insurance programs for dispatched workers, they pay a smaller percentage of the wage bill to insurance companies or sometimes do not sign workers up at all. Such practices mean that employers' labor costs can be reduced by 10% to 15%.
5. Dispatched workers have no limitation on the amount of overtime that they work. Some have to work more than 150 hours of overtime every month, exceeding the 36 hours per month allowed under Chinese law.
6. Dispatched workers often have to pay sizable fees to the dispatching agency.

In short, our study shows that 11 years after China joined the WTO, labor right violations are rampant in the factories supplying one of the largest companies of the world. Beyond this study, the available evidence indicates that labor rights violations are also common in Chinese factories that supply companies like HP, Dell, and Samsung, where the conditions may be even worse than they are at Apple's suppliers.

## II. THE PROBLEMATIC AUDITING SYSTEM

To improve labor rights in China, beyond exerting pressure on the Chinese government, it is appropriate and critical to demand change from the multinational corporations themselves, a method that has borne fruit in the past. For instance, under pressure from negative media coverage, Apple requested that the Fair Labor Association investigate Foxconn, and subsequently said it would implement the report's recommendations (the verdict is out on whether Apple will fulfill this promise).

Nonetheless, the central mechanism currently deployed by multinational corporations to advance labor rights is fundamentally flawed. Corporations will usually audit a factory, then call for the factory to meet its social responsibility standard, before placing an order there. In China, there were more than 100,000 audits of at least 30,000 factories last year. When labor rights organizations criticize the supplier factories of those multinational corporations, the corporations typically respond that they are addressing any deficient conditions through their auditing process. Yet over the past ten years the audits have produced little if any changes or improvements in labor conditions.

There are efficacy issues in those doing the auditing, and even serious corruption in the execution of audits. For example, an accurate audit could require a factory to spend tens of thousands of dollars to increase its workers' wages or to buy safe equipment, in order to satisfy the social responsibility standard of multinational corporations. However, bribing an auditor to give the factory high marks may cost only a few thousand dollars. After the bribe yields an excellent report on that factory, a corporation could satisfy its public critics, and the Chinese factory would get its usual orders.

China Labor Watch has itself found strong evidence of corruption in the auditing process, a discovery that led to positive results. After one of our reports about corruption in the auditing system, in 2010 an auditing company laid off two thirds of its auditors of social responsibility Department (around 300) in China. Also, the problem that toys manufactured in China too often contain lead in part reflects defi-

cient auditing of the safety of toy factories,[1] as those toys were exported to the U.S. after they passed the quality audits from the auditing companies.

The experience of China Labor Watch in fighting against audit corruption in China illustrates the problems with the audit process.

In 2009, the International Council of Toy Industries authorized Intertek to audit the Hang Fat factories in Dongguan. ICTI CARE PROCESS, as its name suggests, is a toy industry association. More than 75% of the exported toys produced in China have to pass its social responsibility audit. The international corporations will only place orders from factories passing their audit.

Intertek is a large multinational corporation with more than 30,000 employees around the world. It helps other multinational corporations conduct social responsibility and safety audits in industries like toys, electronics, garment, sporting and automobiles. It has branches and offices in the United States, China and Hong Kong. Intertek's clients include ConocoPhillips, Costco Wholesale, the Gap and many others.

According to China Labor Watch's informant, the Hang Fat factory paid Intertek's auditor $3,100 so that that plant could pass the audit. We reported the bribery to Intertek and ICTI CARE PROCESS. ICTI CARE PROCESS rechecked the audit result and found that the factory had in fact fraudulently reported its working hours and salaries. ICTI CARE PROCESS then cancelled the certification of the factory.[2]

The factory employed about 200 workers during the low season and 500 workers during the peak season. ICTI CARE PROCESS's own study found that every worker lost $20 per month due to the defective audit of Intertek. If we use the number of workers in the low season, the monthly salary loss for the 200 workers is $4,000 and the yearly loss is $48,000. It cost the factory a mere $3,100 to pass the audit by bribing the auditor. So if the factory had not been caught it would have saved at least $45,000 by bribing the auditor.

We found nine questionable audits like the Hang Fat factory audit. Given that we are only a small NGO that can investigate just a modest number of factories, we believe there are many more questionable audits conducted by Intertek.

After we reported the dishonest audit result to the ICTI CARE PROCESS, Intertek published the identity of our informant in its Compliance Newsletter. He and his family subsequently received a death threat.

As a famous international audit company, Intertek claims that integrity, transparency, and accountability are its core values. However, its description of the case is troublesome. Everything in the Newsletter was technically true, but the story given there omitted some key facts. It did not mention that its audit was voided by ICTI CARE PROCESS. Intertek also concealed the fact that its auditors violated the confidentiality agreement with our informant and put his life in danger.

| Intertek's version of the events | The Truth |
|---|---|
| Intertek omitted that CLW reported the corruption case to ICTI CARE PROCESS. | March 4th, 2010, CLW reported the audit corruption to ICTI CARE PROCESS. |
| Intertek omitted the salary and working hours fraud at the Hang Fat factory. | On March 16th, ICTI CARE PROCESS discovered that there was fraud in the salary and work hour records at Hang Fat. ICTI CARE PROCESS later notified Intertek. |
| In its report, Intertek published Yuan Chaowen's name and his relationship with CLW. | Intertek agreed that it would not reveal Yuan Chaowen's name and his relationship with CLW. |

[1] This piece of news mentioned how rampant corruption is undermining safety standards in mainland China's toy factories.http://www.asianews.it/news-en/Chinese-toys-tainted-by-lead-or-made-by-child-labour-18907.html

[2] The ICTI program is primarily for the toy industry and a cancelled certification precludes purchases in the toy industry, but it does not preclude other retailers from purchasing from the factory.

By using information selectively, Intertek drew a different picture of the whole story. This selective use of information for this company's own interest is consistent with its issuing biased and even blatantly false audit reports.

III. THE RESPONSIBILITY OF MULTINATIONAL CORPORATIONS TO TAKE ACTION

Currently in China, there is no independent labor union to monitor labor conditions and implementation of labor laws. We hope that the Chinese government will change its policies in favor of advancing labor rights, including encouraging legal construction and the reform of the one, official labor union. However, we know it is very difficult to influence China's government directly. Therefore, to be effective, and reflecting the shared responsibility of the corporations operating in China, the best approach to advancing labor rights would be to focus on the multinational corporations themselves.

The multinational corporations obtain extra profits through the use of low-wage labor in China; they also often squeeze the profits of their suppliers, which in turn leads them to squeeze the wages of workers. These factors help explain why those corporations may choose factories in China over those in other countries, where workers' rights are more respected, labor standards are stronger, and where there may be the freedom to organize independent labor unions. In other words, the large profits of multinational corporations reflect their exploitation of Chinese workers.

At the same time, the investment from multinational corporations in China is a form of support to China's current political system; that is, the economy can grow even though China refrains from undertaking essential reforms in its political economy. Because Chinese workers do not have the rights to organize independent labor unions and have no channels to fight for their interests, China's government acquiesces in transferring workers' rewards to the extra profits of the multinational corporations, with the aim of attracting foreign investment.

In addition, there is no law in the United States to restrain the purchasing systems of the multinational corporations, especially their overseas components, from violating human labor rights. The absence of involvement by both of the governments leads to the severe working conditions of the Chinese workers.

Corporations have the responsibility to change and improve workers' rights; this solution should be accepted by both China's factories and the government. Further, if multinational corporations demand and advance improvements in their supplier factories in China, this may influence the policy-making in China's government.

In our opinion, truly improving the working conditions in Chinese factories could be achieved by multinational corporations simply raising the prices they pay to their suppliers and demanding needed improvements in labor conditions in return. Multinational corporations have both the power and the resources to take these steps.

Take the example of Apple, the world's leading company, which is in possession of enormous resources. In the first quarter of its 2012 fiscal year, Apple had $46.3 billion in revenue and made a net profit of $13.1 billion, its largest profit ever and one of the largest quarterly profits of any American company in history. And Tim Cook, current CEO of Apple, personally received stock awards worth $380 million just before the start of the quarter. Let's do some simple math. The $13.1 billion net profit Apple made in one single quarter is equal to the combined salary of 300,000 workers at Foxconn's assembly line over the course of eleven years. And the value of Cook's options alone could pay for those 300,000 workers' salaries for that extremely profitable quarter. Experts from the Economic Policy Institute have made similar calculations and arrived at similar results.[3]

So part of the broad answer is that companies like Apple have ample resources to ensure that workers at their supplier factories in China receive better treatment. There are also creative, simple steps multinational corporations can take to improve labor conditions. For instance, as the labor unions in China can function only in a severely limited way, we suggest opening worker hotlines in the supplier factories of multinational corporations. The hotlines could go from the workers to the multinational corporations and perhaps to neutral monitors. Such hotlines may not be able to change labor rights fundamentally, but if hotlines could be installed that were safe for the workers to use without retribution from the supplier factories, they could increase the transparency of the factories and potentially relieve some of the harsh situations. The hotlines could attend to every worker's complaints as the receptors on the other end could try to solve the workers' practical problems with some dispatch. In return, the establishment of the hotlines benefits the factories in terms of staff turnover rate. If the hotlines satisfy the workers' expectations, there

[3] http://www.epi.org/blog/apples-executive-pay-profits-cash-balance/

will be smaller number of employees leaving the factory. I think this is a solution that both the corporation and factories could accept and put into practice.

In addition, the redundant audits performed on many factories should be reduced, as they are not effective in monitoring the conditions in the factories. Other ways such as the hotlines, or allowing for truly independent and corruption-free audits, may be more reliable and more effective.

In closing, I express my gratitude to the Committee for holding this important hearing. The deplorable working conditions faced by workers in China continue. A key 'response' that is currently being used by the multinational corporations—the audit system is failing. All of us need to think more creatively, and multinational corporations must take much more responsibility, to ensure that labor conditions in China rise to reasonable levels.

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## PREPARED STATEMENT OF HARRY WU

JULY 31, 2012

## LAOGAI PRISONERS, THE SLAVES OF THE COMMUNIST REGIME

### I. INTRODUCTORY REMARK

Thank you for inviting me to speak today before the Commission. Over these years, I have testified for many times before the congress about China's Laogai and its derivative abuses. But today it is the first time, I'm testifying at a hearing about China's worker rights. With the Laogai system deeply rooted into the state's economic structure, China's working class is different from that of the modern democratic countries. It includes not only "workers" at the ordinary sense, but also "workers" of the prison enterprises. So when we talk about worker rights in China, it will be definitely incomplete if we ignore the millions of workers in Laogai camps. I am very glad that the Commission clearly realized this difference and invited me to testify about the slave labor of China's prison enterprises. For this, I'd like express my special appreciation to the Commission's ongoing concern and insights on human rights in China.

### II. PRISONERS IN LAOGAI, MORE LIKE STATE SLAVES THAN ENTERPRISE WORKERS

Prisoners in Laogai provide the state with an endless source of cheap or payless labor force, so the Laogai enterprises develop basically at the same pace with the economy. During the Mao's era when economy was sluggish and food and basic material were in urgent need, Laogai prisoners were forced to do works of farming, mining and infrastructure constructions.

When Deng led the country into frenzy economic pursuits, authorities began to establish more and more industrial and commercial enterprises where Laogai prisoners are forced to labor solely for the sake of profit. Partly as an effort to remedy increasing enterprise deficit from the mid-1990s, and partly as a response to international criticism, the central government attempted to implement the policy of separation of prisons and enterprises since 2003. Till 2010, it is said the "separation" had basically been completed. However, according to our findings, the separation is more nominal than real. Prisoners all across the country are still toiling in the prison enterprises under sever working conditions with insufficient health protections or safety measures.

Below I give a description of the conditions of the Laogai prisoners in terms of basic worker rights:

*1. Health, safety and work environment*

China's communist regime first installed the Laogai system out of three considerations: (a) for the reform of the prisoners, (b) for the settlement of the problems of the prisons, and (c) for the prohibition of counterrevolutionaries living in leisure without doing anything.

This is clearly stated in the decision of the Third National Public Security Conference in 1951. Although 60 years have passed, this doctrine remains strong in the mind of the communist authorities.

Therefore the prisoners are essentially considered as state slaves whose labor force can be exploited while his health, safety and work environment can be completely ignored.

I personally worked as a miner for many years in a Laogai coalmine in Shanxi. During these years I witness many accidents, injuries and deaths. And in a couple of occasions I almost lost my own life due to the poor work protection.

During the 1990s I visited China for several times to gather information about the conditions in the Laogai enterprises. I found although the country was becoming richer, the work conditions of the prisoners almost remain the same. I saw workers standing nakedly in harmful chemical solutions; I saw miners digging in the mine without adequate facilities to prevent caving in and I saw juvenile prisoners working in magnetite dust without mask.

I had been prohibited to go back to China over the past 15 years after I was deported in 1995 and the information regarding China's labor camps has become increasingly sensitive. However we can still learn something of this sort between lines of other reports. In 2005, an article about an illness of prisoners in Tibet was published in a medical journal,[1] which indicates that hypokalemic flaccid paralysis is a very common illness among prisoners. In the study group, 16 of the patients are found to be rock miners, so the illness and high labor intensity are positively correlated. This case shows that right till this day, the Laogai prisoners' basic work rights are still denied by the authorities and they are treated nothing more than cattle.

*2. Work time*

Though China's Law of Prison as well as regulations issued by the Department of Justice both specified the working hours, rest breaks and holiday entitlements for prisoners, the authorities routinely place priority on work quota. When there are more orders for their products, the authorities will make the prisoners work around the clock, and even force them to work seven days a week. It is learned recently that Liu Xianbin, a pro-democracy activist who was put into prison for the third time, has been forced to work 13 hours per day in Chuanzhong Prison.

Regulations also specified the portion of time to be used for study.

But when enterprise profit is taken as the most important, the authorities even change the time for study into time for labor.

*3. Payment*

The Laogai prisoners work long hours in severe work conditions, but they basically have no payment. In very rare cases they may be given some "payment", but in terms of policy this is called "symbolic payment" or simply "compensation" or "stipend". Since it is "symbolic", the payment may not match the value of labor that the prisoners have given. With the completion of enterprise-prison separation, it is said Laogai prisoners will get a better payment from the "separated" enterprise, but the fact will be very discouraging.

For one thing, even if the enterprise is taken apart from the prison, as long as the prisoners' basic rights are not respected, no one will pay more for their labor while they could pay less.

*4. Unemployment*

As a special kind of workers, laogai prisoners never need to worry about unemployment. As long as they are able to work, their labor force will be exploited. In fact, just decades ago, the communist regime practiced the measure of "Forced Job Placement"—when prisoners fulfilled their sentence and are ready to get rid of the labor camp and endless exploitation, authorities would find some job vacancies in the laogai camps and arbitrarily order them to work there instead of going back to their old home or old job. This is not because the authorities concern about the inmates' employment, but because they want to keep these prisoners as their working cattle all their lives. Personally, I know many people who committed suicide after they were put into "Forced Job Placement", because they were completely desperate of their fate and future.

On the other hand, after the prisoners are released and return to society, most of them, especially the political prisoners, will face the problem of job hunting. Because of political discrimination and possible police harassment, many of the employers would not or dare not accept the application of former prisoners. The fact is recently demonstrated by Tibetan political prisoners at the international conference entitled "Laogai in Tibet."

Above, I talked about prisoner-workers' situations in terms of worker rights. However, prisoner-workers are not exactly workers; they have some more characteristics:

*1. Paying for their own imprisonment*

In modern democratic countries, prions are run and funded by the government. But in China, ever since the CCP took power in 1949, it has never spent enough

[1] Xi Luo, "Exploration of the causes of prisoners' hypokalemic flaccid paralysis", Science and Technology in Tibet, 2005 (11).

money on the operation of prisons. As a result, the prisons have to do production or business to earn money to sustain themselves, and the prisoners, consequently, have to toil for their own imprisonment.

From 1949 to 1989 the government's yearly spending on prison system has never exceeded 2 billion RMB, while the laogai enterprise earnings gradually rose up from zero to 10 billion RMB.2 At present the yearly budget for both laogai and laojiao is about 15 billion RMB, but the government can only allocate 30% to 60% of the total. The rest can only be earned by the Laogai enterprise, or most exactly eked out from the flesh of the prisoners.

*2. Torture and other types of punishment*

For ordinary workers, salary is leverage over the quality or quantity of work. But for the laogai prisoners, torture and other types of punishment are routine ways to control product quality and quantity as well as obedience to production regulations.

There are various ways to punish prisoner-workers who dare to violate the production regulations or who failed to meet the production quota.

These include but not limited to (1) deprivation of sleep, (2) deduction or deprivation of food, (3) stress position, (4) beating up and so on.

Liu Xianbin who is now imprisoned in Chuanzhong Prison is forced to work 13 hours to do ornament processing. Since he is near-sighted and can't work well, he is always deprived of sleep and food.

The condition in Laojiao camps is as bad, if not worse. LRF learned that in Shayang Laojiao Camp, Hubei Province, various measures are taken to punish those who failed to fulfill the quota. So every night the Laojiao inmates would bring their work to the public restroom to go on, because they are not allowed to stay in the workshop during the night but they are not allowed to fail the quota.

## III. CHINA FLOODS THE WORLD MARKET WITH INHUMAN AND UNETHICAL LABOR PRODUCTS

Laogai enterprise is an indispensable part of China's economy. The official-recognized number of such enterprises varies from time to time, for example, 4671 in 1953 and 1280 in 2005, but its importance in China's economy remains unchanged. Today's laogai enterprises engage in many types of production and processing, from mining, farming, to the making of products as big as fire engines and as small as ladies' brooches.

Under Section 307 of the Smoot Hawley Tariff Act of 1930 (19 U.S.C. §1307) goods "mined, produced, or manufactured wholly or in part . . . by convict labor or/and forced labor . . . shall not be entitled entry at any of the ports of the United States, and the importation thereof is . . . prohibited." Furthermore, Section 1761 of Title 18 of U.S. Code makes it a criminal offense to knowingly import goods made with prison labor. Additionally, in 1992 the U.S. and China signed a Memorandum of Understanding which stated that China will "investigate companies, enterprises or units suspected of violating relevant regulations" and report back its findings and furnish available evidence to the U.S. regarding the suspected violations. Most importantly, the Memorandum states that China will "arrange and facilitate visits" by U.S. officials to "respective enterprises or units," within 60 days of a request. Such agreement coincides with Chinese law which prohibits the export of Laogai products. But despite these laws and regulations, China's prison enterprises never cease attempting to enter U.S. market.

Our findings indicate that the situation of laogai products in U.S is still serious.

*1. China's various tricks to erase the marks of Laogai*

To escape from international condemnation and legal punishment, China's laogai enterprises tried many types of tricks to erase the marks of Laogai of their products. The common ones include but not limited to (1) using different names for the same Laogai camp(s), for example, Nanchang Fire Engine Factory and Nanchang Auto Factor are commercial names for Jiangxi Prison Enterprise Group, and the later combines several smaller prison enterprises; (2) reorganizing prison enterprises, for example, Shandong Lineng Group Co. Ltd is a combination of several well-known laogai enterprises in Shandong Province, and this kind of one name for multiple prisons enterprises has the function to cover the nature of Laogai for each individual enterprise; (3) engaging mainly in "processing" rather than "manufacturing", for example, in recent years many laogai enterprises shift their business from production to processing. There may be other reasons for this change, but the most evident reason is to get rid of the hints of Laogai for a certain type of products. The Laogai enterprises only do a part of the whole processing, so their names will not be listed as processors or manufacturers.

*2. Findings in D&B databases*

In 2008, LRF researchers explored the two databases of Dun & Bradstreet ("D&B"): Duns Worldbase (Lexis-Nexis) and Duns Records Plus (Westlaw),[3] and found China's Laogai products have found many ways to enter U.S. market.

We found in the databases that a total of 314 separate entries were Laogai related, which represent 256 different laogai camps, almost 25% of the total known camps as of 2006. The 314 entries cover laogai enterprises in 28 of 31 provincial level divisions (including provinces, municipalities, and autonomous regions).

The findings indicate that U.S. business and business services do not have the adequate awareness of the threat of China's Laogai products.

It's true that many Laogai camps have different business names but in the B&D databases, 65 of the 314 entries directly contain the word "Prison", such as "Sichuan Qiaowo Prison Machinery Factory", or more directly "Shandong Prison" and "Sichuan Deyang Prison". Therefore D&B have ample reason not to list these enterprises in their databases.

IV. CONCLUSION AND SUGGESTIONS

1. China's prisoner-workers in the laogai enterprise are a special kind of workers who are vulnerable to worker rights abuses. Therefore special attention should be paid to this group of people when we talk about China's worker rights and more so when we talk about China's Laogai or judicial system;

2. Although U.S. Congress had passed a resolution to condemn China's laogai system, there are still more to be done to give enough pressure to China's authorities to consider abolishing the Laogai system;

3. Although there are U.S. laws and regulations, as well as memorandum signed between U.S. and China to ban the Laogai products, the products never ceases its infiltration into U.S. markets. Therefore more solid measures, including drafting of new regulations and strengthening of the law enforcement, should be taken to keep the Laogai products away from our market.

4. To promote the public awareness of China's Laogai and Laogai products, so that they would have the right choice to buy products which are made in an ethical manner rather than products which are low in price.

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## PREPARED STATEMENT OF THEA M. LEE

JULY 31, 2012

Mr. Chairman, Mr. Co-Chairman, distinguished members of the Commission, thank you for the opportunity to speak to you today on behalf of the twelve million working men and women of the AFL–CIO on this very important topic.

The U.S. trade relationship with China is enormously imbalanced and problematic. In 2011, the United States ran a goods trade deficit with China of $295 billion—up from $273 billion the previous year. This is the largest bilateral trade deficit between any two countries in the history of the world, and it is long past time for the U.S. government to rebalance this trade relationship, including by addressing several key sources of unfair and illegal competitive advantage.

As this commission has documented thoroughly, the Chinese government has violated its international obligations with respect to currency manipulation, export subsidies, and intellectual property rights, among other things, contributing to the loss of millions of American jobs, mainly in the manufacturing sector.

However, there is an additional issue that does not receive adequate attention, from our own government or from the media, and that is the subject of today's hearing: the ongoing and systematic repression of internationally recognized workers' rights in China. This involves both labor laws that deny Chinese workers fundamental freedoms, including most notably freedom of association, and the Chinese government's egregious failure to enforce its own laws in a number of crucial areas—including maximum hours, minimum wage, child labor, forced labor, and occupational safety and health. For the American labor movement (and for unions globally), addressing the Chinese government's massive violations of human rights and workers' rights is a top priority.

This is both a moral and an economic issue, impacting the daily lives and well-being of Chinese workers, the quality and composition of American jobs and the health of the U.S. economy, as well as trade and investment flows for many developing countries.

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[3] LRF, Laogai forced labor camps listed in Dun and Bradstreet databases, June 19, 2008.

We would like to see our own government, both the Administration and the Congress, put protecting workers' rights at the center of the U.S. and Chinese governments' dialogue—not as an afterthought behind other trade and foreign policy concerns. Protecting workers' rights is an essential cornerstone of any democracy, and without democratic freedoms, it is impossible to imagine Chinese workers and citizens building a healthy, robust, sustainable, responsible future. Independent and democratic unions in China, together with more consistent and aggressive enforcement of Chinese labor laws, would rebalance the economy in a way that most economists agree is long overdue—towards building a strong middle class and strengthening domestic consumption and away from over-reliance on export-led growth and a weak, disenfranchised and politically unstable work force.

VIOLATIONS OF WORKERS' RIGHTS

The Chinese government's systematic and sometimes brutal repression of fundamental workers' rights is a key contributor to the unfair advantage Chinese exports enjoy in the U.S. market and in third-country markets. Chinese workers' most basic rights are routinely repressed, and they do not enjoy the political freedom to criticize, let alone change, their government.

Chinese workers do not enjoy freedom of association or the right to organize. According to the State Department's 2011 Human Rights Report, "workers are not free to organize or join unions of their own choosing. Independent unions are illegal, and the right to strike is not protected in law." The single labor organization in China, the All-China Federation of Trade Unions (ACFTU), is legally subordinate to the government and the Chinese Communist Party (CCP), not accountable to its members. It is chaired by a member of the Politburo.

While Chinese labor law now allows for election of some trade union officers, the 2011 State Department Human Rights Report says that:

> Most factory-level officers were appointed by ACFTU-affiliated unions, often in coordination with employers, and were drawn largely from the ranks of management. Direct election by workers of union leaders continued to be rare, occurred only at the enterprise level, and was subject to supervision by higher levels of the union or CCP. In enterprises where direct election of union officers took place, regional ACFTU offices and local CCP authorities retained control over the selection and approval of candidates.

The Chinese government also fails to enforce its own laws with respect to minimum wages, maximum hours, child labor, forced labor and health and safety rules, as recent high-profile media accounts have amply demonstrated—much to the chagrin of some marquee U.S. brand names.

Migrant workers face particularly harsh and precarious conditions, often facing deportation if they complain to authorities about abuses by employers. Child labor is becoming more common, as labor shortages increase turnover in some regions. Forced labor remains a significant, if difficult to measure, problem.

Chinese government policies amount to a deliberate and artificial suppression of wages below what a freely bargained wage would be, and even below what would be efficient in the Chinese context. This exploitation artificially lowers the price of Chinese exports in the U.S. market—harming American workers and American businesses competing with Chinese exports domestically or in third markets. It also harms workers and businesses around the world, in both industrialized and developing countries.

These abuses allow producers in China, including many multinational and U.S. corporations, to operate in an environment free of independent unions, to pay illegally low wages, and to profit from the widespread violation of workers' basic human rights.

The Chinese government's poor enforcement record is not simply a result of a lack of resources, but rather reflects a conscious economic strategy chosen by the Chinese government, silently supported by multinational corporations, and ignored by the U.S. government. Voluntary corporate codes of conduct are structurally incapable of remedying this problem and wildly inadequate to the scale of the problem.

As we have seen, in the wake of the FoxConn scandal that revealed worker suicides, unacceptably long hours, unsafe working conditions, and low pay—even with top corporate attention to the problem, remedies are slow and incomplete. One company, no matter how well-intentioned and high-profile, simply cannot fix a problem that is systemic to the economy.

The Chinese government has made an implicit bargain with multinational corporations: they bring much-needed jobs to China, and agree to export the bulk of their output and to transfer technology where possible. In exchange they enjoy access to a large and relatively inexpensive workforce with no independent union rep-

resentation and little effective protection under the law. Consumer and environmental protections are also enforced erratically, contributing to artificially low prices and long-term human costs, both in China and elsewhere.

On the face of it, the current situation in China may appear to be extremely favorable to the corporations operating there, as well as to the leadership of the Chinese Communist Party, which has successfully achieved extraordinarily rapid aggregate economic growth over several decades without significant challenges to its political dominance. Many argue as well that workers in China have benefited from the rapid economic growth, job creation, and market access achieved by the current economic and political model.

However, in many ways, China's economic model is showing signs of stress—even for those often considered its chief beneficiaries—and I believe it is very much in the interest of the U.S. government to press for improvement in China's worker rights sooner rather than later.

For the Chinese government, widespread worker unrest and regional labor shortages are signs that as the country grows and develops, workers will naturally demand more voice, better wages and working conditions, and more freedom. These demands will not be satisfied for long by cosmetic changes or rhetorical sops. And in the international arena, including at the G–20 meetings, the Chinese government will come under increasing pressure to reduce "external imbalances," that is to say, to reduce its current account surplus. Allowing workers more economic and political power is the surest way to boost domestic consumption in a sustainable way.

For multinational corporations, producing in China is not a bargain if their international reputation is tarnished by bad publicity around abuse of workers. Many companies reflexively resist union organizing or labor law changes that would facilitate the formation of unions. The irony, however, is that allowing workers the freedom to form their own unions, without interference from the government or management, might actually be the only way for companies to produce in China without the constant and justified fear that unsavory production conditions are occurring and could be revealed. Thousands of corporate monitors who jet in and out of a factory cannot possibly replace a union on the ground, made up of workers, with democratically elected leadership.

And Chinese workers deserve to have their internationally recognized human rights respected. They deserve the right to form their own organizations at their workplaces—free of interference from their government or employer, free to set their own priorities at the bargaining table, free to demand consistent enforcement of labor laws from their government.

American workers are not ambivalent on this matter. We want to see the rights and dignity of our Chinese brothers and sisters respected. We want to see American corporations held accountable for their actions in China, as well as in the United States. We want our own government to fight hard to protect our jobs and our rights—including by insisting that one of our largest trade partners live up to its international obligations with respect to worker rights, among others. And we want to see China fulfill its promise as a great nation, but one that achieves its success through hard work and ingenuity, not by repressing the voice, the rights, and the democratic aspirations of its own citizens.

TIME TO ACT

The AFL–CIO calls on the Obama administration to raise the profile of workers' rights in its bilateral dialogues with the Chinese government; to insist on achieving concrete progress on the full range of workers' rights issues, including freedom of association; and to keep open the option of using every tool available, including a self-initiated Section 301 workers' rights case, to pressure the Chinese government to act in a timely way. Congress can provide welcome and needed pressure to move forward, including by supporting a 301 petition, as has been done in the past.

We simply cannot afford more years of inaction and empty promises. We cannot afford another year of watching working conditions in China worsen, as good jobs continue to leave the United States.

The AFL–CIO remains committed to fighting for America's working families and America's manufacturing industries.

Thank you for having me here today and thank you for the important work you do. I look forward to your questions.

Written Statement for the Congressional Executive Commission on China Hearing on Working Conditions and Worker Rights in China: Recent Developments

Tuesday, July 31, 2012
Rayburn House Office Building, RM 2200

Mary E. Gallagher
Associate Professor, Department of Political Science
Director, Center for Chinese Studies
University of Michigan

Chairman Smith, Chairman Brown, and Members of the Commission.

Thank you for convening this hearing on this important topic.

In the early summer of 2010, more than a dozen workers at Foxconn, a Taiwanese-owned electronics conglomerate and major supplier to brands such as Apple, committed suicide by jumping off the roofs of their factory dormitories. In the same few months, workers at a Honda automotive parts factory went on strike for higher wages and better working conditions. This strike spread to other Honda factories in the region and eventually led to the shutdown of Honda's assembly plants in China. These two incidents are related, but different. One, the Foxconn suicides, depicts the isolation and alienation that young, migrant workers often feel as they leave their hometowns in rural China for industrial or low-level service employment in China's coastal cities. The Honda strikers represent a more optimistic trend - the successful collective mobilization of workers and the emergence of proto-collective bargaining between labor and management that led to significant increases in wages for many Honda workers.

These events are related because they highlight the transformative changes that have occurred in Chinese labor over the past decade, both the negative and the positive trends. They highlight the varied ways in which Chinese workers, especially young migrant workers, are responding to their plight. While some of these changes are the result of economic and demographic shifts in Chinese society, there have also been considerable political and legal changes since the beginning of this century. The Chinese state's motivations for these changes are grounded deeply in its own fear of instability and worker-led political unrest. Therefore, these changes are not all in one direction - toward greater liberalization and rule of law institutionalization. Instead these reforms include both new, progressive legal codes to improve working conditions, the revival and strengthening of socialist institutions that empower the Communist Party-controlled trade union and worker participation in enterprise decision-making, and, finally, significant new government efforts to channel disputes away from formal legal settlement and toward government-backed mediation.

In this statement, I will first briefly describe the fundamental economic, social, and political changes that have occurred since China entered the World Trade Organization in 2001 (See also Gallagher 2012). Then, I will examine some of the changes in working conditions and dispute activity since

the passage of the Labor Contract Law (LCL) in 2007. This is an important new law that significantly expanded legal protections for Chinese workers, at least on paper. I show that since the LCL some improvements have been achieved, but employers have also exploited loopholes and gaps in the law to evade some of the protections. The combination of more protective laws and more empowered workers with employers and local governments still motivated overwhelmingly to boost economic growth has led to very large increases in labor disputes and labor conflict since 2008. In my conclusion, I argue that the level of dispute activity and the government's inability to deal with increased conflict in an efficient and fair way underscores the institutional vacuum that exists in China's industrial relations. China's legal protections for workers have increased, workers' awareness and knowledge about their legal rights have strengthened, and yet there are no collective organizations - at the firm level or above - that are able to facilitate systematic, regular discussion and negotiation between workers and management. As workers' expectations and demands have increased, there has been a continual rise in formal disputes, wildcat strikes, and demonstrations, but there has been very little real progress in institutional reforms that could structure conflicts over rights violations and interest demands effectively. This failure is a political one, related to the government's unwillingness to reform the All-China Federation of Trade Unions and to allow the establishment of independent trade unions. Liberalizing reforms such as these have been rejected. In their place, the government has decided to inject itself more deeply into the dispute resolution process through the promotion of government-run mediation and other measures that maintain, and even strengthen, the role of the government in managing labor relations.

*Economic and Demographic Changes in China's Labor Markets*

One of the fundamental changes to occur has been the demographic shifts in China's working population. Widely discussed and debated in China, the change from relative labor surplus to labor scarcity (for some sectors and jobs, in particular) came more quickly than expected. In 2003, reports of labor shortages in coastal manufacturing zones were initially thought to be temporary. These shortages increased in severity over the following years and spread to other areas, including rapidly growing inland regions. China's demographic changes are the result of both regular, "normal" development and more specific effects of China's one-child policy put into effect in the late 1970s. China's strict implementation of the one-child policy since the 1980s has hastened some of the demographic changes that we see today and has made the aging trajectory more serious, with implications for China's labor markets and for longer term development of social welfare (Cai 2012).

China's demographic profile at the beginning of the reform era in 1978 was particularly favorable to rapid industrialization. The proportion of the working-age population to the dependent population was high (Wang 2012). In addition, a very large pool of rural surplus labor was untapped, as rural-to-urban migration during the Maoist era was almost completely non-existent. When the government gradually relaxed the *hukou* policy, allowing for rural citizens to temporarily move to cities for employment, this labor pool allowed China to begin to follow in the past of other East Asian economies, as it unleashed rural migrants who had low expectations and little connection to the protected socialist state-run industry in China's cities. This was a favorable context for labor-

intensive industrialization and it was timed with large wage increases in more developed Asian economies, such as Japan, South Korea, Taiwan, and Hong Kong. China's favorable working-age population ratio continued as the one-child policy put strict limits on family size, reducing the number of dependents before the increased longevity of older citizens had been fully realized.

China's working-age population will peak in 2015 and fall from 973 million people in 2010 to a predicted 870 million people in 2050 (Hayutin 2010). China's slowing population growth mirrors many developed and post-socialist countries' trajectories, though China's decline is not nearly as steep as Russia's or Japan's. Other developing economies such as India, Brazil, and Indonesia are expected to have continued growth in their working populations, especially India. This change in China's demographic trajectory has enlarged the political and economic space for Chinese workers. As labor markets tighten, many workers, especially workers with skills and/or education, can vote with their feet. Employers must improve working conditions and compensation to retain the best workers. But this trajectory has also enlarged the political space for Chinese workers as the diminishing returns to labor-intensive industrialization increase political support for changes to China's economic growth model. The new foundations of growth are increased domestic demand and improvements to productivity and innovation rather than reliance on cheap labor and low-tech, often polluting, industrial sectors.

*Social Change*

The demographic changes that are remaking Chinese labor markets are also reflected in the differences between younger migrant workers and earlier generations of rural migrants (Qiao and Chen 2010). Young migrant workers are now better educated, come from smaller families, and desire to become permanent urban citizens. This "new generation of migrant workers" are no longer satisfied with low-level jobs that can earn them savings for a few years before they return to the countryside to agriculture or petty entrepreneurship.

Given this generation's higher levels of education, better access to technology, and increased integration into urban culture, there seems to be greater potential for this generation to articulate collective interests and to act collectively to press for their interests and rights, vis-à-vis employers and the government alike. Chinese urban workers have acted collectively in the past, often organized by work unit, to protest state-owned enterprise restructuring. Rural migrants have also used native-place affiliations and familial bonds to organize, but these modes of organization have not served them well at their urban workplaces where divisions between workers of different origins, dialects, and local cultures can be used by employers to fragment workers' collective identity. In the strikes of 2010, observers pointed to workers' new ability to organize within single workplaces and to design institutions to allow for leadership selection and representation. This was apparent in the 2010 Honda strikes.

*Political Change*

In this context of shifting demographics, the rising expectations of young migrant workers, and increased disputes and strikes, the Chinese state has moved since 2003 to pass labor laws and regulations that strengthen workers rights, enhance employment security, and widen access to social insurance, such as pensions, medical insurance, and occupational injury insurance. Central government initiatives have been the most important, but many local governments have followed suit with supplementary local laws and guidelines as well. As discussed below, however, local governments have also attempted to pass local regulations that thwart some protective impulses from the central government in order to boost the local economy and its competitiveness vis-a-vis other Chinese localities.

The 2008 Labor Contract Law was the most important piece of legislation in a long list of new laws and regulations that have enhanced legal protections for Chinese workers (See Harper-Ho, 2009). Other important laws include the Social Insurance Law (2011), the Labor Dispute Mediation and Arbitration Law (2008), and the Employment Promotion Law (2008). The Labor Contract Law's implementation period coincided with the onset of the Global Financial Crisis, a steep decline in export orders, and protracted slowdowns in China's major trading partners in Europe and North America. Although there were calls for the law to be rescinded or its implementation delayed, the National People's Congress continued to push for implementation and did not consider revision of the law until 2012. The proposed revisions are discussed below.

*Post-Labor Contract Law Working Conditions in China and Dispute Activity*

The Standing Committee of the National People's Congress passed the Labor Contract Law in 2007 after several years of vigorous debate and discussion. In 2006, the draft law was released for a thirty-day period of public comment. It attracted over 190,000 comments from workers, employers, business associations, and lower-level unions affiliated with the ACFTU. Many business associations and employers opposed the law's more protective impulses, which included new restrictions on short-term contracts, enhanced severance compensation, and tougher penalties for failure to sign written contracts with employees. However, there was much popular support for the law as rampant exploitation of workers in labor-intensive industries was widely publicized in the Chinese media. Many supporters of the law hoped that it would reverse the trend of declining employment security since reform of the state and collective sectors reached an apex of 30 million layoffs in the late 1990s (Gallagher and Dong 2011).

In this section, I argue that the law has improved some aspects of employment relations in China. This does not mean that widespread violations do not continue to occur. They do, as other panelists at this hearing will attest. But there have also been some significant shifts in the right direction. Second, I show that employers have attempted to evade this law mainly through the use of labor subcontracting and the indirect employment of employees via third party employment agencies. Finally, I document how this new, more protective law coupled with increased awareness and education on the part of workers has contributed to a massive increase in labor disputes and labor conflict since 2008.

Since 2008, there has been a marked improvement in the level of formal employment, that is, workers with a written labor contract. In the 2005 mini-census, nearly 70% of all rural migrant workers worked informally, that is, without a written labor contract and, usually, without any access to pension insurance, medical insurance, or occupational injury insurance. Over half of local workers also worked without a formal contract. The China Urban Labor Survey, done in 2001, 2005, and 2010, found that only 12% of migrant workers had contracts in 2005 with 65% of local workers employed with contracts. In 2010, two years after the passage of the LCL, the trend of increasing informality had been reversed, with 71% of local workers employed with written contracts and 34% of migrant workers (Gallagher, Giles, Park, and Wang, forthcoming).

Increased formality in employment has also improved access to social insurance. Chinese law requires that employers contribute about 30% of wages (with individual workers contributing about 10%) for social insurance programs, including pension, medical, unemployment, maternity, and occupational injury. In 2010, local worker's coverage in pension insurance had increased to 88.5%, up from 77.5% in 2005. The trend was similar for medical insurance. Migrant workers also saw an increase in social insurance coverage, but it was much more modest. Pension insurance coverage increased from 20.4% in 2005 to 22.2% in 2010. Medical insurance coverage increased to 23.8% from 21.8% during the same time period (Ibid). This lower coverage rate among migrants is related to the unreformed aspects of China's "*hukou* policy," which discriminates against rural migrants and makes their transition to permanent urban residency difficult. For this reason, many rural migrant workers themselves are loathe to participate in social insurance schemes from which they themselves may not benefit, given their high mobility and uncertain legal status.

A final improvement is in the increased awareness among Chinese workers of their legal rights. This is not necessarily a direct effect of the law itself, but is more likely related to the heightened public and media attention the law's drafting sparked since 2006 when the period of public comment occurred. Labor NGOs and activists have also run programs and projects to increase legal knowledge and awareness among rural migrants, in particular. The China Urban Labor Survey found that most workers were aware of many of the basic stipulations in the law, for example, that a written labor contract is required, that failure to sign a written labor contract within the specified time period entitles the worker to double pay, and that open-ended contracts are also required in some circumstances. In 2010, rural migrants and local workers had similar levels of awareness, which points to the increased education and awareness of young migrant workers (Ibid.)

Despite these positive changes, one glaring trend is the marked increase in labor subcontracting through middlemen employment agencies that then serve as the formal employer. While subcontracting and use of employment agencies are common in market economies, regulation of these agencies in China has been lax. After the LCL went into effect in 2008, many companies looked to labor subcontracting as a way to reduce formal workers with written labor contracts. This cuts labor costs because subcontracted workers are often paid less and receive lower or no social insurance, but it also significantly reduces the employment security of the worker who can be let go summarily and does not have any written labor contract with his actual employer. For the

employer, this reduces the risk of committing to longer-term labor contracts and open-ended contracts for workers with ten years of tenure, as the LCL stipulates.

The National People's Congress announced in June 2012 that the Labor Contract Law would be revised this year and that the focus of the revisions would be on the clauses related to labor subcontracting. The NPC cited overuse and "abuse" of labor subcontracting as a critical issue leading to the need for revision. The actual number of subcontracted workers is difficult to determine as agencies do not report numbers regularly and the industry is loosely regulated. The Ministry of Human Resources and Social Security estimates that between 10 million and 28 million workers are subcontracted. An ACFTU report stated that the number is closer to 37 million. Labor subcontracting is not restricted to the foreign or private sectors, nor is it only found in labor-intensive industry. State-owned enterprises, government organizations, universities and hospitals also employ subcontracted labor on a widespread basis (Wang Biqiang 2012)) Draft revisions to the LCL have been released and are focused on better definition of the types of work that can be subcontracted and better regulation of the sector itself. Given that many state-run firms and units use subcontracted labor to reduce costs and increase labor flexibility, successful revision of the LCL will not be enough to curtail abuse of labor subcontracting. Improved implementation and enforcement of the changes are also required.

Labor disputes in China are settled through a three-step process of mediation, arbitration, and litigation. Mediation is voluntary, while arbitration is compulsory for most disputes. Litigation normally occurs when either side appeals the arbitral decision, though some disputes can progress directly to court for adjudication. Voluntary mediation has always been the state's preferred method of resolution because it saves time and may preserve some degree of harmony between the two parties. However, after the passage of the first labor law in 1995, mediation rates fell precipitously as workers had more confidence in dispute processes that relied on formal law and institutions outside the enterprise. Most labor disputes are individual disputes, though collective disputes can occur. Disputes most commonly involve wage and compensation issues. I discuss trends in mediation and collective disputes below.

Labor disputes from 1995 to 2007 rose on average by about 25% annually. This regular increase in disputes was simultaneous with China's reforms in labor markets and the state enterprise sector. It also coincided with a massive influx of foreign direct investment and labor-intensive industry. In 2008, the implementation of the LCL coincided with the global financial crisis, leading to an explosion in disputes. Labor disputes increased by nearly 100% nation-wide, with some localities reporting increases of 300%. Seven provinces reported increases over 100%. In Guangdong Province disputes increased by 170%, in Yunnan Province, by 188%. Disputes taxed the capability of local arbitration committees and civil courts to settle disputes fairly and quickly. The rate of increase in arbitrated disputes since 2008 has slowed and even went down slightly from 2009 to 2010. However, the total number of disputes has not decreased, but continues to rise. In 2010 there were nearly 1.3 million labor disputes. 70% of these disputes were mediated, which shows the success that the government has had in pushing disputes out of the courts and into government-sanctioned mediation.

While mediation has always been a preferred form of dispute resolution in the PRC, since 2008 the government has attempted to reinvigorate mediation for labor disputes, particularly when disputes are large collective disputes, involve rural migrants, and involve extralegal activity such as strikes and demonstrations (Su and He 2010). Mediation is encouraged at every step of the resolution process, including arbitration and litigation. Judges and arbitrators are rewarded professionally for high mediation rates, often resulting in "forced" mediations.

Greater reliance on mediation and informal settlement is especially pronounced when labor conflict threatens local social or political stability (Chen and Xu 2012). These negotiated settlements rely on intergovernmental and CCP unit cooperation as "stability preservation committees" go directly to the site of the conflict to encourage both sides to compromise. Researchers have also noted that while individual leaders and activists may be dealt with harshly, striking workers may receive some significant compensation in exchange for ending the strike and returning to work. This return to mediation and turn away from the rule of law has been roundly criticized by legal scholars, most recently by Carl Minzner of Fordham Law School (Minzner 2011). It underscores the Communist Party's ambivalence toward its recent legal reforms that opened up channels for formal, legal resolution of private disputes. The government is worried that these reforms have led to too many disputes, too much adversarial litigation. These trends are not in accordance with the state's promotion of "harmonious society." Many recent regulations, circulars, and official statements have instead revived mediation practices that appear to be more conciliatory, but often rely on very active government intervention into disputes, use threats of violence or actual violence to force negotiated settlements, and violate the spirit and letter of China's own procedural codes.

*Conclusion: China's Institutional Vacuum*

The Chinese state's laser focus on "social stability" is always to maintain the political status quo, which allows the Chinese economy to continue to grow and the Chinese state to grow wealthier and more powerful. It builds up extremely important domestic and international legitimacy. But the Chinese state is nothing if not extremely ambitious. China's leaders realize that maintaining the status quo is not enough; stability is the prerequisite for other plans.

In this context of needing to maintain economic growth, but also to fix long-term problems, such as rising inequality and economic imbalances, the Chinese state envisions a gradual process of industrial transformation from labor-intensive manufacturing to high-tech, capital-intensive manufacturing and research and development. China's role as the workshop of the world is a stepping-stone to something more valuable—as the laboratory of the world, as the R&D center of the world. At the same time, the movement of labor-intensive manufacturing from the coastal development zones of Guangdong and Jiangsu to internal provinces such as Henan, Sichuan, and Jiangxi will begin to alleviate China's dramatic regional inequality. It will also make the urbanization of China's rural workers more tractable. Instead of leaving home to seek out urban areas for employment and opportunity, China's rural citizens will have the jobs come to them. China's new urban citizens will live in newly created cities as farms become suburbs and suburbs become metropolitan centers in

their own right. This goal may not be reachable, but this ideal is an important foundation for the state's support of more protective labor laws and rising wages.

One challenge revealed by the post-2008 increase in labor conflict that has not been solved by the heavy-handed push for mediation and the new legal protections is the lack of institutional capacity for labor-capital bargaining around interest conflicts. The vast majority of the nearly 700,000 labor disputes in 2009 were "rights disputes," disputes that involve the alleged violation of China's own laws. However, Chinese workers and employers have many disagreements and conflicts about their interests, such as wage increases, working conditions, quality of the cafeteria food, or the transportation from workplace to home (Chen 2010). Many of the striking automotive workers in 2010, for example, were motivated by a desire for wage increases that reduced the wage inequality between Japanese and Chinese workers employed by the same company and between Chinese workers in different plants owned by the same company. Because in most cases their wages already exceeded the minimum wage standards for their locality, they had wage demands that could not be settled through the current process of labor dispute resolution, which can only handle disputes over rights. Interest disputes simmering over a long period of time are likely to continue to erupt in wildcat strikes and demonstrations. There are no other mechanisms currently in place to handle them preemptively, especially as the government has shown little change in its opposition to freedom of association.

Since the 2010 strikes, the government has revived the idea that China needs a system of collective bargaining and negotiation that would allow for regular and systematic discussion about wages between the government, employers, and workers. Such a system, it is believed, would not only reduce the likelihood of spontaneous workplace actions, but would also contribute to China's desire for industrial transformation.

Unfortunately, China's institutional landscape does not contain actors, on either side of the labor-capital divide, who are capable of effective representation and bargaining. Reforms to the ACFTU, the only state-sanctioned trade union, have been ineffectual. The trade union remains severely constrained by its dual role as representative of labor and the conduit between the Communist Party and workers. Politically, the trade union is embedded in the local Party-State structure, focused on economic growth, social stability, and continued one-party rule. Business associations are weak and fragmented. Labor NGOs and other civil society actors operate in a precarious position and are subject to constant surveillance and occasional crackdowns. While some large state-owned enterprises and multinational corporations may have the capacity to undertake collective negotiations and contracts with their employees, there has yet to be a breakthrough in this regard.

China's development trajectory is an important backdrop to this discussion of Chinese working conditions. As noted in the three areas discussed above—demographic, social and political — recent trends of increased labor activism cannot be explained by any one dimension, but rather by the confluence of factors that are currently in alignment. This alignment has widened the political space available to workers in pushing for new demands. Tighter labor markets have focused the minds of employers who had grown used to low expectations and an endless labor surplus. Political

leaders at the top have realized that in order to rectify the dramatic growth in inequality since the 1980s, China's coastal provinces must yield investment to cheaper places inland. China's political system, however, has not changed, and there are few signs of any opening for freedom of association, independent unions, or a truly worker-led labor movement. Without institutional reforms, high levels of labor conflict are likely to continue, if not worsen. The state's reluctance to shift its stance requires that it then strengthen its own role in promoting mediation, maintaining stability and putting down large scale-incidents. As with other aspects of China's political economy since 2008, this greater reliance on the state and the empowerment of state actors at the expense of civil society and the market are additional signs of China's retrenchment and retreat from reform.

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July 31, 2012

**Congressional-Executive Committee on China**

**Testimony of Earl V. Brown, Jr.**
**Labor and Employment Law Counsel at the Solidarity Center**

**Addressing Problems in Chinese Labor Law**

Introduction:

At the outset, I want to acknowledge the positive role this Commission plays in offering a capacious platform for many of the diverse voices in Chinese civil society, and for its attention to the development of Chinese labor law as an important foundation for a robust civil society. [1] Chinese civil society is vast, hugely diverse and rapidly changing. Inclusion of the full range of Chinese civil voice in efforts to understand developments in that complex country is crucial. Government to government dialogues often fail to capture or understand key changes brewing on the ground. Similarly, exchanges through more established and government-dominated institutions, such as universities, are often removed from grass roots ferment. In the absence of the range of grass roots voice that this Commission has encouraged, the flow of information about the extensive and rapid changes in China's civil society and industry runs the risk of being constricted and sanitized.

In no area is the need for inclusion of the grass roots voice more important than in my topic here, labor law. China is now the world's factory, with all the pluses and minuses that entails for China and the world. China faces a set of development and governance issues quite similar to those faced by most industrial countries in their histories—but at a vastly accelerated pace and involving a far greater number of workers. The labor "question" —how gains from economic growth are shared—so central to politics in industrial nations for such long periods, is—along with the environment and corruption—at the center of a fierce debate about the direction of China. Labor law's project is to establish fair standards for pay and working conditions, promote safe and healthy workplaces and provide efficient mechanisms for the timely resolution of industrial grievances before they ripen into strikes. [2] Because labor law affects the living standards and quality of life of millions of Chinese industrial workers, making labor law work for workers, employers and society is one key theme in the project of entrenching the rule of law by making the law work in China.

The history of industrializing societies rather uniformly teaches that fair treatment of industrial workers, and accessible, fair and transparent industrial dispute

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[1] Congressional-Executive Commission on China. *CECC Annual report 2011*. Washington, DC. 2011. pp. 67-79; Congressional-Executive Commission on China. *CECC Annual report 2010*. Washington, DC. 2010. pp. 71-85; Congressional-Executive Commission on China. *CECC Annual report 2009*. Washington, DC. 2009. pp. 68-87; Congressional-Executive Commission on China. *CECC Annual report 2008*. Washington, DC. 2008. pp. 41-56.

[2] Rodgers, Gerry and Eddy Lee, Lee Swepston, Jasmien Van Daele. The International Labour Organization and the Quest for Social Justice, 1919-2009. Ithaca, NY: ILR Press/Cornell University Press, 2009. p. 3.

resolution mechanisms, are keys to establishing the overall rule of law and industrial peace. If workers are cheated on earned wages, if employers and their allies in government can suppress wages and build unsafe factories and mines that maim and debilitate large numbers of workers, only to eject them without health care and income support back into society, then a large segment of the citizenry will inevitably view the rule of law skeptically, and may proceed to the next logical step of questioning the legitimacy of government.[3] These are recurrent themes in the history of industrialization and there is no reason is expect that China will be exempt. An effective and fair labor law may prove essential to promoting the rule of law and ultimately stability in China.

The mission of my organization, the Solidarity Center, is to work with labor movements around the world to strengthen worker voice. That mission flows from our intrinsic ties to the U.S. labor movement and to literally thousands of unions and grass roots worker rights support organizations around the world. We are thus rooted in an important sphere of US grass roots civil society and work with our counterparts in civil society around the world to promote international labor standards, human rights and worker voice. I am a labor lawyer and have practiced in the US, and Asia. Currently, I am the union co-chair of the ABA International Labor Law Committee and a Fellow of the US College of Labor and Employment Law. These professional positions allow me to engage in frequent dialogue with labor lawyers and scholars in China seeking to advance worker rights and voice.

In recent years, this Commission has wisely devoted attention to the details of labor law in China, and has been "*in the weeds*" on these important aspects of China's economy and polity.[4] On labor, the Commission has been inclusive, and where warranted has acknowledged progress in China on the "labor question." And, indeed, over the period 2006-2010, China made great strides in laying new foundations on difficult ground for labor laws based on the principles of a private, market economy.

China allowed a broad and unprecedented debate, including robust advocacy from grass roots worker rights advocates in the official unions, in worker rights centers, in labor law legal aid clinics and labor law firms, preliminary to enacting a statute, the 2008 Labor Contract Law (LCL). The 2008 LCL seeks to redress the evils of wage theft from Chinese workers, to include internal migrant workers under the protection of labor law, and to begin to address the excessive casualization of work in China and the resulting lack of job security. The inclusive public debate, including strong and sometimes fierce advocacy from foreign and domestic employer groups such as the US commerce chambers, was unique. It was a hopeful precedent for future labor legislation—as it allowed the melding of all the interests affected, those

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[3] National Labor Relations Board v. Jones & Laughlin Steel Corporation, 301 U.S. 1 April 12, 1937.

[4] Congressional-Executive Commission on China. *CECC Annual report 2011*. Washington, DC. 2011. pp. 67-79; Congressional-Executive Commission on China. *CECC Annual report 2010*. Washington, DC. 2010. pp. 71-85; Congressional-Executive Commission on China. *CECC Annual report 2009*. Washington, DC. 2009. pp. 68-87; Congressional-Executive Commission on China. *CECC Annual report 2008*. Washington, DC. 2008. pp. 41-56.

of workers, employers and government. The resulting law deals with some of the problems comprehensively and reflects the balance of all the interested parties on labor issues. We believe that this open debate and inclusion of all voices was essential to securing wide spread support for law.

This belief was buttressed by the ensuing vigor with which many of China's labor relations institutions and the courts pursued unpaid wage claims, a huge social injustice and source of unrest. But this forward movement may have stalled, due to an inability to fill critical gaps in fashioning a Chinese labor law for industrial relations in a private market economy, as well as larger policy trends in addressing the emergence of a diverse and vigorous Chinese civil society.

In what follows, I attempt to examine the current official approaches to industrial unrest from the perspective of government policy, using the very values articulated by Chinese policy makers on the labor question. I will show that the existing legal framework for industrial relations and civil society, despite positive developments in recent years, will not advance the goals of China's own labor policies.

The stated labor policies of the government and the All China Federation of Trade Unions (ACFTU), and goals of current labor law are clear and obvious. I attempt to summarize them here: increase wages and the purchasing power of employees; make space for worker voice on wages, hours and working conditions; establish worker rights and implement those rights in a fair and timely fashion; and by these means advance the goal of industrial peace or "harmony".[5]

The ultimate goal of both the law and policy makers in government and the union is to ensure industrial peace by securing rights and enabling worker voice. These policy goals are standard in most economies with large industrial sectors. Yet the framework within which those goals are to be reached will not yet suffice to advance industrial peace or the rule of law in labor relations. Rather, China runs the risk of endorsing rights consciousness in workers and thereby intensifying worker voice but frustrating the achievement of fair and lawful outcomes for workers in industry. This mismatch between goals, rights consciousness and frameworks seems a recipe for social unrest, if the history of older industrial societies can serve as a guide.

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[5] "Full Text: National Human Rights Action Plan of China (2012-2015)" English.news.cn. 11 Jun 2012. Web. <http://news.xinhuanet.com/english/china/2012-06/11/c_131645029.htm>;
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Labor Law Issues:

The principal labor law issue in industrial China is the regularization of grass roots voice and industrial action in a predictable rule of law framework. In the main, industrial workers in China have no accessible and continuously present institutions at the workplace to speak and bargain for them. International labor law supplies clear standards for forming unions and for providing scope for associational activities including strikes.[6] International law additionally allows for freedom in creating relationships between Chinese grass roots worker institutions, national sectoral unions and national union centers, as well as association with international trade unions and worker rights institutions.[7] The simple purpose of these freedom of association norms is to give legal recognition to those institutions for worker voice and for collective bargaining that are rooted in workers, and reflect the interests and demands of workers and not those of others. The goal of the norms is to permit real bargaining between workers and employers, bargaining that resolves disputes and ensures industrial peace—that is, "harmony."

The current Chinese industrial relations system has little capacity to respond to workers' demands at their source since it remains fused to the governmental structure and does not originate from the workplace. A vast private industrial sector has emerged with hundreds of millions of workers and millions of employers, all acting largely on their own perceptions of self-interest. This invites exploitation and conflict and does not promote harmony. The union, in the main, has no immediate presence on the factory floor. Located far from the factory, mine or transport hub, often attuned to local government more than to workers, the official union is likely the last to know of shop floor grievances and strikes.

The official union's ties to local government rather than to the shop floor have another consequence. Employers, particularly large employers, have an outsized influence on local governments everywhere, and so too in China. This elemental fact of labor relations can mean that employers have more voice within the local or provincial union than workers, and far more than they should if the union is to act credibly as a vehicle of worker voice and interests. Bargaining over those worker interests should take place between employers and workers in a tri-partite framework rather than within the union. But often the employer-local government link means that worker voice is not even heard but extinguished until a crisis has erupted.

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[6] International Labour Organization (ILO) C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Convention concerning Freedom of Association and Protection of the Right to Organise (Entry into force: 04 Jul 1950) Adoption: San Francisco, 31st ILC session (09 Jul 1948); International Labour Organization (ILO) C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (Entry into force: 18 Jul 1951) Adoption: Geneva, 32nd ILC session (01 Jul 1949).

[7] International Labour Organization (ILO). *ILO Declaration on Fundamental Principles and Rights at Work.* 2003.

This disconnect between the union and the shop floor undermines the union's ability to reflect worker voice and channel grievances into dispute resolution mechanisms that are capable of grappling with the real clash of divergent interests and the real scope of the conflicts at hand. It also limits the union's ability to make settlements stick. The result is more industrial action and less industrial dispute resolution. Without roots and credibility on the floor, the official trade union structure has difficulties creating real sectoral union institutions able to address sector wide issues that often are at the heart of local strikes. Lack of freedom of association in forging international links means that Chinese unions—as well as foreign unions—remain crippled at dealing with common employers and common problems in a global economy.

Given China's astounding diversity, and the lack of accessible information about factory level industrial relations developments, every generality above is necessarily subject to qualification. In some instances, the official union is proceeding to root itself in the shop floor and we hope this trend continues. The union has also made strides in advocating for workers on the legislative level and representing them in courts and administrative tribunals. But it remains largely a stranger on the shop floor, and so viewed by most workers and observers. This lack of roots in industry has the result that industrial action is increasingly the avenue for settling industrial disputes.

The formal structure for employer input into industrial relations is equally removed from the realities of industrial relations. Employers do not bargain with industrial workers directly through employer associations. In fact, many aspects of industrial relations on both the worker and employer side are pursued outside the formal structures. Trade associations and grass roots actors on the employer and workers side compete without clear guidelines to impact labor laws, labor law compliance and wages, hours and working conditions. Employers often have no staff with training in industrial relations and collective bargaining, and are thus often unable to know how to recognize grievances and resolve them fairly and promptly before they erupt in industrial action.

The labor standards set by Chinese legislators and governmental regulators cannot be enforced by bureaucracy alone. There are simply too many employers and too many workers acting autonomously to allow for bureaucratic or judicial enforcement of basic labor standards, much less industrial peace. No government could reasonably be expected to have the number of factory inspectors necessary to police China's enormous economy. Without inclusion of grass roots worker organizations in the industrial relations picture, standards are not enforced uniformly and employers who evade standards achieve lower costs and competitive advantage based simply on their defiance of labor law. This subverts the efforts of compliant employers to remain in compliance, and fuels illegality in labor relations. The result—the rule of law is eroded in an area that affects millions of citizens. And labor peace remains elusive.

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China's labor law as presently constituted is an effort to stage "Hamlet" without the Prince of Denmark. The missing actor is the worker based trade union that is able to articulate worker voice, conduct genuine bargaining and prevent and settle strikes and other labor disputes. As a result, China's industrial workers are pushing for better wages and conditions in the absence of any legal or work place institutional framework for channeling industrial grievances and discontent. The upshot--China has a lot of strikes.

In this environment, where the Prince of Demark (the autonomous trade union) is absent, efforts to channel and resolve industrial protests by judicial, arbitration, mediation and human resource approaches may not yield the results promised by the advocates of those techniques in the US, China and elsewhere. To that end, U.S. government efforts to improve Chinese government administrative procedures in the industrial relations sphere, while welcome, are mainly beside the point. Individual case handling in courts is not the most effective approach to collective factory wide disputes. Mediation of disputes between individual workers and their employer is equally ineffective, as the fundamental lack of an equal advocate for the workers often skews the result in the employer's favor and leaves a bad taste on the shop floor. Trade union voice and comprehensive bargaining will predictably resolve disputes more rapidly and more effectively than courts, mediators or arbitrators.

Unfair compromises of basic labor standards as to hours, wages and conditions imposed by judges, arbitrators or mediators foster dilution of what in labor law are meant to be minimum standards. These standards in Chinese law and the labor laws elsewhere represent a legislative social judgment that they are the floor below which conditions and wages should never fall. Unbalanced compromises of those basic minimum standards promote a "race to the bottom" by corroding the basic statutory framework for work and have ramifications within the Chinese and global economies.[8]

Human resources techniques and corporate social responsibility initiatives that are aimed at putting a positive gloss on abusive industrial conditions cannot advance industrial relations in China, in the absence of a vigorous voice for workers. Witness, the elaborate but ultimately ineffective public relations efforts of Foxconn to pacify workers and to distract consumers' attention from the exploitation of young Chinese workers. Rather than recognizing the workers and bargaining with them, Foxconn has imported psychologists and staged ludicrous extravaganzas about "loving Foxconn" while leaving the fundamental labor law abuses unaddressed.[9]

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[8] If a worker recovers only half of the statutory minimum wages due for work performed in mediation, then the minimum standard set by government has effectively been halved. While there are circumstances, such as bankruptcy, where funds have evaporated and claims cannot be paid in full, routinely comprising minimum wage cases in mediation or judicial forums effectively lowers the minimum to the settlement amount.

[9] "Foxconn Rallies: Employees Pledge To Cherish Their Lives." *Free Talk.* China.org.cn, 23 Aug 2010. Web. <http://forum.china.org.cn/redirect.php?tid=15527&goto=lastpost>.

A final problem in Chinese labor law is the misclassification of industrial workers. Many workers are classified as student interns or "temps" or contractors, and thus excluded from the protections of labor law, and consequently from bargaining over wages and conditions. These workers are excluded from the labor law as a result of artificial legal arrangements crafted by employers and their lawyers and human resource advisors. The artificial legal arrangements are designed for the purpose of disguising the evident empirical relationship. The excluded individuals are, in economic terms, "workers" working for pay for an employer who controls their wages, hours and working conditions.

In passing the 2008 LCL, the Chinese legislature, which is supreme with regard to framing law under the Chinese Constitution, sought to include all workers within its protections.[10] However, employers have relied on regulatory passivity to misclassify workers coming to the factory floor from technical schools as student "interns" rather than the line workers they often are in fact. As a consequence, these millions of line workers are paid less than minimum wages and less than their co-workers on the line. Such interns make up a significant proportion of the work force, and have been active in recent strikes at car manufacturers at least in part because of this unequal treatment by their employers. A labor law that excludes young workers who perform unskilled factory work unrelated to their educational goals and with insignificant educational benefits can hardly claim to address worker rights comprehensively.[11] Yet employers and some regulators are using the intern label as a device to exclude these young factory workers. This misclassification does not reflect the LCL statutory values of covering workers comprehensively, and is linked to a feeling of unequal treatment among younger workers that results in industrial action and should be reversed.[12]

A similar problem arises from the abuse of the dispatch agency system (劳务派遣) and independent contract classification under current LCL practices being followed by employers without challenge by regulators. Employer flexibility is essential to

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[10] Constitution of People's Republic of China, Section 2; Law of the People's Republic of China on Employment Contracts, Adopted at the 28th Session of the Standing Committee of the 10th National People's Congress on 29 Jun 2007. (in force 1 Jan 2008). Articles 1-3. (Unofficial Translation Prepared by Baker & McKenzie).

[11] Cooney, Sean, "The Scope of Chinese Labor Regulation: Boundaries and Consequences." Paper delivered to the NYU Center for Labor and Employment Law and the US-Asia Law Institute Research Conference on the Chinese Labor Market, 11-12 May 2012. (New York 2012).

[12] This sub silentio acceptance of this interpretation of the coverage of the LCL to exclude student interns, in the face of the empirical realities in many workplaces, presents a fundamental challenge to the rule of law in China. The body charged with enacting law, the National People's Congress, has passed, after much discussion and debate, a comprehensive general law with the goal of covering and protecting all workers (劳动者). Despite this deliberate legislative intention to reform Chinese labor law and fill its gaps in coverage and protections, a large number "interns" are now performing routine, unskilled work for industry in programs without discernible educational or training content. There is no stated exemption in the LCL for students or interns. But the proposition that these nominal "interns", who are empirically "workers", are not covered because employers declare they are not in view of the arrangements they have crafted with technical schools for line workers effectively ignores both the facts and the role of the legislature in defining the coverage of a law and using rather plain words to express this intent. *But see*, Cooney, supra note 11. But these employer arguments rely on Marxist notions of what a worker is ontologically and not on the actual facts of industry. Students working full time on the shop floor can also be workers.

allowing employers to grow their business and to respond to unforeseen obstacles and opportunities. But using "dispatch" or contract workers sourced from labor brokers ("dispatch companies" or temporary employment agencies [劳务公司]) working at lesser wages and with far lesser job security right alongside better paid workers with more job security, many times doing the same work, is a recipe for wholesale evasion of labor law standards, erosion of job security and a fertile field for strikes.

Some estimates put the number of 'dispatch" workers in Chinese industry at 27 million. As noted, many of that vast group of excluded workers work below standards with respect to wages, hours and job security.[13] The wholesale use of dispatch workers to perform routine core enterprise functions is not much more than an effort to end run Chinese labor law standards, and not a balanced response to business exigencies.

China is now looking at plugging the "dispatch worker" and independent contractor loopholes in the LCL by limiting these outsourcing practices to temporary time periods, and requiring "equal pay for equal work." China should also now address the intern issue, by insisting that employees who perform work under arrangements with technical schools that afford little in discernible educational or training value are, in all reality, workers and deserving of the full protection of the labor laws of China.

The Current Discomfort with Civil Society:

In an industrial world as huge and diverse as China's, worker agency will inevitably be linked to ferment in the larger society. This is one lesson from other industrial societies—workers reflect and act upon larger trends in rights consciousness and often seek alliances in civil society. Their aspirations and interests also routinely spill over the vessels of formal trade unionism. Every industrial society I know of has seen the growth of worker centers, worker beneficial societies, legal aid clinics and legal advocacy by lay legal workers. These organizations and networks are not unions per se, but are means of autonomous worker rights advocacy and worker voice. It seems China right now is seeking to dampen this inherent and completely normal aspect of industrial development.

Worker rights activists and their fragile grass roots and community institutions are being surveilled and harassed by local government, employers and security officers. Activists are tracked by cops and employer security guards, leases cancelled by landlords under local government pressure, and activists and their families threatened and even roughed up. In one supposedly "open" province, Guangong,

[13] Revisions to China's Labour Contract Law focus on abuse of employment agency system." China Labour Bulletin, 28 Jun 2012. Web. <http://www.clb.org.hk/en/node/110086>.

authorities have just shut down seven long standing grass roots worker centers.[14] The official union in some areas is insisting that autonomous outlets for worker voice come in under the union umbrella, often with the goal of control and not protection.

On the factory floor, it seems that workers who speak out vigorously are being washed out of the work force. There is evidence, frankly, that in many places there is collusion between employers and the official union in "sanitizing" the shop floor. This official union should be recruiting those grass roots leaders to be organizers and grass roots advocates. Not expelling them from the work force.

A security approach to worker voice cannot work to advance industrial peace. It is true that the non-profit NGO sector in China needs a better legal framework within which to function, and that fraudulent or untrained providers of services to workers need to be regulated. It is equally true that bringing worker rights NGOs in close alliance with the union could serve to confer legitimacy on those fragile grass roots institutions that have emerged and protect them from hostility by employers and their friends in local government. Indeed, closer and more comradely interaction by the official union with these NGOs could enrich the union and open it to the new industrial arrangements that Chinese workers are forging outside the union with their employers. But it is equally true now that these trends to bring in the NGOs seem aimed at limiting and controlling worker institutions, rather than allying with them to represent workers vis-à-vis their employers.

Conclusion and Recommendations:

The above "criticisms" of Chinese industrial relations law and practice are meant in the sense of "critical" as in "critical" thinking. To show what improvements need to be made to conform the legal framework to the policy goals of China. The element of worker voice and grass roots civil society needs to be included prominently in the mix of industrial relations.

The United States should continue to support trade union cooperation and worker rights dialogue between U.S. unions and civil society organizations, on the one hand, and diverse Chinese worker rights organizations of all kinds, on the other hand. The activists struggling to make the promises of Chinese labor law real should always be included in the dialogues and cooperative programs of the two countries.

Work with diverse and fragile grass roots actors in China's industry is difficult. There may be a tendency in our government to prefer dialogue and cooperation with safer partners—ministries, the official union and universities. But confining dialogue and cooperation to government influenced industrial actors in China—

[14] Tam, Fiona. "Guangdong Shuts Down at Least Seven Labour NGOs." South China Morning Post 27 July 2012. <http://www.scmp.com/portal/site/SCMP/menuitem.2af62ecb329d3d7733492d9253a0a0a0/?vgnextoid=782a79b7634c8310VgnVCM100000360a0a0aRCRD&ss=China&s=News>.

officials, union heads as well as labor law and industrial relations professors—risks missing the grass roots industrial ferment so important to issues of governance and stability in China, and hence so large a factor in the relations of China and the U.S.

Civil society to civil society, union to union and worker rights advocate to worker rights advocate contact and cooperation should always be an element in our approach to the world's newest industrial giant, China. These direct civil society links imperil no government and do not import conflict where there is none already. But they inestimably enrich both China's and the U.S. understanding of the global economy and the China-U.S. relationship.

Thank you for this opportunity.

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PREPARED STATEMENT OF CHRISTOPHER SMITH, A U.S. REPRESENTATIVE FROM NEW JERSEY; CHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

JULY 31, 2012

Welcome to our distinguished witnesses to this hearing on the important topic of the appalling state of working conditions and worker rights in China—a significant human rights abuse that requires greater examination, analysis and bolder action. Worker rights are systematically violated and are among the many human rights abuses committed by Chinese government officials at all levels. Today, the Commission hopes to continue to draw attention to these critical issues in order to push the Chinese government to reform and respond to the legitimate concerns of its' own citizens all of whom are entitled to well-established, universally recognized labor rights.

As a member of the World Trade Organization, China has experienced tremendous economic growth and integration into the global economy, but as this Commission's most recent Annual Report documents, China continues to violate the basic human rights of its own people and seriously undermines the rule of law. Workers in China are still not guaranteed, either by law or in practice, fundamental worker rights in accordance with international standards. Despite legislative developments that purport to ensure some labor protections in China in recent years, abuse and exploitation of Chinese workers remain widespread. Conditions in Chinese factories continue to be incredibly harsh. Workers are routinely exposed to a variety of dangerous working conditions that threaten their health and safety. Low wages, long hours and excessive overtime remain the norm.

Chinese workers have few if any options to seek redress and voice grievances under these harsh conditions. If workers step out of line they may be fired without payment of back wages. Workers have no collective bargaining power to negotiate for higher wages and a better working environment. The Chinese government continues to prevent workers from exercising their right to freedom of association and strictly forbids the formation of independent unions. Attempts to organize are met with dismissal, harassment, torture, punishment, and incarceration. Workers are "represented" by a government-controlled union, the All-China Federation of Trade Unions—a phony, fake and fraudulent "workers organization." The recent crackdown on authentic labor non-governmental organizations in Shenzhen in 2012 and the mysterious death of labor activist and 1989 Tiananmen Square demonstrator Li Wangyang in June are but a few examples of Chinese authorities continued attempts to crush labor activism.

While touting itself as an economic superpower, China continues to violate worker rights with impunity. With no institutions capable of protecting their interests, Chinese workers are nevertheless taking matters into their own hands. In the past few years, there has been a dramatic rise in the number of labor-related protests in China—an estimated 30,000 labor related protests in 2009 alone and there are no signs that this positive trend has abated. The increase in labor-related demonstrations not only represents a glaring lack of institutional capacity for fair labor negotiation, but also reflects the rise of a new generation of workers in China who are

better-educated, tech savvy, rights-conscious, and more willing to protest and endure the consequences.

The deplorable state of workers' rights in the PRC not only means that Chinese women, men and children in the work force are exploited and put at risk, but also means that U.S. workers are severely hurt, as well, by profoundly unfair advantages that go to those corporations who benefit from China's heinous labor practices. As good corporate citizens, multinational corporations, such as Apple and Microsoft, must ensure that international labor standards are being implemented in their factories and supply chains in China. In the glaring absence of Chinese government efforts to bring its' labor laws and enforcement up to International Labour Organization (ILO) standard—multinational companies can and must play a unique role in advancing labor rights and industry standards through their operations in China.