

# Cases of labour rights violations and harassment of labour leaders in the Philippines

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## Faremo International, Inc.

Faremo International Inc. was the largest garments factory in the Cavite ecozone which shutdown on October 26, 2016 thus laying off some 1,000 workers, mostly women. It cited lack of orders in its notice of closure. But when confronted by the labor union, management was not able to present a single piece of paper to substantiate its alibi. Upon prodding by international labor rights NGO's, one of its customers, Gap, admitted that its orders were increased not cancelled.

The union insisted that the closure was a ruse to bust the union. Thus the Faremo workers setup a picket-protest outside the factory.

A protest on November 7 by Faremo workers was harassed by representatives of PEZA, the government agency that manages export zones. Workers marched from their picketline to the main gate of the Cavite ecozone but was told to stop by PEZA police and ecozone security guards led by the head of the PEZA industrial relations department. When the marchers proceeded with the protest, they were told that they will not be allowed back in to the ecozone. Indeed Faremo workers who tried entering the Cavite ecozone to visit the picketline and guard against management taking out machines were refused entry by ecozone security guards. It took intervention from the Labor Department before the Faremo workers were allowed entry after a few days.

Aside from illegal closure and union busting, workers also complained of blacklisting by Faremo management. The list of Faremo union members together with their pictures were given to at least two garments factories in the export zone, Dong Seung Inc. and Do First MS Phils. Corp.

Also, in the weeks prior to declaring closure and on day itself of closure, truckloads of machines were taken out of the factory and transferred to other garments factories in the ecozone, among them Do First. Faremo filed a notice of permanent closure on October 21 and then laid off workers on October 27 in clear violation of the mandated 30-days notice rule and without paying workers for the remaining days.

Despite years of seniority on the job, Faremo workers merely receive the legally mandated daily minimum wage of PhP 356.50. Pioneers at Faremo, who have worked since the factory started, receive just PhP 1 higher than the rest of the workers.

When Faremo management first broached that they may shutdown temporarily and layoff workers, the union proposed that work be rotated so that workers need not be retrenched. But such reasonable proposals from the union fell on management's deaf ears. It replied with a hardline position—close the factory and bust the union.

The workers of Faremo formed a union in 2015 and concluded a collective bargaining agreement on May 2016. The moment workers organized a union at Faremo, they faced a concerted and virulent campaign of management interference.

After management learned that workers started organizing a union, it reacted by harassing unionists and intimidating other workers against joining. More than a dozen workers were interrogated individually in management offices, asked to stop the unionization effort and offered money in return for “voluntary resignation.” Some four workers were forced in this way to resign. Regular workers and contractual workers who were being regularized, were asked not to join the union and sign papers pledging to refuse unionization. The harassment and intimidation stopped only when workers engaged one of Faremo's customers regarding their commitment to respect FOA in their supply chain.

Still during the certification elections, management interference continued as workers were asked to vote against the union, threatened by factory closure should the union win and a leaflet was circulated against the union. During the CBA talks, management did not bargain in good faith and the union had to file a notice of strike in order to break the CBA deadlock and conclude a contract.

After more than three months picketing, the dispute was resolved with an agreement that provides for the rehiring of the workers if the factory reopens, a substantial financial assistance on top of the separation pay and the grant of several sewing machines for a livelihood project of the displaced employees.

The contention of the Faremo union that the factory closure is a scam to bust the union is not a baseless claim. It is not the first time that such a travesty of the labor laws happened in the Cavite ecozone. Just this May, precisely the same thing occurred at the company SYTIC.

### **Seung Yeun Technology Industries Corp. (SYTIC)**

Workers of Seung Yeun Technology Industries Corp. (SYTIC), a Korean-owned manufacturer of plastics products for the electronics industry, formed a union in 2016 to address violations of labor standards on wages, overtime pay, illegal deductions and health and safety. Immediately after management learned of the unionization, it went all out to bust the union in collaboration with the PEZA industrial relations (IR) department at the Cavite ecozone.

Union members and officers were threatened with company shutdown and cajoled to receive separation pay. Later several union officers including the president and treasurer were slapped

with trumped up charges about products that failed quality control. One union officer was slapped with a separate case when she fought back after being attacked by a non-union worker. She was brought to the PEZA IR office and interrogated about her union activities.

But before these all charges could be resolved, 20 union members and officers were terminated en masse. A five-day strike ended with the reinstatement of the terminated union members and officers. The union then filed a request for certification as the sole and exclusive bargaining agent having complied with the requirements of the new Labor Department order. Yet after two hearings of the request, there was no action from the Department of Labor and Employment (DOLE) despite the provision of the order that certification will be issued on the same day after it is verified that a majority of the workers support the union.

Not long after, the company filed for shutdown on the pretext of lack of order which it could not justify in mediation hearings. Yet after SYTIC allegedly shutdown, the company continued operating using with non-union workers.

In desperation, the locked-out union members barged into the factory and occupied the shop floor. The head of the PEZA IR department and a government labor mediator negotiated with the workers as if they were agents of management and refused to accede to the union's request for counsel. With the DOLE and PEZA representatives threatening them with cases for occupying the factory, the workers finally accepted separation offer and ended the occupation.

As of today, the SYTIC factory continues to operate but under the name of Dae Yun Co. Inc. and with contractual workers supplied by an agency. In the records of the PEZA, Dae Yun is supposed to be involved in recycling of metals, plastics and cartons not manufacturing of plastic products.

The modus operandi of union busting via illegal closure does not happen only in the Cavite ecozone but elsewhere such as the Mactan ecozone.

## Sein Together

A newly formed union at a garments factory at the Cavite export zone is facing issues of freedom of association and violations of labor standards. Unionists are facing harassment from the management of Sein Together Philippines Inc., a subsidiary of the Korean garments firm Sein Together (<http://www.seintogether.com/eng/main/main.php>).

Union leaders have all been transferred last March to one production line to separate them from the rest of the workers. At the end of March, the factory was temporarily shutdown. The company said they had no orders. Workers suspected orders were just shifted to its nearby sister company S&S which is not unionized. S&S was also put on shutdown but only partially (6 out of 10 production lines were closed temporarily).

The Sein Together union has filed a complaint about unfair labor practice (a labor law term used here to mean violations of FOA) at the Labor Department. The union demanded a stop to the harassment, the transfer of union officers to their former production lines, the reopening of the factory as soon as possible and the immediate reemployment of unionists once it reopens.

After one hearing, the union and management agreed to negotiate at the enterprise-level to resolve the complaint. Talks proceeded at the factory-level between the union and management. By April, the union leaders and most union members were back at work with the reopening of the factory.

However the union filed a new complaint at the Labor Department due to management's decision to cut workers' wages. Allowances granted to senior workers were reduced from PhP 400 per month to PhP 250. The complaint is pending as of the moment.

Among Sein Together's customers is Tesco of UK, a member of the Ethical Trading Initiative. It also supplies to Home Plus of Korea (which was formerly owned by Tesco) and Korean apparel brands Jisoo, Hue to Go, Daiz and Jaju. It also supplied before to Costco and workers say they heard that new orders from Costco is forthcoming.

### **Fresh Cuts (Naga City, Cebu province)**

Community residents in a locality in the city of Naga in Cebu province held protests and filed complaints in February 2017 against a nearby factory for polluting the environment and damaging the health and safety of people. Fresh Cuts Agri Cebu Corporation was assailed for not having proper waste disposal facility thus causing foul odor, polluting the environment and triggering sickness in residents, including children.

Fresh Cuts processes chicken and supplies to Mang Inasal, a subsidiary of the giant food conglomerate Jollibee Corporation. Residents reported that waste in the form of chicken innards and feathers were just thrown outside the factory compound.

Thus the community through the assistance of organized groups sought the intervention of the local government in late 2016. When nothing prospered, they filed complaints at the local offices of the Environmental Management Bureau, National Meat Inspection and the Department of Health.

After a series of dialogues and intervention by the concerned agencies, Fresh Cuts committed to undertake remediation. These includes an immediate stop to the improper disposal of waste, daily pickup of garbage by a third-party contractor, investment in the construction of a proper waste disposal facility, and the inclusion of residents in a monitoring team to oversee the implementation of the remedial measures.

## Taifini Copper and Conductor, Inc.

The management of Taifini Copper and Conductor Inc., a Taiwanese-owned metal factory in Silang, Cavite, successfully busted the union that was in the process being certified as the bargaining agent of rank and file workers. The union filed a union busting complaint at the Labor Department but nothing was resolved.

The union president was demoted from machine operator to helper, and was reinstated only after the complaint was filed. Workers were intimidated by supervisors and managers to desist from joining or to resign from the union. Union officers were met by top management and told to stop the unionization. Union officers and members were told that its customers will stop their orders once a union is formed and that the company will be forced to shutdown if unionization continues. Union members are being discriminated by not being given overtime work, unlike the rest of the workforce including contractuales, and thus their take home pay has been reduced.

The head of the HR department filed a protest against the union's petition for certification as the bargaining agent despite not being a rank-and-file worker. Still the DOLE accepted the protest. Four union members who had resigned from the union due to pressure were transported in a company vehicle to and from the hearings to testify against the union. They were paid their wages even though they were out of the factory to attend the hearings. The union's petition to be certified as the bargaining agent was denied by the DOLE on the basis of the protest filed by the company HR head and instead an election was ordered to be held.

In the elections, the union was defeated as fear and intimidation by management had taken hold among workers. Subsequently, the same HR head together with HR staff filed for cancellation of the union registration. The Labor Department thereafter delisted the union and thus the union busting scheme by Taifini was fully completed.

## Tae Sung Phils. Co., Inc.

After workers organized a union in 2014 at the Korean-owned Tae Sung Phils. Co. Inc., a metal factory at the Cavite ecozone, management immediately filed a petition to cancel the union registration. Despite workers voting overwhelmingly for the union, management filed a protest and used that as an alibi to refuse to bargain.

It took the threat of a strike for management to finally open CBA negotiations. Over the course of more than seven months of negotiations, Tae Sung did not bargain in good faith but harassed the union by firing eight union members and one union officer, and then suspending others including the union president and vice president. It took a two-day strike to break the deadlock over negotiations and conclude the CBA.

But even after the conclusion of a CBA, management still tested the union by firing a ranking union officer who was reinstated only after the threat of another strike. The union now face the challenge of management refusing to implement provisions of the CBA on the grievance procedure and wage increases.

### **Blaze Manufacturing Corp.**

The intransigence of the management of Blaze Manufacturing Corp., a locator in the Mactan Economic Zone, to workers efforts to unionize and the indifference if not collusion of government agencies is symptomatic of the wholesale resistance to exercise of the freedom of association in that ecozone. After more than three decades in existence, no single union with a collective bargaining agreement presently exists in the Mactan ecozone. The case of the rank-and-file and agency workers of Blaze Manufacturing, a Japanese-owned company producing hi-blocks for export, reveals this pattern of the suppression of the right to organize.

Two weeks after a certificate of registration for the Blaze Manufacturing Corp. Employees Union (BMCEU) was issued by the DOLE on March 15, 2011, 11 workers were terminated by management. Over the next few weeks, management tried to convince workers to withdraw from the union while offering to promote others. None of these anti-union maneuvers were successful and by June 3 a certification election was finally conducted.

BMCEU handily won the certification elections, arguably the first time that a union won in the Mactan ecozone since all previous attempts were defeated by the various management union avoidance tactics. Unfortunately the victory was pyrrhic as the company declared closure on the eve of the historic certification elections.

In fact the workers had to vote in the regional office of the DOLE as they were prevented from entering the Mactan ecozone due to the factory closure. Management used the alibi of Blaze being sold to a new Japanese owner for the impromptu shutdown which was in violation of the 30-day notice rule for any permanent or temporary closure.

Meanwhile the workers of the agency supplying workforce to Blaze also organized themselves into a union. Arguably the first time in the Philippines, workers of the A. Bones Manpower and Recruitment Agency successfully formed the Agency Workers Union of Blaze (AWUB) and won the certification elections in polls conducted in July 5, 2011. The certification elections were likewise held at the DOLE regional office as the workers were out of work since Blaze was the only principal to which the agency places it employees.

By the time the agency workers had won the certification elections, many Blaze workers, out of economic difficulties, finally accepted management's offer of a separation package. Still a significant number pushed through with cases of illegal dismissal and union busting against Blaze.

And yet despite the pendency of the labor dispute and cases of illegal dismissal, PEZA issued on July 8, 2011 a letter of authority allowing Blaze to operate. Thus on July 10, 2011 Blaze reopened and rehired all of the terminated non-union members while it contracted a new manpower agency for the additional workforce. The reopening of Blaze exposes the real agenda of the factory's closure as blatant union busting tactic. Currently Blaze factory is operating under the name of Ouroku Corporation.

On July 18, 2011 workers wrote the PEZA national and Mactan offices to question the basis of the authority for Blaze to reopen despite the pendency of the labor dispute. Both BMCEU and AWUB held protest actions at the PEZA offices in Cebu to call for the cancellation of the letter of authority and a hearing on the workers demands regarding the labor dispute with Blaze. Yet there was no action from PEZA on the workers demand.

Union busting at Faremo, SYTIC and Blaze are just the most brazen instances of violation of freedom of association. There are numerous other cases of management interference in the various ecozones under the jurisdiction of the PEZA.

### **Alta Mode**

Workers at the Alta Mode garments factory in the Mactan ecozone formed a union in 2009 in order to address workplace grievances such excessive quota and forced leave. Unfortunately, the union lost the certification election in September 2009 due to successful interference by management and collusion by DOLE officials. Two days before the certification elections, a meeting of Alta Mode workers under the guise of an assembly of cooperative members was called. The agenda of the meeting was not cooperative matters but the certification elections and the need to defeat the union in the vote. All the union members were put on forced leave on the day of the certification election. The DOLE allowed and counted the votes of supervisory and contractual workers who were not part of the bargaining unit.

After the certification election, management temporarily shutdown the factory for six months despite signing a memorandum of agreement in the presence of DOLE officials providing for a series of measures aimed at avoiding forced leave of workers. Finally, Alta Mode closed the factory on March 15, 2010.

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

from employment in the Mactan ecozone since locators have been furnished copies of their names.