

**September 10, 2008**

**To: UNITED NATIONS HUMAN RIGHTS COUNCIL – CCPR (Civil and Political Rights) HUMAN RIGHTS COMMITTEE**

**From: Ed Cubelo, Union President**

**TOYOTA MOTOR PHILIPPINES CORPORATION WORKERS ASSOCIATION (TMPCWA)**

**&**

**Hideo Ishikawa, Union President**

**ALL JAPAN SHIPBUILDING AND ENGINEERING UNION – KANTO REGIONAL CONFERENCE - KANAGAWA DISTRICT UNION (SEU-KC-KU)**

Warmest greetings!

Kindly allow us to write to you for the first time. We are Ed Cubelo (male) and Hideo Ishikawa (male), the former being the union president of Toyota Motor Philippines Corporation (TMPCWA) and the latter being the union president of All Japan shipbuilding And engineering Union – Kanto Regional Conference – Kanagawa District Union (SEU-KC-KU). In this letter we would like to present to you certain information on the fact that the Japanese government and the Japanese judiciary approve of the violation of human rights in the following points; a Japanese corporation Toyota Motor Corporation is violating the right to association of the workers at its subsidiary corporation Toyota Motor Philippines Corporation and at the same time is violating the right to association of the workers of the Philippines and Japan across the borders of both countries.

In March 2000, there was conducted in TMPC a certification election for the purpose of gaining the sole and exclusive collective bargaining right wherein the majority of rank-and-file employees cast their votes for TMPCWA, which thus became the sole and exclusive bargaining agent recognized by the Philippine government. However, TMPC raised an objection to it and refused the collective bargaining negotiation. In addition, in March 2001, TMPC dismissed 227 union member employees and later on additionally dismissed 6 union officers, thus dismissed a total of 233 employees. Furthermore,

TMPC filed a criminal charge against 26 union member employees on account of grave coercion such as having glaring at someone.

In September 2003, the Supreme Court of the Philippines issued a decision negating the previous decision of the Court of Appeals in Manila depriving TPCWA, by provisional injunction, of its collective bargaining right. This Supreme Court decision became finally affirmed in March 2004. Nevertheless, TMPC disregarded this Supreme Court decision and still continued to refuse the collective bargaining negotiation with TMPCWA.

Moreover, in November 2003, having held the said dismissal, refusal of collective bargaining and criminal charge as being illegitimate, ILO issued its first Recommendation to the Philippine government. Still yet, TMPC, without loosening its attack on TMPCWA at all, continued by all means to refuse collective bargaining with TMPCWA while making up a second union (TMPCLO) with the help of the Philippine government, and thus recognized it as the sole and exclusive bargaining agent and entered into collective bargaining with it for a collective bargaining agreement, which was signed by both of them.

As being faced with such situation that the Supreme Court decision was not observed, we thought that it was extremely difficult for the problem to be solved in the Philippines so as to make it perhaps impossible for it to be solved by the struggle in the Philippines alone. Besides we had already entertained such an idea that this union-busting was not an issue merely with TMPC but rather an issue on the multinational enterprise Toyota such that Toyota Japan must solve it. For this reason, in 2004, TMPCWA and the Support Group in Japan for Philippine Toyota Union TMPCWA filed this issue with the national Contact Point (NCP) having its office in the Ministry of Foreign Affairs of Japan on account of a breach of OECD Guidelines on Multinational Enterprises. Also, in the same year, TMPCWA entered SEU-KC-KU to become a member union of the latter, whereupon SEU-KC-KU proposed a collective bargaining negotiation to the headquarters of Toyota Japan. However, Toyota Japan headquarters refused it so that we filed a petition for remedy for such unfair labor practice with the Kanagawa Prefecture Labor Commission in Japan.

Although it is already more than four years since the issue was filed with it, NCP or the Ministry of Foreign Affairs of Japan has done nothing at all, even what is called initial

assessment. It has been the practice of NCP or the Ministry of foreign Affairs of Japan not to make assessment on its own in accordance with OECD Guidelines on Multinational Enterprises but rather to just wait and see the judicial authorities of the Philippines render their judgments. In the last meeting we had with the officials of NCP or the Ministry of Foreign Affairs of Japan, they obviously showed us their willingness to follow the decision of the Supreme Court of the Philippines issued in December 2007 validating the dismissal of 233 workers by saying this decision to be “hardly to ignore.” In addition, regarding the situation where just several blocks away from the union office of TMPCWA on the same side of a street in the Philippines there was deployed a detachment of the military so as to place TMPCWA members under surveillance and threat, they, the officials of NCP or the Ministry of Foreign Affairs of Japan, commented, “if not a member of KMU, anybody will not be killed,” thus showed us their view as if it were helpless if somebody killed was a member of KMU.

As regards our petition for remedy for unfair labor practice, all the administrative and judicial authorities in Japan, namely in addition to the said prefectural labor commission, the Central Labor Commission, the Tokyo District Court and the Tokyo High Court issued their decisions turning down our complaint. At present our complaint is pending before the Supreme Court of Japan. As for the reason why we are presenting this information to you United Nations Human Rights Council – CCPR Human Rights Committee at this time when any judgment is not rendered yet by the Supreme Court of Japan, we would like you to please see the attached copy of our Reason for Appeal to the Supreme Court of Japan, but in short it is because it is extremely unlikely that our allegation will be granted since the Supreme Court of Japan has so far rejected almost all appeals filed on the ground of international law.

The sole reason of dismissal under the series of those previous decisions in our case was that the labor relation in the Philippines is beyond the reach of the labor union law of Japan. Thus, all these decisions rejected our complaint in front of the gate, that is to say without going into the factual relations. In reality, however, Toyota Japan had such relations with this issue as described below.

First, it is clear from its share holding status, the Articles of Incorporation, the use of “Toyota” brand, etc. that Toyota Japan, namely a Japanese corporation Toyota Motor Corporation controls TMPC, namely Toyota Motor Philippines Corporation. Secondly, while it was the president of TMPC who was the top executive responsible for the

refusal of collective bargaining and the dismissal of 233 workers, he was one of the personnel of Toyota Japan dispatched to TMPC. Thirdly, in 2001 when 227 workers were dismissed and thus TMPCWA went on a strike to stop the operation of TMPC, it was the same top executive, namely the Japanese president of TMPC, who, together with the representatives of ten other Japan-originated corporations participating in Japanese Chamber of Commerce and Industry in the Philippines, threatened the Secretary of Labor and Employment and the Secretary of Economy and Industry of the Philippines as saying, "We will possibly pull out from the country unless the labor dispute is solved in favor of Toyota." Lastly, in March 2006 when International Metalworkers Federation (IMF) and Toyota had a negotiation on this issue, the person who played the role of chief negotiator on behalf of TMPC was neither the then president of TMPC nor the Filipino executive vice president who had been responsible for labor control since the inauguration of TMPC but the person, named Mr. Nobuharu Tabata, who had been the president of TMPC until the previous month of February and was then back in Japan with a subsidiary of Toyota Japan.

The series of those facts indicates that this case is not the act of TMPC alone but the act that was directly by Toyota Japan. Toyota Japan did not only control TMPC as a matter of form but also definitely controlled the latter in terms of personal hierarchy. The threat of "pull out" is not the words that can be used by the president of a mere subsidiary company but the words used by the parent company or used with the intention of the parent company on the back. It was Toyota Japan which directly managed TMPC throughout the whole process of this labor dispute. That is to say, it was the Japanese president of TMPC as one of the dispatched personnel of Toyota Japan who dismissed 233 workers and threatened the Arroyo administration with possible pullout of investment from the Philippines with the intention of Toyota Japan on his back, together with the other corporations participating in the Japanese Chamber of Commerce and Industry. And, it was not the Filipino executive vice president of TMPC but the former president of TMPC at the time of the dispute and already back in Japan as the president of a subsidiary in Japan of Toyota Japan who negotiated with IMF in place of the newly appointed Japanese president of TMPC.

As such, what matters is not a mere labor relation in the Philippines. It is true that damage was suffered in the Philippines. But the violation of human rights in question has occurred at the company over which Toyota Japan has control. Moreover, it has occurred at the company the top executive of which is assumed by one of the personnel

dispatched by Toyota Japan. Furthermore, it is also clear that this violation of human rights has occurred in compliance with the mind of Toyota Japan as the parent company and that these acts have been constantly approved.

In addition, when workers demanded a collective bargaining negotiation in Japan as an exercise of their right to association across the borders of the countries, Toyota Japan refused it. While Toyota Japan do by their own the violation of workers' right to association across the borders of the countries, they do not admit the exercise by workers of their right to association across the borders of the countries. However, not only Toyota Japan but also the authorities of Japan, such as the Ministry of Foreign Affairs, the Ministry of Welfare and Labor (including labor commissions) and the judiciary, are all trying to cut the problem short to the one within the Philippines. By doing so, the Ministry of Foreign Affairs of Japan, the judiciary of Japan, etc. are acquitting the multinational corporation Toyota, or Toyota Japan, of committing transnational illegal acts with the help of the conducts and judgments in breach of the spirit of the Japanese laws and the international labor standards.

The twenty-first century is the times of multinational enterprises. There are now occurring countless violations of the right to organize across the borders of countries. Yet, it is the real fact that in many developing countries these violations of the right to organize occurring across the borders of countries are approved of or protected by governments and judicial authorities competing to invite foreign investors. Should it be impossible to remedy these violations in developing countries, workers are obliged to seek remedy in countries where parent companies are located beyond the borders of countries. Should it be the case in the times of multinational enterprises that workers have no right to exercise their right to organize across the borders of countries, the workers will have to be placed in a state with no safeguard against the attack on them by multinational enterprises. Violations of the right to organize committed by multinational enterprises across the borders of countries must not be left unattended.

As a conclusion, we would like to sincerely request you United Nations Human Rights Council – CCPR Human Rights Committee to actively respond to the matter we have presented for your review as mentioned above.

For your information, as we attach a copy of our Reason for Appeal filed submitted to the Supreme Court of Japan in our administrative lawsuit regarding unfair labor practice

case, we would highly appreciate your kind reference to it.

Sincerely,

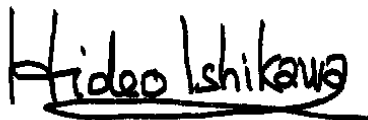
TOYOTA MOTOR PHILIPPINES CORPORATION  
WORKERS ASSOCIATION  
(TMPCWA)

A handwritten signature in black ink, consisting of a large, stylized 'E' followed by a horizontal line and a small mark.

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Ed Cubelo  
Union President

ALL JAPAN SHIPBUILDING AND ENGINEERING UNION  
- KANTO REGIONAL CONFERENCE  
- KANAGAWA DISTRICT UNION  
(SEU-KC-KU)

A handwritten signature in black ink, reading 'Hideo Ishikawa' in a cursive style, with a horizontal line underneath.

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Hideo Ishikawa  
Union President

Attached document: Copy of Our Reason for Appeal to the Supreme Court of Japan