

Challenges to social rights of workers in Vietnam

CASE STUDY OF GARMENT SECTOR

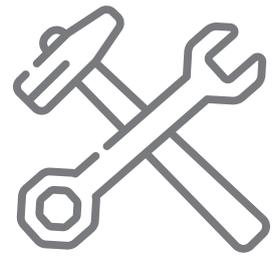
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01



BACKGROUND

Vietnam has been implementing Doi Moi (Renovation) since 1986, which has been undergone for over 30 years now. Doi moi has brought Vietnam out of the economic and social crisis of 10 years since the reunification of the country (1976-1986), overcome the inflation of over 700%, solved the situation of food shortage and helped Vietnam become the second largest exporter of rice in the world. The World Bank has announced that Vietnam has officially passed the low income threshold and has become a middle income country in 2009. Vietnam continues to implement industrialization and modernization policy with the goal of striving to become a modern industrialized country in 2020.

The economic model of Vietnam is characterized by the practice of a socialist-oriented market economy with an open-door policy and growth for poverty alleviation through attracting foreign investment (FDI), equitizing state-owned factories and promoting the private enterprise sector. Since Vietnam's economy was predominantly agricultural before Doi Moi, its workforce has been mostly originated from the agriculture. With opening up to attracting foreign investment and with a labourforce of limited vocation training, moving from rural to urban areas, from agricultural production to industrial production, FDI attraction of Vietnam mainly falls into the labour-intensive sectors of low skills and low value added. A large part of the working population, mainly young people, migrated from rural to urban areas and concentrated in industrial zones, economic zones and export processing zones, of which 78% are untrained vocationally¹.

Over the past 30 years, Vietnam has created jobs for millions of Vietnamese workers, which has helped change the lives of millions of Vietnamese workers. However, at the present stage, there are indications that economic development priorities are overwhelming social and environmental goals and posing challenges to real sustainable development in Vietnam.

Attracting FDI into manufacturing industries with cheap labour costs starts to be showing "more harm than good". It seems that continuing to attract FDI into the current industrial sectors is probably an economic development option of "sacrificing" people. Existing FDI sectors, which mainly use labour with long hours of work, low wages, unsafe working conditions and no accumulation for their old age, will surely leave the social consequences with the high rate of the poor after their working age and the warned risk of "the poor old population", leaving the burden of health and social security for the country. Vietnam is in its gold population structure. The already 15-20-year period of attracting FDI in cheap labour has driven away a generation of the golden population structure. Currently, the media has published a lot on the phenomenon of FDI factories which do not want to recruit workers of more than 35

¹ <http://www.daikynguyenvn.com/kinh-te/bat-ngo-voi-78-nguoi-lao-dong-viet-nam-chua-qua-dao-tao-goc-nhin-moi-ve-thach-thuc-va-co-hoi-cho-phat-trien.html>

years old, due to their high age, low labour productivity and high labour costs (high wage payment and high social insurance payment). Factories want to replace the old workforce with a young workforce, which has good health, higher labour productivity and lower labour costs. For the coming period, if we continue to attract FDI by using cheap labour as a comparative advantage, we will lose the next chance of utilizing the golden population structure for the country development in a sustainable way.

Because cheap labour is an attraction for foreign investors, and often the cheap-labour sectors are sectors of low-skilled workforce, the policy of attracting FDI into cheap-labour sectors has obstructed the human resource development of the country. Labour force is drawn into and nailed into low value added industries, who has to work until exhausted and have no time to improve their level of education and qualifications. This creates a paradox of "in-work poverty." Development policies that seek to create jobs for people to escape poverty, but low standard employment, low wages, low working conditions, and etc. will lead to jobs that do not help people out of poverty. This is a new poverty trap, which is much harder to solve if there is no quality employment and sustainable policies in the first place.

When the economy is shaped by low-cost, labour-intensive industries, it does not encourage economic restructuring. Immediate profits often blur the eyes of investors; Immediate growth often dulls the eyes of politicians, which do not encourage restructuring of the economy. The theory of change says that change is painful, difficult and not stimulating when you do not see the benefits.

Another paradox of attracting FDI by using cheap labour is that it would create expectations for investors to make investment. However, when this expectation is not met, investors, instead of choosing not to make their investment, can "react" to the situation. Recently, the Labour Federation of Vinh Phuc province said that there is a case that investors "strike" at the provincial People's Committee because the province attracted FDI by promising a young and cheap labourforce but it do not have an abundant labourforce to supply to investors².

In addition, low-skilled and labour-intensive sectors will be likely to face with the high risk of automation in the fourth industrial revolution (Industry 4.0). Industry 4.0 will change the nature of work and the simple work with low skills, repetitive work, work using simple skills of operating machinery and equipment will easily be replaced by robots. At present, the garment and footwear sector is a labour-intensive and low-skilled sector with more than 70% of garment workers as sewing workers. ADIDAS has announced the successful production of 500 pairs of shoes without using any workers. Two American technology factories, Softwear Automation in Atlanta and Sewbo in Seattle, have announced the successful design of fully automatic sewing machines with two different technologies: first, the fabric softening technology called technical processing. The fabric is hardened before being put into the sewing machine and the finished product is dipped in water to return to its original state; Secondly, the technology deals with the dexterity of sewing machines by installing a high camera at the sewing machine to track fabric fluctuations. If any signs of fluctuations in the fabric are detected, which can lead the fabric to shrinkage or creasing, a signaled device will perform the task of adjusting the fabric back to its normal state before continuing. This means that cheap labour will no longer be a comparative advantage in the Industry 4.0.

Therefore, cheap-labour sectors are not considered as comparative advantages in the long run. The policy of attracting FDI and developing economic sectors based on cheap labour is not a wise policy. In the long run, the strategy of attracting FDI into Vietnam's existing industries will affect human resource development and limit technology upgrading.

This study selects the garment sector for analysis of the situation of social rights of Vietnamese workers.

² Speech by Mr. Le Duy Thanh, Standing Vice Chairman of Vinh Phuc People's Committee at the Scientific Seminar on "Theoretical Basis on Mobility of Skilled Labour in the ASEAN community" within the framework of the State Project " Mobility of skilled workers in the process of Vietnam joining the ASEAN Economic Community", code: KX.01.04 / 16-20 in Hanoi, 12/9/2017

02



FACTS OF LABOUR SITUATION IN THE GARMENT SECTOR

The chosen economic development model of utilization of low-skilled workforce and cheap labour cost have led to the fact that the garment sector has become one of the key industries in Vietnam. It is the second largest export sector in the country with export value worth 10-15% to GDP. In recent years, the garment industry has been growing steadily at an average annual rate of 17% and has become one of the top 5 garment exporters in the world with a market share of 4% -5%³. Garment exports is also expected to rise to \$ 28.1 billion in 2016, and is expected to rise to \$ 31.3 billion by 2017⁴; accounting for over 16% of total export turnover of the country. Major export markets of Vietnam include the United States, the EU, Japan and South Korea (accounting for 85% of total exports) with main products to serve the low and middle class. FDI factories accounted for only 25% in volume but contributed more than 65% of the export turnover of Vietnam⁵. This creates the motivation for the development of Vietnam's garment industry with the expectation that the garment industry will continue to benefit from Vietnam's participation in free trade agreements with the European Union.

Looking deep at Vietnam's garment industry, Vietnam is engaged in the lowest value added link of "tailoring" with CMT (Cut - Make - Trim) products accounting for 85% and FOB/OEM (Original Equipment Manufacturer) accounting for 13% and ODM (Original Design Manufacturer)⁶ only accounting for 2%. However, under the FOB method, the value added is not high due to the fact

3 Báo cáo ngành dệt may Việt Nam, tháng 4/2014

4 <http://thuonghieucongluan.com.vn/nganh-det-may-se-dat-kim-ngach-xuat-khau-hon-30-ty-usd-nam-2017-a39337.html>

5 <http://viracresearch.com/wp-content/uploads/2014/09/B%C3%A1o-c%C3%A1o-D%E1%BB%87t-may-Q2.2016-comprehensive-Demo.pdf>

6 Assoc.Prof. Dr. Ha Van Hoi, Textile & Garment Value Chain of Vietnam: Disadvantages, Difficulties and Countermeasures, Faculty of International Enterprise and Economics, Hanoi University of Economics Noi, 144 Xuan Thuy, Cau Giay, Hanoi, Vietnam, 2012

that the purchase of materials and design are made by the importer⁷. Vietnam's garment industry does not source raw materials from inside the country but relied on imported raw materials (about 70-80%), mainly from China, Taiwan and Korea. This affects the export of the garment industry. According to a report by the Ministry of Industry and Trade of Vietnam, domestic cotton meet only 1-3% of demand for yarn production⁸, while raw materials only meet 20-25% of garment industry for domestic consumption and export⁹. In 2014, Vietnam's garment industry needs about 8.2 billion metres of fabric, while the total domestic fabric production is "extremely modest" with just 1.7 billion metres while import still dominate with 6.5 billion meters (accounting for 79.3%)¹⁰.

The garment sector has around 2.5 million workers, equals more than 20% of the labour force in the industrial sector and nearly 5% of the total labour force¹¹. Nearly 80% of the labour force in the sector is female and young, aged from 18 to 24¹². Due to the work characteristics of this sector, workers' productivity at its highest level is between the ages of 25-35 years old, then the productivity will decrease¹³. The labour force of the garment industry is mainly based on self-learning, self-training and on-the-job training. Only about 15% of workers in the garment sector have higher qualification. There is always a labour shortage in the sector, especially in terms of trained workers¹⁴.

7 Report on textile and garment industry - opportunities for improvement, Bui Van Tot, 4-2014

8 Data of 2013.

9 <http://vietstock.vn/2013/10/nguyen-lieu-cho-nganh-det-may-bao-gio-het-phu-thuoc-768-319266.htm>

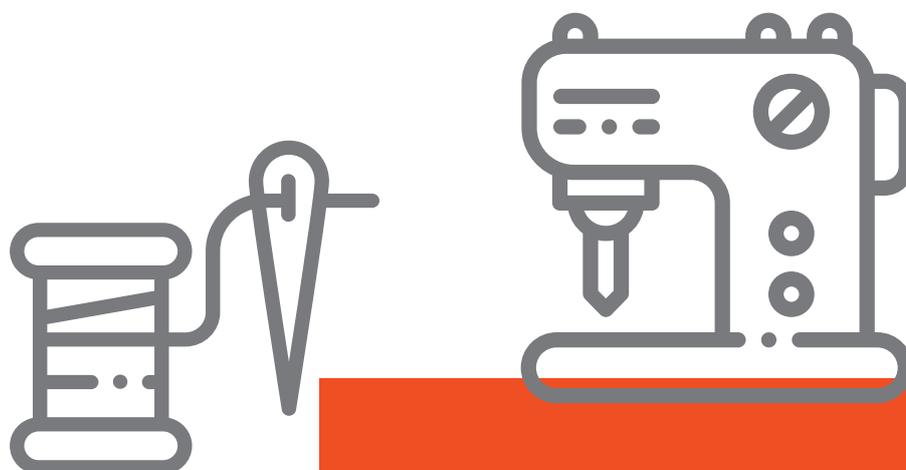
10 <http://www.thesaigontimes.vn/135352/Nganh-det-may-can-may-moc-cong-nghe-moi.html>

11 According to the Vietnam Labour Market Update, in 4th Quarter of 2016, the population aged 15 and over reached 71.58 million. The labour force aged 15 and over is 54.56 million

12 <http://nld.com.vn/cong-doan/lao-dong-nu-chua-duoc-quan-tam-0140818205947065.htm>

13 <http://www.congdoanvn.org.vn/tin-tuc/doi-song-cong-nhan-503/uoc-muon-cua-cong-nhan-det-may-182693.tld>

14 According to Tran Anh Tuan, deputy director of Ho Chi Minh City Labour Market Information and Forecast Center



MAIN LABOUR ISSUES IN THE GARMENT SECTOR

The garment sector is a labour-intensive industry, which is composed mainly of unskilled labour. This sector has been attracting foreign investment from the early days when Vietnam opened its economy. Till now, the garment sector is still growing and tends to grow further when Vietnam participates in new-age FTAs, such as the Vietnam-EU FTA. Thus, the industry can be said to be a typical industry where social rights of workers are challenged.

1. WAGES AND BENEFITS

According to the Vietnamese labour legislation, wages and welfare for workers are stipulated as follows:

- Minimum wage is the minimum amount paid for normal working hours for a full-time worker who does a simple job under normal conditions¹⁵; For trained workers, they must be paid at least 7% higher than the regional minimum wage¹⁶; Probationary employees are paid at least 85% of the wages paid to workers who do the same work for the normal working hours¹⁷;
- For overtime pay, workers who work overtime will be paid at least 150% of the normal wage for the normal working days, at least 200% for weekends; and at least 300% for holidays. Workers who work overtime at night are entitled to an additional 20% of the wage based on the unit price or the piece rate¹⁸;
- Allowances: workers who work at night shall be paid an additional amount at least equal to 30% of the wage based on the unit price or of the wage paid for the normal working days¹⁹ and, at least 5% higher than the minimum wage for heavy work;
- Method of payment of wages: employers have the right to choose the form of payment of wages based on working time, piece rate or quantity of products, which must be maintained for a certain period of time. Wages can be paid in cash or paid through the employee's personal account at a bank²⁰;
- Information on wages, use and deduction: the employer is only entitled to deduct the wage of the employee to compensate for damage caused by the later to tools and equipment of the employer. The employee has the right to know the reasons for his/her wage deduction; The monthly wage deduction shall not exceed 30% of the employee's monthly wage after deducting compulsory social insurance, health insurance, unemployment insurance and income tax.²¹
- Paid leave: the employee is entitled to payment during the holidays and annual leave. Female employees are entitled to payment for one hour during the period of raising children under 12 months, or for 30 minutes during menstruation.
- Social insurance and other benefits: the employer has to pay the social insurance premium for workers (18% of the wage for social insurance, 3% of health insurance and 1% of unemployment insurance).

15 Item 1, Article 91 of the Labour Code 2012 dated 18 June 2012

16 Clause 3, Article 7 of Decree No. 49/2013 / ND-CP dated May 14, 2013

17 Article 28 of the Labor Code 2012 dated 18 June 2012

18 Clauses 1 and 3 of Article 97 of the Labour Code 2012 of 18 June 2012

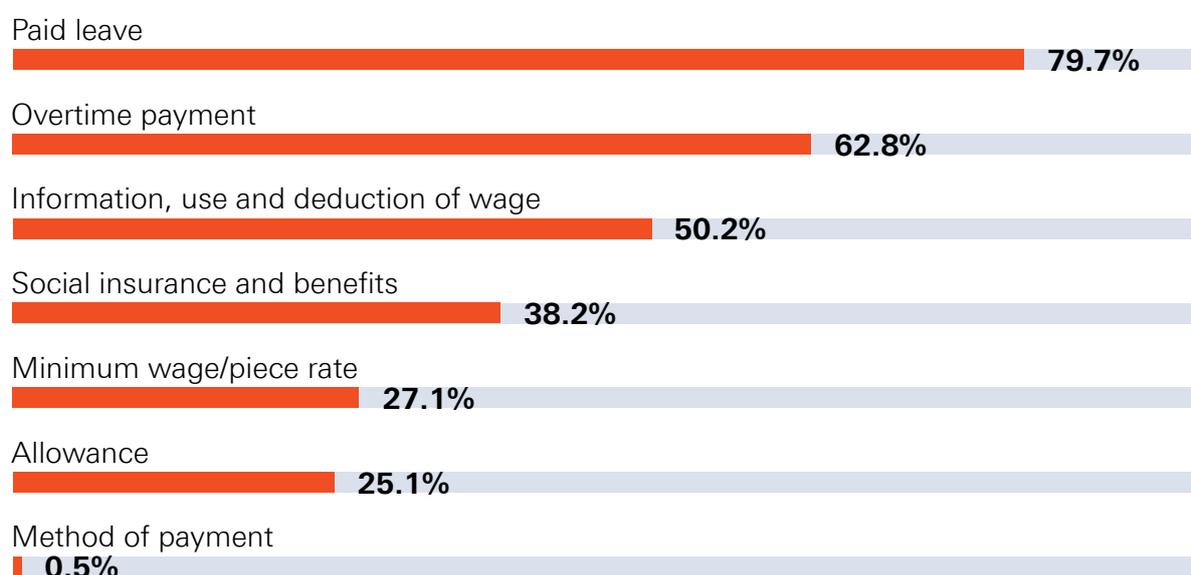
19 Item 2 of Article 97 of the Labour Code 2012 of 18 June 2012

20 Article 94 of the Labor Code 2012 dated 18 June 2012

21 Article 101 of the Labor Code 2012 dated 18 June 2012

Although the law stipulates fully and specifically the responsibilities of employers towards employees, the fact remains that violations of Vietnamese labour law in the garment sector is quite common. This is evidenced by the fact that more than 40% of over 6300 strikes from 1995 up to now occurred in the garment sector, mainly due to the violation of the law regarding wage, working time, ... It seems that employers often make use of the loopholes in the law, which becomes a culture, that leads to breaking the law, such as causing pressure to workers or forcing workers to apply for working overtime. The status of violations by garment factories is also reflected in ILO/IFC Better Work Programme's Compliance Survey. According to Better Work, violations of national standards by garment factories are quite common (see figure 1), specifically:

Figure 1. RATE OF NON-COMPLIANCE RELATED TO PAYMENT OF WAGES AND BENEFITS IN THE GARMENT SECTOR



Source: Better Work Vietnam, December 2015

It can be seen that the three most common areas of violation, which accounts for over 50% to 80% of cases under survey are: no guarantee of paid holidays, no full payment for overtime work and no transparency of wage payment, such as using multiple payrolls for different purposes, unclear wages deduction rules, and no clear notice to employees.

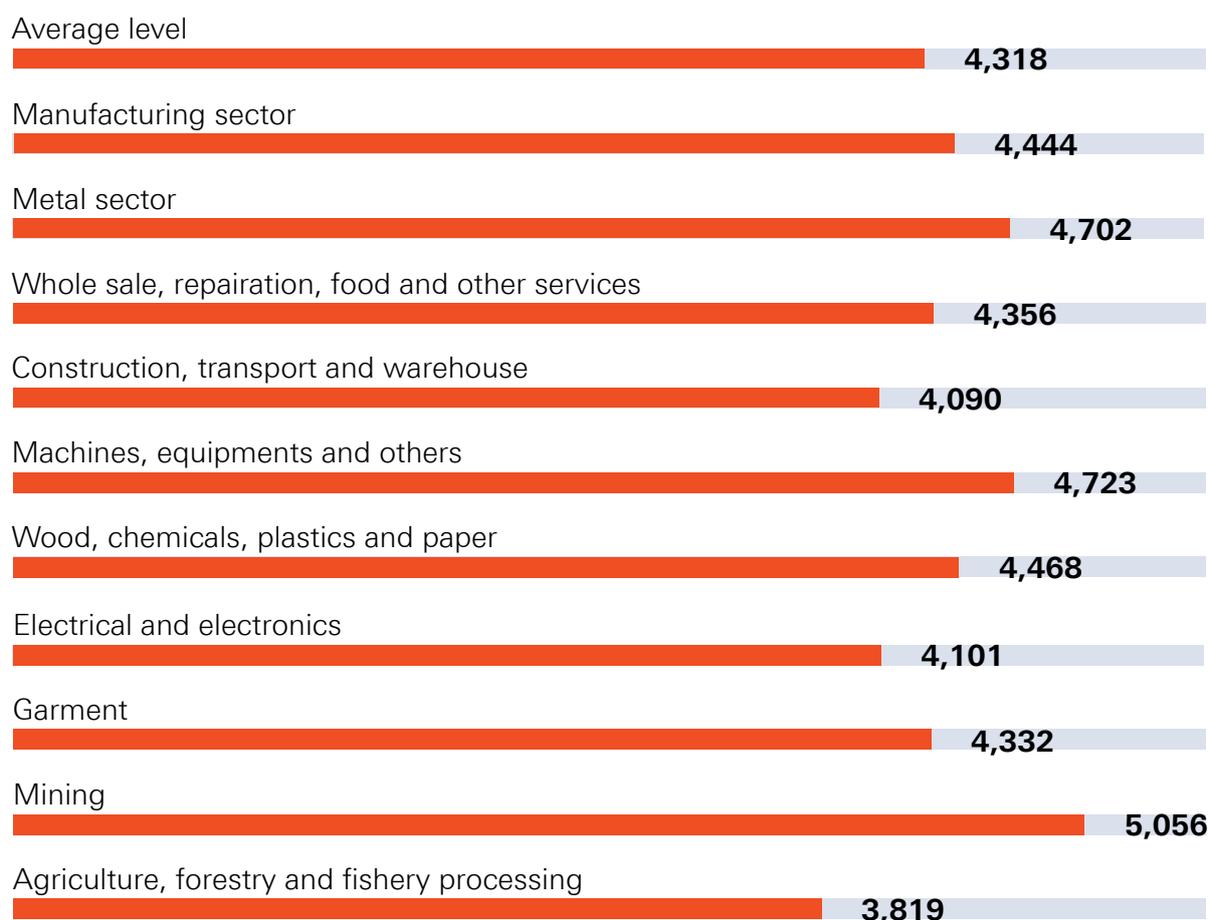
As a result, although garment factories that participate in the Better Work Programme are considered to be better than others in the garment industry, the proportion of garment factories that violates the labour law is still quite high.

Vietnamese minimum wages is considered low compared to the other countries in the region. Vietnam's average wage ranks the sixth in the region, behind Singapore, Brunei, Malaysia, Thailand and the Philippines²², and the average wage of Vietnamese workers is only half that of Thai workers. Workers are forced to work overtime to make ends meet, but nearly 30% of factories fail to meet minimum wage levels and over 60% of factories fail to pay overtime in full for workers (see figure 1).

²² <http://news.zing.vn/luong-nguoi-viet-o-dau-so-voi-cac-nuoc-tren-the-gioi-post509132.html>

According to the survey conducted by the Institute for Workers and Trade Unions in April 2017, in 10 labour-intensive sectors in Vietnam, the average basic wage²³ of garment workers was only 4,332 thousand dong/ month (\$ 215), meeting about 75-80% of the minimum living standard. The basis wage of the garment sector is only higher than the basic wages of 03 industries: agricultural, forestry and fishery processing; electricity and electronics; and construction, transportation and warehousing (see figure 2).

FIGURE 2. COMPARISON OF BASIC WAGES OF GARMENT WORKERS WITH OTHER INDUSTRIES (UNIT: THOUSAND VND)



Source: Survey results of the Institute for Workers and Trade Unions, April 2004

In addition, the common problem in the garment sector is overtime work. According to a survey of the Institute for Workers and Trade Unions in 2017, on average, a garment worker has to work overtime with about 47-60 hours of overtime per month (in comparison with the provision of overtime work in the labour legislation, the maximum is only 30 hours of overtime per month). The average overtime pay is only 1,336 VND / person/month. The overtime pay is equal to about 22, 4% of total income and equal to 30% of basic wage.

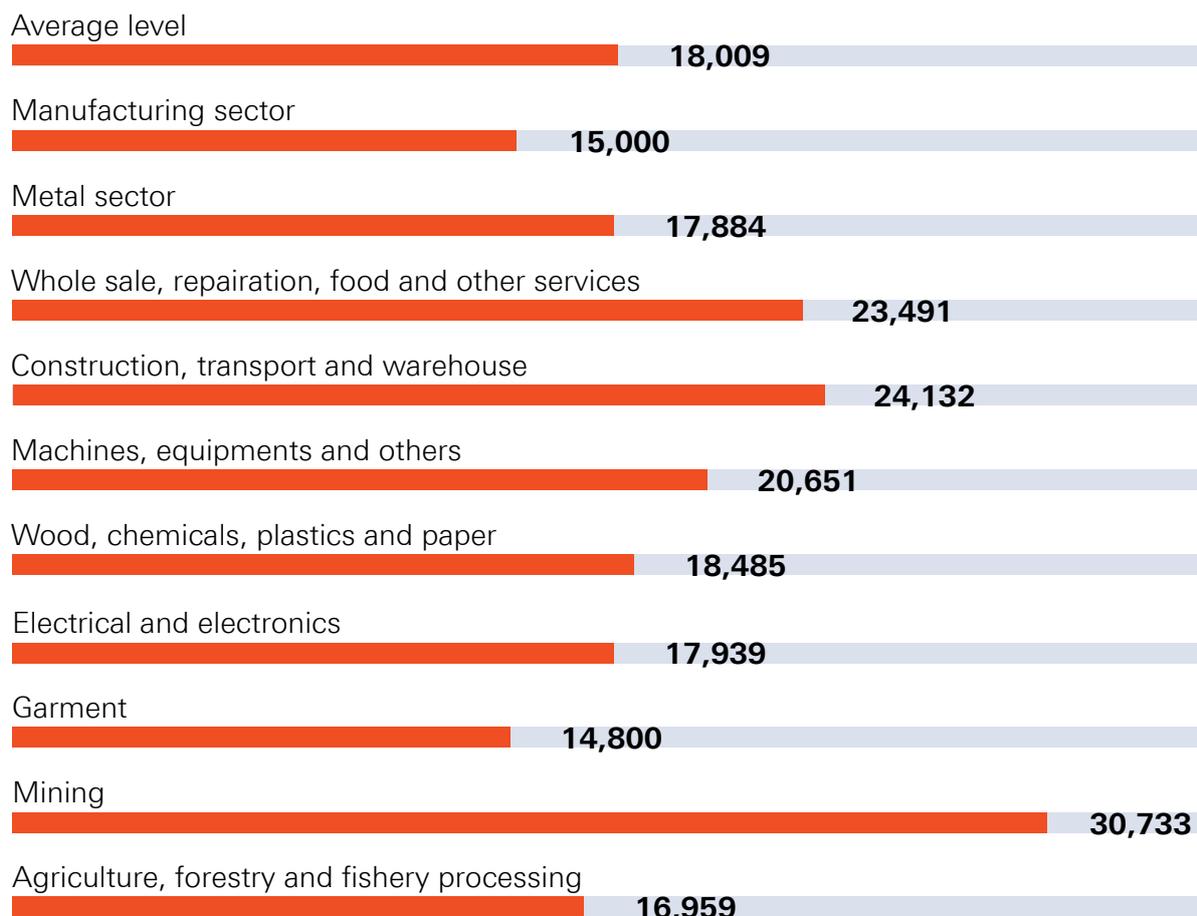
What is more, workers can receive 8 types of allowances, grants and other supports (including: attendance fee, travel allowance, housing allowance, toxic work allowance, responsibility allowance, living allowance, monthly bonus, other allowances). It sounds good but the total amount received is not high. The average amount received for all types of allowances per employee is

²³ The basic wage is the wage that exclude overtime wage and other allowances.

only about 300,000 VND per month, which is the lowest among 10 labour-intensive sectors under survey in Vietnam²⁴. This amount is only enough for workers to attend 1-2 weddings or buy a box of infant formula for their baby.

Besides, garment factories often provide a mid-shift meal (usually lunche) to workers, with an average value of VND 14.8 thousand per serving. This is the lowest level compared to the 10 surveyed sectors and is even lower than the amount as recommended by the VGCL of at least 15,000 VND.

Figure 3. COMPARISON OF THE COST FOR WORKERS' LUNCH IN THE GARMENT INDUSTRY WITH SOME OTHER INDUSTRIES. UNIT: VND



Source: Survey results of the Institute for Workers and Trade Unions, April 2004

In general, wages and welfare of workers in the garment sector are low compared to the levels of the current labour-intensive sectors in Vietnam. In order to have a higher income, workers are forced to work overtime to survive, but, even though, many employers do not guarantee overtime pay. Wages and benefits are the main cause of strikes.

²⁴ Institute for Workers and Trade Unions, Survey on Employment, Wage, Living Standard and Life Expectancy of the Labour Force in Factories in 2017.

2. WORKING HOURS

Overtime work in the garment industry is quite common, which is one of the most prominent issue that needs to be addressed. According to the research conducted by the Institute for Workers and Trade Unions, working time is one of the three issues that the garment workers want it to be solved (35.7% of respondents), just behind the issue of wages and income (55.7% of respondents)²⁵.

The Labour Code 2012 stipulates that normal working hours are 8 hours per day and 48 hours per week. In case of overtime, the maximum overtime limit is 200-300 hours per year, which may be applied only to a few cases (such as export manufacturing and processing in textile, garment, leather, shoes, agriculture, forestry, sea-food processing, electricity supply, telecommunications, oil refining, water supply and drainage and other cases that must be urgent and can not be delayed). However, the employer has to inform the use of overtime work in written to the state management agency of the province.

Compared to other countries in the region, working time (including overtime) for workers in Indonesia at maximum is 2,608 hours per year; South Korea 2,446 hours per year; China 2,288 hours per year²⁶. In Vietnam, the majority of workers works 48 hours per week, and the statutory maximum for overtime is 300 hours per year. In total, the working time reaches 2,620 hours per year. Thus, it can be said that working time of Vietnamese workers is high compared to other countries in the region.

At the same time, the law provides that overtime work must be voluntary by the employee and the employer must not force the employee to work overtime. But in fact, according to the results of the Labour Inspection in the garment sector in 2015 (the Inspectorate of the Ministry of Labour, Invalids and Social Affairs in collaboration with the International Labour Organization (ILO) inspected 257 factories in 12 provinces and cities across the country), 82% of factories mobilize workers to work overtime in excess of the number of overtime hours allowed. According to BetterWork survey of 5401 garment workers, 66.02% workers said they had to work overtime from 49 to 60 hours per week; In particular, 18.52% of workers interviewed had to work 61-66 hours per week²⁷.

Garment factories often tempt workers with low basic wage but high overtime wage to lead workers to work overtime as “volunteer”. Even, there are factories that apply progressive pay, i.e. the more you work overtime, the higher the wage. Therefore, workers are tempted to have more income to cover living expenses for themselves and their family. According to the survey by the Center for Development and Integration (CDI), 67.1% of the workers interviewed stated that they have to accept to work overtime due to the fact that their income does not meet the needs of themselves and their families (44.8% of workers stated that their wage did not meet the minimum living necessities)²⁸.

This proves that factories are fully capable of raising basic wages, contrary to their arguments put forth in the annual minimum wage negotiations at the National Wage Council: factories have difficulty in raising basic wage for workers.

25 Institute for Workers and Trade Unions, Survey on wages, working time and OSH in factories, 5/2017.

26 <http://laodong.com.vn/cong-doan/tang-tran-quy-dinh-ve-gio-lam-them-trong-nam-can-xet-trong-moi-lien-quan-voi-nhieu-yeu-to-khac-610351.bld>

27 BetterWork, Working Hours, Occupational Health and Safety, Labour productivity, Hanoi, 5/2017, p.10-11.

28 CDI, Current status of working conditions, hours of work, break time, Hanoi, 5/2017, p.12

In addition, factories link the opportunity to education and vocational training for improvement of their professional qualifications and skills with the requirement of overtime work to force workers to “volunteer” to work overtime²⁹. The registration form of “voluntary” overtime work is often associated with such issues as: mandatory completion of product quotas per day; urgent orders; being threatened to have allowances cut; being pressurized by the management; being threatened with dismissal, or transfer to another department...³⁰.

At the same time, factories have strict regulations on working time, demand high working intensity and cutting leaves. This causes stress for the workers, resulting in low productivity. According to a survey by the Institute for Workers and Trade Union in Long An province, up to 17% of workers in the garment factories in Long An thinks that their labour intensity is very tense or stressful. Most female workers in the garment industry report that they work 12 hours a day from 8am to 8pm. When they go home, they have to take care of their children and family, so they are very tired and exhausted. Increased working hours cause bad health for workers while they dare not refuse to work for fear of being in a vulnerable position at work.

The survey also found that stressful job status affects 30-year-old workers more with up to 20% of workers aged from 31 to 40 years old and up to 30% for workers aged from 40 years old reporting affected. This is the reason why factories are not recruiting workers of over 35 years old who has seen weak health, poor eyesight, back pain, slow operation, reduced labour productivity but high wage. The possibility of dismissal is high for these workers. This situation is currently taking place in the garment factories which have been operating in Vietnam for 15-20 years and the trade unions called this phenomenon “blood replacement” in the enterprise in the form of:

- Factories shift their production to low-wage regions to replace older workers with younger, healthier workers whose wages and social insurance premiums is lower. In the garment industry, workers can be trained in just one week that they can do their work.
- Factories encourage the elderly to resign from work and start their own factories by offering a lumpsum.
- Factories change the name of the company or close the current factory to establish a new factory to lay off old workers and recruit new workers.

In short, despite the law that limits overtime work, many garment factories have deliberately violated the law for profit. And workers, in spite of their hard work, tiredness and stress, still have to accept the work just because they want a job and income to cover their living. They dare not struggle to improve their wage and working conditions.

29 CDI, Current status of working conditions, hours of work, break time, Hanoi, 5/2017, p.12

30 CDI, Current status of working conditions, hours of work, break time, Hanoi, 5/2017, p.12



3. OCCUPATIONAL SAFETY AND HEALTH

Vietnamese labour law provides for occupational safety and health for workers. In fact, many published researches, including the ones of the Institute for Workers and Trade Unions, shows that conditions of occupational safety and health in the garment industry are not good. The following features can be seen:

Noise

The working environment of garment workers is bad due to engines generate noise in the workshop. The survey of garment factories in Long An province in 2016 showed that 43.2% of workers and 42% of union officials said that the working environment was noisy or very noisy. Even 31.3% of respondents who are from the employer side said that the working environment in their factories was noisy or very noisy. According to research by Nguyen Dinh Dung in 2012 on the impact of noise on 1139 garment workers in five different sewing sections, there was a decrease in hearing loss of 35.5% of workers (more or less 1.42%)³¹.

Working conditions are monotonous, boring, sitting / standing for a long time

This is a common feature of garment workers, which can cause bone disorders such as back pain, disk hernia, foot numbness, hand numbness ... The research of the Institute of Public Health Hygiene in Ho Chi Minh City and Dong Nai showed that 93% of workers suffered fatigue after work, of which 47% were painful in their body; 16.7% have headache; 15.1% exhausted; more than 80% have muscular aches and pains in the lumbar, neck and shoulders³²... Unfortunately, the diseases that garment workers encounter are not included in the list of occupational diseases which is subject to be regulated by the State. Therefore, this causes many disadvantages for workers.

The temperature of the work environment in many garment factories does not meet the allowed standard

Although many garment factories have been equipped with air conditioning systems at their manufacturing facilities, making the temperature stable and workers more productive and healthier. However, in many garment factories, popularly in small and micro factories, there is still the status of workers who have to work in a hot environment. The research in Long An showed that 46.7% of workers think that the working environment is hot or very hot. Because garment factories are labour-intensive in a tight space, the temperature of the workplace is influenced by the combined effect of heat from the natural environment and heat from workers' bodies. The company has arranged relatively closed workplaces, so there is not much air exchange between the outside and inside the factory. Therefore, in the cold season, it may not be much affected, but in the hot season, it is a great disadvantage due to lack of ventilation.³³

Light conditions in many factories do not meet the standards

Also in the research of the Institute for Workers and Trade Unions at the garment factories in Long An province, 49.5% of workers said that they suffer from excessive light, dizziness and eye damage; 3.2% of workers hold that the light is not enough, causing nervous tension, fatigue, headache, eye strain, reduced vision, even causing labour accidents. Observing at the garment factories in different localities during the survey on occupational safety and health, the Institute found that the lighting conditions in garment factories in general are not guaranteed, which tired workers' eyes.

31 Nguyen Dinh Dung (2012), Study on working conditions and occupational risks in some garment companies belonging to Vietnam Textile and Garment Group ", full-text scientific report, International Scientific Conference in occupational medicine and environmental hygiene, Journal of Practical Medicine, 849 + 850, pp. 109-112.

32 <http://khampha.vn/suc-khoe/nhung-can-benh-tiem-an-cua-lao-dong-det-may-c11a360228.html>

33 Dr. Hoang Thi Thuy Ha, PhD thesis "Situation of environment, health, diseases in Thai Nguyen garment workers and effectiveness of some interventions", 2015

Excessive or inadequate lighting also affect workers, causing eye disorders, increasing fatigue for workers in the garment industry. The impact of illumination should also be taken into consideration, in addition to the effects associated with other factors of the environment and working conditions.

Machinery, workshops and working facilities in garment factories still have many problems

Machinery and working facilities in the garment sector are considered to be more modern than the textile and dyeing industry. Factories pay attention to making investment in these facilities. Especially since 2015, automatic technology has been started by many Vietnamese garment factories. However, the majority of machinery, equipment and production lines of the garment industry are still quite backward. Still, about 30% of machines need to be upgraded or replaced, which is mainly concentrated in small and medium garment factories. Old machinery and production lines result in using more labour force, which, in turn, makes labour productivity significantly reduce. The smell of machine oil, machine waste and noise create a lot of direct effects on the health of workers. Backward machinery, cramped workshops, poor ventilation, noise, dust, odor, ... make workers suffocate, seriously affecting workers' health, especially on hot days. Facing the requirements of international integration, garment factories are in dire need of investment with modern machinery and technology for increasing the competitiveness.³⁴ According to the study of the Institute for Workers and Trade Unions in the garment factories of Long An province, many factories have not been well equipped with machines guard, protective equipment, wardrobes, safety tools and chairs for the employees.

Other factors also create a high risk of occupational disease

The working environment in the garment industry is characterized by dust due to exposure to jute, spandex and cotton yarns with occupational characteristics such as the risk of respiratory infections: sinusitis, allergic rhinitis, bronchitis, dust large lungs. A study of garment factories in Thai Nguyen showed that the possibility of nasal diseases was 34.0%, of throat diseases was 35%, and of bronchitis was 8.1%. In particular, risk of cotton disease was found to be 2.6%³⁵. Another study also found that 93% of workers were fatigued after work, of which 47% were painful in their whole body; 16.7% had headache; 15.1% exhausted; more than 80% has muscular aches and pains in the lumbar, neck and shoulders³⁶... In addition, the chemicals used in dyeing fabrics affect garment workers as well as fabric users. These substances can cause allergic dermatitis (such as AZO in textile dyeing technology); allergic and poisoning (such as formaldehyde to kill bacteria) due to their bad smell causing it hard to breath.

Labour accidents in the garment industry remain high

According to the report of the Ministry of Labour, Invalids and Social Affairs, the textile and garment industry is one of the five most frequent occurrence of occupational accidents. Specifically, in the first 06 months of 2016, there were 3,674 occupational accidents causing injury to 3,777 victims, of which 9.4% of accidents is in textiles and garments and 36 people died³⁷. The cause of labour accidents in the garment industry is attributed to the prolonged working hours that make the workers tired and stressed. The MOLISA investigation indicate that the longer the working

34 <http://www.thesaigontimes.vn/135352/Nganh-det-may-can-may-moc-cong-nghe-moi.html>

35 Hoang Thi Thuy Ha, Doctoral dissertation on "Situation of health, environment, diseases in Thai Nguyen garment factories and the effectiveness of some interventions", 2015

36 Survey data of 1,000 garment workers aged 25-35, in 3 enterprises in Binh Duong, Ho Chi Minh City and Dong Nai by the Institute of Hygiene and Public Health City of HCM, 2015

37 <http://antoanlaodong.gov.vn/catId/Pages/chitiettin.aspx?IDNews=1962>

hours are, the higher the rate of fatal occupational accidents is. Specifically, if at the beginning of a work shift, the possibility of fatal occupational accidents is 21.6%, at the end of a work shift, the occupational accident rate increases to 22.4% and during overtime work, the possibility of occupational accidents is 34,13%.³⁸

There are many gaps in the fire prevention

The garment industry is characterized by inflammable materials (fabrics, fibers, cotton) and is easily inflammable due to electrical shocks (by using machines). However, many factories are not fully aware of the importance of fire prevention. There is a lack of fire fighting equipment, a lack of training for workers. Safety regulations are often violated. According to Better Work, 50% of factories fail to prove that they have accessible exits, or if they are, these exists are also blocked. In addition, unsafe electrical lines, and lack of fire alarms and fire extinguishers are problems found in many cases. Fire drill exercises for workers are seldom. The unions also do not play its full role in this matter. Many factories do not have their workplaces inspected with removal of objects away from the exits. Workers are not trained to react to emergency situations. Internal routes are not secured in terms of the width as prescribed by the law. Many factories have their internal routes blocked; or do not install warning signs and signboards for people and vehicles. Many factories do not notice workers of the regulations on exit during emergency nor post them in visible places for people to get to know and follow them. There is no escape route diagrams, no signboards or emergency exit signs³⁹.

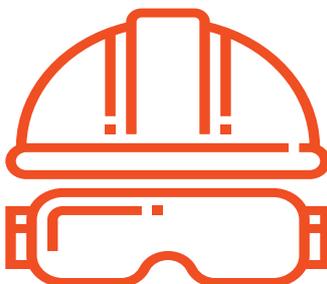
Labour safety equipment is not sufficient

Results of the labour inspection campaign in the garment industry in 2015⁴⁰ showed that 28.29% of factories have not provided personal protective equipment for all workers; 45.39% of factories have insufficient personal protective equipment as regulated by the law; 20,39% of factories have not opened a monitoring book to monitor the supply of personal protective equipment to workers or have opened a moniroting book but without the signatures of the workers; 3.2% of factories let employees not use personal protective equipment at work

38 Bui Duc Nhuong, Occupational Safety and Health Department, Minister of Labour, Invalids and Social Affairs 2015

39 Labour inspection campaign in 2015, with the theme "Raising awareness on labour law in the garment industry".

40 The 2015 labour inspection campaign was organized in 12 provinces and cities including Hanoi, Ha Nam, Hai Duong, Quang Ninh, Cao Bang, Thanh Hoa, Thua Thien - Hue, Da Nang, Binh Dinh, Ben Tre, Dong Nai and Ho Chi Minh City, that attracted the participation of 360 garment enterprises



4. EQUAL TREATMENT AND GUARANTEE OF RIGHTS FOR FEMALE WORKERS UNDER THE LAW

Vietnamese law provides for equal treatment of men and women at work. Articles 26, 35 of the Constitution 2013; Article 4, Articles 153, 154 of the Labour Code 2012; Article 13 of the Law on Gender Equality provide for gender equality between men and women at work. The garment sector has a large number of female workers so there are many issues related to equal treatment and the right of women workers. Specifically, female workers in the garment sector face the following issues:

Unbalance between work and family

The garment industry is predominated with 80% of female workers, who are mainly in the reproductive age (18-35), but the working time of garment factories is not stable. Employees must work in shifts. At present, the factories apply three work shifts a day as follows: 6:30 am - 2:30 pm; 2:30 pm- 22:30; and 22:30 – 6:30 am (for factories with 3 shifts) or from 8 am to 5 pm with a break and then, overtime work of 3 to 4 hours a day. That means they finish their work at 8pm or 9 pm every day. With such a time arrangement, it is difficult for workers to have time for their family. Plus overtime (up to 60 hours per month), it makes it hard for garment workers to balance work and family. If female workers have small children, they can not arrange their work schedule to take care of their children or there is no place for their children during the working hours, so they usually send their children to their grandparents or have to quit job to spend time for their children and families.⁴¹

There is limited access to information on reproductive health

Workers working in the garment industry have to work at shifts and work overtime (2-3 hours of overtime a day), even on Saturday or Sunday, and they also do not know how to take care of themselves, especially related to gynecological infections. Due to lack of knowledge about contraceptive methods, many women workers have unprotected sex, resulting in unwanted pregnancies. Abortions occurs and greatly affects women's health⁴².

The vulnerability of garment workers

Most female workers in the garment sector are migrants, easy to be neglected and easy to be abused. They face with housing difficulties, but do not receive much legal support, social services and social protection programs. According to a survey by the Institute for Workers and Trade Unions in 2017, the rate of garment workers who have to rent a flat is high and usually their housing/accomodation condition is bad. A worker lives in a space of only 6.8m² on average.

Facing the risk of unemployment at the young age

Garment employers often prefer to employ female workers because they are industrious and hard-working. Due to the fact that the garment industry needs workers who have good eye-sight and good speed of work, factories only recruit workers from 18 to 35 years old (when the workers' health is at its best). This is shown by the recruitment practice of the garment factories which often discriminate the recruitment based on age. After 10-15 years of attachment to the company in hard working conditions with long working hours, the workers' health is gradually reduced; the eyes are no longer clear; hand movements are not fast due to the osteoarthritis. Plus the burden of family work and care work at home, garment workers face the high risk of dismissal. This situation was pointed out by the Institute for Workers and Trade unions in a study on the employment of female workers, with 22.6% of the unemployed being fired or dismissed. Employers often want to dismiss workers who have seniority (15-18 years) in order to recruit younger people for replacement. This is because workers have their health reduced, plus their cost of salaries and insurance

41 <http://www.baobariavungtau.com.vn/kinh-te/201704/khan-hiem-lao-dong-nganh-may-731759/>

42 <http://m.baovinhphuc.com.vn/kinh-te/38882/can-su-chung-tay-phoi-hop-chat-che-cua-cac-doanh-nghiep.html>

payment higher than new, young workers. In order to evade the punishment of the law, foreign investors have many ways to lay off workers such as gradually withdrawing capital in the current locality in order to move the investment to another locality. They will take the reason that the scale of investment is reduced, and they not need more workers so that they can dismiss workers gradually. Or the employer usually signs a labour contract with workers for a period of 3 years, and they signed it twice (the law allows 2 times), and then, ceased to sign again when the employee have their health reduced. Some factories even made the policy of the company that they only use employees of not more than 6 years. The garment sector only needs training for workers for one week or two weeks to do the job, so factories do not need workers with seniority This is what makes workers more vulnerable in their employment and easy to lose jobs.

The signs of forced labour and unsecure labour rights

Due to a large number of female workers with the requirement of work in production lines and a limited number of toilets in factories, it is very common that garment workers have limited access to toilets. Even there are cases that workers need a card to go to the toilet. Typically in 2013, workers in a garment enterprise in District 12, Ho Chi Minh City went on strike because the company restricted the use of toilets and drinking water. This company has nearly 1,000 workers, mostly women, but only 10 toilets, which is damaged and there is a shortage of water, which caused workers very miserable. Every day, workers are only allowed to go to the toilet twice, from 9.30 - 10.30 am and from 14h-15h and must apply for a card with full name and toilet time. With a small number of cards and a tight schedule, each worker can take less than a minute, and an offender will have wage cut⁴³. This is a sign of forced labour and human rights violations. According to medical suggestions, a normal person in good health every day need to urinate 8 times, each time urinate 300ml, which make the total of more than 3,000ml / day ... But women workers are working in factories every day are allowed to go to the toilet only 2 times. Many workers refrain from drinking water and urinating, but also many workers protest by strikes to claim the right to ... toilet. ⁴⁴

The sign of forced labour also includes that workers are forced to accept overtime (50-60 hours of overtime per month, which is twice as much as the law provided for⁴⁵) to have more income for themselves and their family.

Under these minimum sanitation conditions for female workers in the garment industry, the implementation of preferential regulations for female workers such as one hour of rest for breastfeeding a small baby of less than 12 months old, 30 minutes for menstrual period, holidays leave, Tet holidays, maternity leave, sickness leave ... is a "dream" for many workers. This fact is affirmed by many female workers during the survey by the Institute for Workers and Trade Unions on labour conditions of female workers.

Sexual harassment

According to Better Work, one of the risks faced by female garment workers is sexual harassment. However, "it is very difficult to determine which behavior is sexual harassment because it is easy to consider it as for fun. The same behavior, but "it can be considered as sexual harassment or not depending on the attitude of the recipient" said Tran Thi Lien, Deputy Director of the Office of Child and Social Policy (Ministry of Labour, Invalids and Social Affairs). Because of fear of job affect and also this is considered as a sensitive issue, many women are afraid, dare not to say, bear it and keep silent.

43 <http://vov.vn/xa-hoi/cai-thien-dieu-kien-lam-viec-cho-lao-dong-nu-345912.vov>

44 <http://vietnamnet.vn/vn/kinh-doanh/cong-nhan-dinh-cong-doi-quyen-di-ve-sinh-243457.html>

45 Article 4 of Decree No. 45/2013 / ND-CP dated 10 May 2013 stipulates that the number of overtime hours shall not exceed 50% of normal working hours per day, not exceeding 12 hours per day, not exceeding 30 hours for one working month, not exceeding 300 hours / year.

5. SOCIAL INSURANCE

The garment industry is characterized by 80% of female workers and most of them are at the childbearing age (18 - 35 years old). Therefore, insurance premiums are important, especially in case of maternity. Garment is also a risky industry such as inflammable explosions, susceptible to osteoarthritis, sinusitis, dust lung, ... so the demand for medical services is quite high. However, the social insurance for garment workers remains a matter of concern. Many garment factories violate regulations on social insurance.

Social insurance debt

Garment sector (along with leather and footwear, transportation) is one of the typical industries in the list of factories which avoid or owe the payment of social insurance premium for workers.⁴⁶ According to the report of the social insurance agency, in many localities, the number of garment factories in the list of of social insurance avoidance or debt go up to hundreds of billion of VND. When factories evade social insurance payment, workers will not be entitled to the relevant policies during their working time such as sickness, maternity, labour accidents and occupational diseases, and they will not be entitled to unemployment benefits, or they will even lose their social insurance contribution period if their social insurance book is not fixed for the payment period.

Social insurance premiums is not based on income: the shortcoming of law and practice

Social insurance premiums paid by factories for workers are based on the basic wage. At the same time, the basic wage is low, only higher or equal to the regional minimum wage, so the premium is very low. According to research of the Institute for Workers and Trade Unions in 2017, the average wage used as the basis for social insurance payment is 4.33 million. Many garment factories do not have wage scales and payrolls, so even when workers have worked for many years, their income level have increased but their social insurance premium payment have not changed. Therefore, the level of pension as well as other social insurance schemes such as unemployment insurance, maternity support ... for workers very low; The pension level is not even equal to the minimum wage.

"Double" problems of social insurance

In fact, factories want to use workers for overtime by increase in the number of shifts to avoid recruiting more workers and pay more social insurance, because social insurance payment level is based on monthly basic wage, not on income. This leads to two problems: the workers have to work overtime and lose their social insurance benefits.

According to the calculation by Better Work⁴⁷, factories want workers to work overtime instead of recruiting more workers, and they are ready to pay extra for overtime work to workers by 150% of the basic wage. The reason is that if a new worker is employed, besides 100% of wage paid to the employee, factories will have to pay an additional 26.5% for yearly leaves, social insurance, health insurance, and an additional 20% - 30% for non-wage allowances such as attendance, petrol, children, allowances ...; 10-15% for holidays, sickness, maternity. In addition, new workers need to be trained for their work and meanwhile, the productivity of the factories will decrease. Not to mention the installation of more machinery, equipment, electricity, water, buildings ... Better Work estimates that the cost of recruiting an additional worker will be 160 to 180 percent of the basic wage, which is higher than a worker used for overtime, so the company prefer the use of workers for overtime instead of recruiting more workers.

46 <http://www.molisa.gov.vn/vi/Pages/ChiTiet.aspx?IDNews=15979>

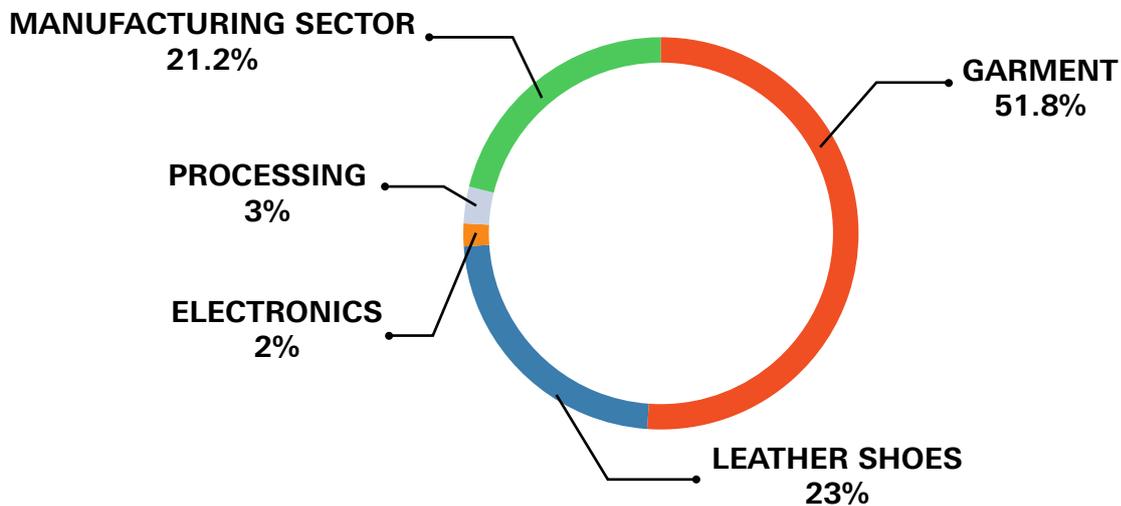
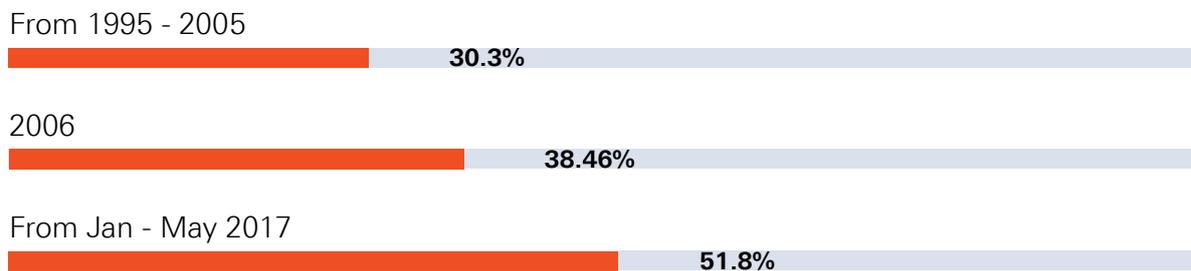
47 Presentation by Better Work representative at the workshop on working conditions in the garment sector on 2 June 2017.

6. INDUSTRIAL RELATIONS

First, labour disputes and strikes take place more commonly in the garment sector – top among labour-intensive industries

The industrial relations in the garment factories is relatively complicated. The rate of strikes tends to increase over the years. Specifically, according to statistics of the Vietnam General Confederation of Labour, over the past time, the number of strikes occurring in garment factories always top the list. Specifically, from 1995 to the end of 2015, there occurred 1,273 strikes in the textile and garment factories, accounting for 30.3% of the total number of strikes throughout the country during this period.

Figure 4. THE SITUATION OF STRIKES IN GARMENT FACTORIES BETWEEN 1995 AND MAY 2017



Source: Data of Vietnam General Confederation of Labour

This rate in 2016 is 38.46% of the total. According to this source of statistics, in the first 5 months of 2017, there were 133 strikes in the country while the garment sector had 69 strikes, accounting for 51.8%.

The recent research by the Institute for Workers and Trade Unions in 2016 shows that strikes in garment factories are mainly due to conflicts on wage and labour norms. In workers' opinion, firms have cut subsidies, allowances, or adjusted labour norms to compensate for the minimum wage increase. Therefore, workers have to work very hard but hard to meet their living expenses. According to this survey, 70.4% of workers interviewed said that the cause of labour disputes and strikes was due to low wage and income; 27.6% said that due to difficulties and urgent problems of workers which are not solved timely; 23.5% said that because of hard work and high labour norms; 13.2% said that because of low minimum wage and 10.5% said that due to local trade unions which has not played its role well. In addition, the survey showed that 54.2% of workers in garment factories surveyed said that their wages were not paid in proportion to their efforts at work. These problems accumulated gradually and lead workers to the outbreak strikes ⁴⁸.

Second, labour contracts are not guaranteed

A labour contract is the basis for establishing the right of the employee. The rights and interests of workers is only recognized and protected when there is a signed labour contract. According to the regulations, labour contracts must cover the following main contents: work to be done, working time, rest time, wage, place of work, terms of labour contract, labour safety, labour sanitation and social insurance contributions. However, the signing of labour contract faces some problems such as:

- Article 23 of the Labour Code 2012 stipulates that the contents of the labour contract should contain the following main aspects: job and place of work; the wage level, the form of wage payment, the timeline for payment of wages, wage allowances and other supplements, wage increase ... and these contents must be fully, clearly and in detail stated in the contract. However, in practice, many labour contracts are generally written with unclear contents, especially those related to employment, salaries, wage increase, procedures for terminating the labour contract; legal procedures and mechanisms for dealing with the invalidated labour contract, severance allowance, job loss allowance, provisions on probationary period, conditions for termination of the labour contract; retirement allowance Workers are easily abused due to the employer taking advantage of their lack of knowledge of the law so as to transfer them at their own decision and fail to fulfill their responsibilities towards the employees.
- The percentage of workers working without a labour contract or having oral contracts or seasonal contracts is up to 15-20%. Among the Better Work factories, 16% of the surveyed factories had employees working without a contract. This affects the stability of employment, social security and other rights of workers;

Clauses 2 and 3 of Article 22 of the Labour Code 2012 specifically stipulate the types of contracts to be signed, the terms of contract renewal, when the contract expires and when a short-term contract is changed into an indefinite contract⁴⁹. However, the reality in garment factories shows that many factories deliberately sign short-term labour contracts with workers repeatedly; or signing seasonal contracts for regular jobs, that are not in accordance with the law.

48 Report on "Labour situation, wages, incomes, expenditures and life of workers", made by the Institute for Workers and Trade Unions, April 2016

49 Khoản 2 và 3 Điều 22 Bộ luật Lao động Việt Nam sửa đổi năm 2012

Third, collective bargaining in factories is only for formality

Textile and garment industries are a few sectors that have established sectoral collective bargaining agreements (central and local branches). At the sector level, there is a collective labour agreement between the Vietnam Textile and Garment Group and Vietnam National Union of textile and garment workers; There is a collective labour agreement of Binh Duong Textile Union with 13 garment factories in Binh Duong. However, these two sectoral collective bargaining agreements cover only a very small number of garment factories in Vietnam (the textile and garment industry agreement covers 118 factories, while the Binh Duong agreement only covers 13 garment factories in the province). At the enterprise level, 35% of factories have grassroots trade unions among 5,214 factories, of which 86.1% of factories have more than 50 workers and have a collective labour agreement⁵⁰.

However, according to industrial relations experts, collective labour agreements are only for formality and not substantive, with the main content of the agreements copying the law. In addition, many benefits for employees are not included into the agreement because factories do not want to pay these benefits for the long term. This fact is quite common in Vietnam.

According to the report of the VGCL, by the end of 2015, there were 25,396 collective labour agreements in the whole country, of which 34.98% of the agreement is classified as grade A⁵¹; 26.34% is grade B; 13,21% is grade C; 7.04% is grade D and 18.43% is not classified. Thus, more than 38% of collective bargaining agreements do not have any provisions better than the law. The agreements which have provisions better than the law are often concerning meals allowance, vacation allowance, support for workers in need, bonuses ... It is worth noting that these higher benefits is mainly thanks to the employers which are willing to give workers rather than results from equal negotiations between the two sides. It can be seen that collective bargaining does not seem to be an effective tool for improving the conditions of workers in Vietnam.

Collective bargaining agreements do not have the equal value status compared to the internal labour regulations of the enterprise. Even many agreements stated that workers have to “comply with the labour regulations of the company”. The labour regulations of the company also regulate union activities.

The reasons for these limitations are:

- The role of trade union representatives at the factories are weak because the union is dominated by the employer. The manifestation of this dominance is that: many union officials in factories are from the management; the bargaining content is determined by the employer;

50 Institute for Workers and Trade Union, FES Hanoi, Report on union establishment in garment and footwear exporters enterprises with more than 50 employees, 2015

51 According to Guideline No. 1580 / HD-TLĐ dated 21 October 2014, the criteria for classification of the collective labour agreement are as follows:

- Class A: 80 points or more, in which there are benefits more favorable than the law for employees such as salary, bonus, salary increase. Other benefits that trade unions should pay attention to (mid-shift meals, organizing visits for workers during holidays, grants, support young people, kindergarten, create conditions for employees to improve their social life, which should not be lower than 70% of the benchmark.

- Class B: from 65 to less than 80 points, in which the terms more beneficial for the employees such as salary, bonus, salary increase; Other benefits that trade unions should pay attention to (meals mid-shift, visit holidays, grants, hen, support young people, kindergarten, create conditions for employees to improve cultural and spiritual life.) should not be less than 50% of the benchmark.

- Type C: From 50 to less than 65 points.

- Type D: less than 50 points

Information about factories used as a basis for negotiation are provided by the employer and a lot of information received by the local trade union is not conducive to negotiation... This affects the quality of the negotiations.

- Union leaders have limited knowledge of labour law, limited negotiation skills... So they are less proactive in proposing collective bargaining.
- There does not exist a culture of negotiation in Vietnam, partly due to the trade unions' lack of reliance on the strength of trade union members. Trade unions still operate under the mechanism of asking for (even in foreign invested factories). The main mode of trade union operation is to implement what is stipulated in the law based on the law enforcement of the State. In addition, the regulations on collective bargaining are not yet complete, and there is no mechanism to support negotiations.
- The grassroots trade union has not utilized its strength in collective bargaining. The law stipulates that grassroots trade unions have the right to organize and lead the strike. However, from 1995 until now, unions have not yet organized and led any strike in any of more than 6,300 strikes. This is a major constraint for unions because strikes are seen as a tool to support negotiation and to be used as a last resort when needed to put pressure on the employer.
- Sanctions related to collective bargaining at bad will is not strong enough, which leads the employer to take it lightly. In addition, the inspection and supervision of the implementation of labour law, dialogue, negotiations and signing of collective labour agreements are not strong and cases of violation are not handled seriously.

Fourth, social dialogue is still formal and does not really play a role in adjusting and building a harmonious and stable industrial relations

Most garment factories have conducted periodical dialogues (once a month) at the grassroots level between the Executive Committee of the local trade union and the board of directors in accordance with the law. Specifically, according to a report of the National Union of Textile and Garment Workers, in 2015, 80% of joint stock factories and limited liability factories hold dialogues at the workplace; and 81% of factories hold employee conferences⁵². In general, the number of dialogues has increased but the quality of the dialogues still has some limitations such as:

- The dialogue is still formal and one-way from the employer. Dialogues are conducted by the employer to show its compliance with the law and dialogues do not reflect the nature of information exchange and two-way discussion and communication of workplace issues;
- The content of dialogues is monotonous, more related to the production of factories and less related to labour relations or improvement of working conditions.
- Social dialogue, especially collective bargaining, plays a central role in regulating relations between the two parties at the enterprise. However, the success of collective bargaining are in fact only reflected in the number of collective bargaining agreements, but not in the quality of the bargaining process. The nature of collective bargaining is limited. The coverage of collective bargaining is not high. The number of employees benefiting from the collective bargaining agreement is low. Collective labour agreement is of low quality, mainly copying the contents of the law without a substantive negotiation process; and thus collective bargaining does not play a role in adjusting and building a harmonious and stable industrial relations.

⁵² Preliminary half-term report on the implementation of the Resolution of the XIth Congress of Vietnam Trade Union and the Resolution of the Textile Union.

Fifth, trade union activities in the factories are dominated by the employer

- According to research by the Institute for Workers and Trade Union in 2015, there are 1,531 garment factories with more than 50 employees, of which the rate of establishment of grassroots trade unions reached 82.4%; The ratio of union members in these factories is only 69%⁵³. Thus, if the factories has below 50 employees, the rate of establishment of grassroots trade union and the rate of union members will be lower. In fact, trade union activities in garment factories remains to be concerned.
- The situation of intervention and manipulation in the trade union activities by the employer is quite common, specifically:
 - Intervention into and controlling of the election of grassroots union executive committees such as appointing managers of factories to join the grassroots union executive committees; to approve the list of members of the Executive Committee of the trade union before election; pressuring or bribing workers to elect or not elect an individual;
 - Control of finance and seal of the grassroots trade union such as: preventing the trade union from opening accounts or appointing ;account holders, approving union expenditures; delaying transfer of trade union dues; kee the seal of the trade union;
 - Interventions and control of unions by certifying the plans, contents and programs of activities of the grassroots trade unions; reserving no time for activities organized by grassroots trade unions.
- Discrimination against trade union officials, such as not providing time for trade union officials to organize trade union activities, transferring union officials to another work; arrange work schedule for union officials to make it difficult for them to meet workers; arranging an union office away from the production area;
- Obstructing and not supporting the establishment of trade unions such as: mobilizing workers to write applications for not joining the trade union; showing bad will or not creating conditions for trade union officials to meet with workers when the upper level trade union comes down to organize a grassroots trade union; ...

In general, the situation of industrial relations in garment factories has improved over time. However, the number of strikes still tends to increase and tops the list of all sectors. A number of enterprises has supported and created favorable conditions for workers to organize unions and participate in trade union activities. Collective bargaining and social dialogue is not effective but just a formality, which do not support improving working conditions in the garment industry.

⁵³ Institute for Workers and Trade Unions, FES Hanoi, Report on data of union establishment in garment and footwear export enterprises which have more than 50 employees, 2015.



7. GARMENT INDUSTRY IS LIKELY TO BE AFFECTED BY HIGH AUTOMATION IN THE NEXT 10-15 YEARS

A number of recent ILO reports show that more than two thirds of the 9.2 million workers in textiles and footwear in Southeast Asia are likely to be threatened by the boom of science and technology in the industry. In particular, about 86% of the labour force in Vietnam's garment and footwear industry will be hit hard by the trend of automation in the industry.⁵⁴

In the next decade, although the garment sector has specific characteristics such as high fashion, rich demand, diverse in style, colour,... the tendency to install machines with high level of automation will still occur in such areas as fabric spreading, cutting, screening and at the stage of manufacturing garment accessories such as buttons, zips, At present, many factories have invested in equipment and machinery with high automation level to meet the requirements of increasing labour productivity and reduce input costs and labour costs. At the same time, Industry 4.0 may create a partial shift back to import markets in the US, EU, Japan ... to reduce costs and directly meet the consumer demand. This means that cheap labour in developing countries like Vietnam will no longer be advantageous. In the context of increasing labour costs, the employment in the garment industry moving from the use of labour to the use of automation machinery can definitely happen in the future.

Some evidence of this is: Non sewing or Stichless Technology can reduce 25-35% of operating time as well as reduce labour. Automatic cloth cutting technology has been available since 2015 in Vietnam, with each machine able to replace about 15 workers and factories are able to recover the investment cost in just 18 months. In particular, the automation technology is getting cheaper, which means that the cost of using automatic sewing machines will be four times cheaper than manual labour by 2020. At present, some countries like China and Thailand, which is a big market of manufacturing as well as producing for export are gradually applying automation technology when the trend of labour costs increases. This will affect Southeast Asia, including Vietnam⁵⁵.

This increases the risk of job loss for employees. It also changes the nature of employment of workers. "Predictably, 70-80% of current jobs are lost, and science and technology will generate new jobs. However, about 20-30% of the work will disappear completely, which means that workers would not do some types of job anymore or lost job"⁵⁶ if they keep doing the same job in the future.

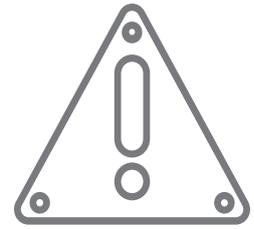
Automation also creates new forms of employment and changes the nature of employment relationships as well as the role of labour contracts and collective bargaining ... The emergence of a labour market divided between "low-skill/low-wage" and "high-wage/high-skill" results in the demand for skilled labour increases while the demand for low-skill labour drops. This resulted in a serious imbalance in incomes between labour groups. This has a large impact on the medium and low-skilled labour force, which accounts for a high proportion of the current Vietnamese labour force. As a result, ordinary workers in the garment industry are facing difficulties, and they will find it more difficult to find a job or earn a living in the future.

54 <http://soha.vn/toi-86-lao-dong-nganh-det-may-viet-nam-dung-truoc-nguy-co-mat-viec-vi-robot-va-do-moi-la-sukhoi-dau-20160905202017495.htm>

55 <http://cafef.vn/cach-mang-tu-dong-hoa-86-so-nguoi-lao-dong-nganh-may-co-nguy-co-rui-ro-ve-viec-lam-20170330094855434.chn>

56 <http://cafef.vn/cach-mang-tu-dong-hoa-86-so-nguoi-lao-dong-nganh-may-co-nguy-co-rui-ro-ve-viec-lam-20170330094855434.chn>

03



CAUSES TO THE RISK OF EROSION OF SOCIAL RIGHTS OF GARMENT WORKERS

The current labour situation in the garment sector is showing the risk of erosion of social rights of workers in Vietnam. Not only the garment industry but also electronics, leather and footwear, metal and other industries also have a lot of labour issues to be concerned.

Although the HDI of Vietnam has been continuously increasing over the past 24 years, from 1980 to 1990, the HDI averagely increased only at a low level of 0.26% per year, then quickly increased to 1.92% per annum from 1990 to 2000, then decreased to 1.33% per year between 2000 and 2008 and 0.69% per year since 2008.ⁱ In 2014, the HDI of Vietnam ranked the 116th of 188 countries, which is in the upper group of countries with medium human development level. The Global Human Development Report 2015 states that Vietnam's slow progress over the past decade has retreated Vietnam's relatively rapid human development progress so far that it lags behind today compared with many other countries of the same level of development. This is sad in the context of Vietnam's average annual GDP growth rate of over 6.5% since Doi moi or even higher, up to more than 7% in the 2000s.ⁱⁱ

Furthermore, the growth rate is accompanied by an increase in gini coefficient in Vietnam. In 1996 the gini coefficient was 0.36; In 1999 it was 0.39; In 2002 it was 0.42 and in 2010 it was 0.446 (the Gini coefficient above 0.4 is considered a dangerous alarm for the income gap in a country). If in 2002, the income gap between group 1 (the 20% lowest income group) compared to group 5 (the 20% highest income group) was 8.1 times; in 2006 it was 8.3 times; in 2010 this rate has

i <http://dantri.com.vn/xa-hoi/phat-trien-con-nguoi-cua-viet-nam-dang-cham-dan-va-tut-hau-20160205151619028.htm>

ii <http://www.fetp.edu.vn/cache/MPP8-551-L07&08V-Growth%20and%20Inequality--Le%20Vu%20Quan-2016-03-10-08462752.pdf>

increased to 9.2 times.ⁱⁱⁱ This means that the gap between the rich and the poor is broadening, which also means that the distribution of returns of economic development is uneven when one group benefits more than the others. Inequality of income implies inequality of opportunity when, it seems, policies on education, health, housing are designed based on the principle of affordability of the people.

Regarding the level of poverty and the level of satisfaction of human needs in Vietnam, the Vietnam's General Confederation of Labour estimates that Vietnam's minimum wage now only meets about 80 percent of the minimum living requirements. Theoretically, the minimum wage is only for the lowest income group, but in Vietnam, the minimum wage is applied by most of the enterprises as a basis for salary calculation for employees. The gap between wage levels and wage increases is negligible, mainly based on seniority. In order to make ends meet, wage earners in Vietnam have to work extra hours excessively, with overtime pay of up to 50% of their income.^{iv}

It can be seen that the following causes have, and will continue to, undermine the social rights of workers:

RACE TO THE BOTTOM TO ATTRACT FDI

Vietnam is not the only country which attracts FDI into the garment sector. Global supply chains in the garment industry have involved several Asian countries at the bottom of the chain such as Cambodia, Bangladesh, Burma, etc. Purchasing practices in the chain lead to the race to the bottom on labour standards among participating countries. The price at the top of the chain is determined by brands/buyers. Many studies show that: the order price does not increase but even decreases. When brands/buyers reduce the order price, the suppliers also decrease the price accordingly and the rate of reduction is not equal among the in-between suppliers. In the case of direct sourcing of raw materials or designation of raw material suppliers by the brands, suppliers are not allowed to purchase raw materials and negotiate raw material prices. By squeezing the price from the beginning to the bottom of the chain, in order for factories to compete for orders, all the cost cuts fall on the cost for workers, because factories can not cut other costs. National standards of countries are also kept competitive to attract FDI such as wage standards, union rights and collective bargaining, etc. The race to the bottom is not just between factories of Vietnam with the factories of Bangladesh, Cambodia or Myanmar but also between Vietnamese domestic factories. And when nothing can be cut anymore, we can see the situation of the enterprise making use of the "loopholes" in the law to earn profits: e.g. when minimum wages increase, factories increase wages to ensure the minimum wage levels as prescribed, but the real income of workers do not increase because the employer cut expenses for various allowances to compensate for wage increases, or reduce investment in safety equipment and labour protection; or the employer requires workers to work overtime instead of hiring more workers; or the employer avoids or owes paying social insurance premiums for workers, which are quite common nowadays.

iii <http://dsi.mpi.gov.vn/vietnam2035/5/111.html>

iv FES, 2017. Research in Vietnam on apparel, footwear and electronics. The CLS + Project on Basic and Expanded Labour Standards - Linking Global Trade and Prosperity in the Global Supply Chain in Asia.

In principle, brands must ensure compliance with national and international labour standards throughout the chain. However, in reality, the brand only pays attention to its direct suppliers. Even though, their attentions is not drastic (because there are many violations at the 1st-tie supplier, which has supply contracts signed directly with the brand, but none of these violation results in termination of the order-placement relationship. Brands cannot control the compliance at 2nd or 3rd tier factories because when the 1st tier factories fail to produce in time, they must subcontract them to the 2nd or 3rd tier to ensure the delivery of products on time, and they do not let the brand know their subcontracting, for fear of being fined by the brand (as a rule, sub-contractors must be approved by the brand and subject to the supervision by the brand).

The current model of development with the objective of growth and job creation rather than the quality of employment needs to be reconsidered. However, the whole society has no common awareness on this issue or the awareness in the society on this matter is unclear. The notion of “economic development first so as to have financial resources for social development later” remains a central argument. A development model that creates jobs but does not pay due attention to the quality of jobs, while workers are willing to sacrifice their rights for employment, has led to impoverishment, which is not different from the exploitation in the slavery time.

The “true sustainable development” model must be socio-ecological transformation. If during the past period, sustainable development is concerned with economic growth/development with the intention that economic returns is spent on social and environmental improvements, then in the current and coming period, social, environmental and ecological development should be considered as number one criteria for approving economic schemes by the competent authorities. Criteria of social, environmental and ecological development must be considered first. Economic performance criteria should be considered only after the social, environmental and ecological criteria are met. The direction for the future is to bravely accept the abandonment of economic investment projects which is just for short-term economic purposes. What of the past can be irreversible but only be overcome, but regarding what of the future, let’s be brave to accept the viewpoint: It is better not deploying than deploying but leaving consequences that economic returns cannot make up for it. Degradation of human development means that many future generations are lost. Environmental and ecological degradation means that the planet of life is lost. The smart and wisdom of people in doing enterprise is not to choose the path of destroying oneself, destroying their ecological environment and their humankind.

In order to undertake a successful change, it requires a political will of the government, the changed awareness of the whole society, information transparency and participatory supervision and monitoring by all stakeholders and by the people themselves. Apart from the issue of interest groups’ division, the endurance of the Vietnamese people at injustices towards themselves will make it difficult for the current development model to change as quickly as desired. The culture of Vietnam brought about the culture of endurance. Thousands of years under feudalism and the war period, have imbeded people with the characteristics of endurance and acceptance of disadvantage in exchange for stability. Social conflicts are not strong enough to push for a necessary change. In addition, the psychology of avoiding to touch on political issues for fear of affecting work, fear of collision, and the desire for the stable life of workers, in particular, and the people, in general, make the change difficult. Therefore, social rights of workers would continue to be affected.



GOVERNANCE CHALLENGE: CHALLENGES ON ENSURING AND ENFORCING THE LABOUR RIGHTS ON THE GOVERNMENT SIDE, THE EMPLOYER SIDE AND THE TRADE UNIONS SIDE

Vietnamese labour law is quite good and highly appreciated by many countries in the world. But weak law enforcement makes workers' rights become unmeaningful. Vietnam has made great efforts in the implementation of labour legislation through labour inspection, which is reflected in the promulgation of the Labour Inspection Law, or inspection regulations in specialized laws such as the Law on Occupational Safety and Health, Social Insurance Law, Labour Code 2012, and at the same time, there is a promulgation of decrees and circulars guiding the implementation of the law. The Prime Minister has issued a Decision approving the Project on Capacity Building for Inspection of the Labour, Invalids and Social Affairs till the year 2020. Although Vietnam has ratified ILO Convention 81 on labour inspection for more than 20 years, but still many points in the law of Vietnam is not in full compliance with Convention 81, creating loopholes in law enforcement. The inspectorate is thin with a high workload while the number of establishments and factories in industry and commerce, which are subject to inspection, is high, so the inspection work of all workplaces become difficult and inspection can only be conducted in a number of factories that are likely to violate the law.

In particular, the form of self-examination and self-assessment in the labour inspection is completely inappropriate and ineffective in a market economy. In a market economy, profits and material values are overwhelming, so self-assessment does not reflect the nature of the problem. For their own benefits, the enterprises can conduct self-assessment in a dishonest way. Good enterprises does not need self-assessment, while bad enterprises do not "wash one's dirty linen in public." Therefore, the self-evaluation becomes impractical. In practice, in society, many cases of corruption are discovered only when the facts are uncovered, and there is no case where the individual evaluates himself/herself to be corrupt during the self-evaluation in the Party or in the organization.

Besides exercising rights, the problem of ensuring the rights of employees is also inadequate. The law provides for rights but also limites rights. For example, the right to sue an employer in case of evasion of paying or oweing social insurance of workers is given to the trade union, but so far, the union has filed 187 cases, of which 28 cases were under successful mediation, 48 cases were returned, and the rest is refused for many reasons. Vietnamese law provides for the right to initiate a lawsuit, but do not provide for a collective suit, so a collective suit must be authorized by each individual and the result of the lawsuit is only applicable to the authorized individuals. Many workers dare not authorize for fear of affecting their work. That is not to mention many other reasons to make the lawsuit extremely difficult. Likewise with the right to strike. Allowing strikes on benefits and not allowing strikes on rights while the system of reconciliation and arbitration is not effective in resolving labour disputes would make it difficult for workers to face violations of rights.

On the employer's side, there are many good enterprises, but also many bad enterprises which have adopted the culture of utilizing loopholes in law rather than the culture of compliance. Perhaps this is the general thinking of enterprises around the world for profit purposes, including FDI factories, which also try to evade taxes by transfer their pricing overseas. The law-loophole-utilizing culture creates a situation that when a law is issued, the enterprise will immediately think of how to benefit from it.

Companies/enterprises need to look back at the early origins of its creation worldwide, for the sake of the development of society and for the people, but not only for the profit of the enterprise itself while forgetting the goal of development. Talk and do need to go with each other. The existence of enterprises now seems to go away from that goal, only aiming for profit with the facts on social insurance evasion or debt, no transparency of wage policy and labour norms. Especially recently, the phenomenon of seeking ways to replace older workers who are 35 years of age or older with weakened health, reduced vision and hearing, weak limbs due to long-sitting and long-standing, and so on is a case in point. These workers with labour productivity reduced are subject to being replaced by young workers, under 25 years old, with good health and low wages. The training for new workers is inexpensive, which only take one week of training for them to be possible to work immediately. The tactics to replace these workers includes: an incentive to encourage employees to leave the enterprise to start their own family business; change the name of the company into a new company and drop old workers to recruit new, healthier young workers; or transfer factories from Region I (with high minimum wage) to Region II and Region III (with lower minimum wages) in order to recruit new employees; or close the enterprise and then start a new enterprise with new recruitment of workers.

On the part of the union, the trade union now has the right to collective bargaining, which is a very important right to improve the conditions of the workers, but frankly, the union cannot use this rights effectively. Collective labour agreements is mainly a copy of the law. If there is any provisions on benefits higher than the law, it is usually thanks to the goodwill of the enterprise and not the result of the negotiation. There are many reasons in terms of problems of the law, the institution, the attitude of the enterprise, but the trade union itself cannot negotiate on an equal footing because of the non-independent position of the union in the enterprise, not to mention a lot of other reasons such as balance of strength, using collective actions to support bargaining, using the right to strike, discrimination against union officials, and restrictive thinking in applying the law.

CHALLENGES IN LAW MAKING

Developing and enforcing the law in a “closed” way

Vietnam’s labour law as well as other laws are developed in a detailed, hands-on manner. For example, in the area of occupational safety and health, the law of Vietnam specifically regulates what factories must do to ensure occupational safety and health for workers, while Australian law only regulates that factories have responsibility to ensure safety, and all measures to ensure labour safety and health belongs to the obligation of the enterprise (of course the law can suggest and recommend measures, but if the workplace is not of occupational safety, then it is the responsibility of enterprise). In Vietnam, factories do all the things in accordance with the law, so they have the right to refuse liability if labour accidents continue. For example, there are many cases that labour accidents occur while workers do not wear protective equipment that has been provided. Under Australian law, if the employee does not wear productive equipment, it is still the fault of the enterprise, but under Vietnamese law, this is the fault of the employee. This thinking will make the enterprise avoid the law, creating the risk of law-loophole utilization.

Market mechanism in industrial relations

At present, Vietnam is in the process of amending the law and the way of thinking is to apply the market mechanism in industrial relations, ie. the law only regulates the framework, the protection of workers in the law is reduced, and the parties make decision on specific issues based on negotiation. This mechanism is perfectly suited to countries that have undergone a market mechanism

for hundreds of years, but if applied to a new market economy, where the legal system is not yet complete to deal with new problems, the union is weak and cannot use the right to bargain, the right to strike, while, at the same time, freedom of association is not regulated by law, will make workers weaker and more vulnerable, subject to further exploitation. The application of the market mechanism in industrial relations should only be implemented when the industrial relations partners are strong enough. For that, it is necessary to revise the labour legislation allowing workers to exercise the right to freedom of association.

Imposing fines in case of violations

Vietnam's administrative measures are too light to be a deterrence to infringers. Sometimes the infringer is willing to pay the fine and then continue the violation. Legal experts in Vietnam also explain that the situation of "no strong and serious penalties imposed on the infringer who commits a wrongdoing" is resulted from the old economy. That means that fines are applied just to make the infringer know that they violate the law. It is like an educating measure for the infringer not to break the law anymore. This is the thinking of the socialism, and when applied to a capitalist economy, it does not have the effect of deterrence any more, and thus, creates loopholes for intentional infringers.

CHALLENGES ON THE SIDE OF WORKERS

Vietnamese workers in industries mainly come from rural to urban areas, from agriculture to industry, so they are not aware of their rights and are unaware of the use of their rights under national law as well as international labour standards (in relation to mandatory standards for ILO member states). In the context of incomplete legislation and enforcement, this is slowing down Vietnam's development in the field of industrial relations.



04



INITIATIVES OF NGOs, CSOs, ETC. TO ENSURE THE RIGHTS OF WORKERS IN THE GARMENT INDUSTRY

A number of initiatives have been launched at the global, regional, national and multi-stakeholder levels to support the improvement of the working conditions and labour rights of garment workers. Examples include initiatives such as the Bangladesh Accord, the Ethical Trading Initiative, the Fair Wear Foundation Program, the FOA Newly-established ACT initiative, Better Work program (ILO / IFC Better Work program).

CORPORATE SOCIAL RESPONSIBILITY INITIATIVES

These initiatives are offered by factories / brands in the form of Code of Conduct, which promotes compliance with labour standards in their supply chains. Compliance standards are based primarily on core labour standards as defined by the OECD Guidelines, United Nations Principles, ILO Conventions and Recommendations (ILO), which emerged as the ILO's 1998 Declaration: States agree that as members, they are obliged to respect, promote and exercise in good faith the basic labour standards of the ILO. Contents of basic labour standards:

All the tools are aimed at promoting the implementation of core labour standards, including:

- Freedom of association and collective bargaining (Conventions 87 and 98 of the ILO);
- Elimination of all forms of forced labour (ILO Conventions 29 and 105);
- Elimination of child labour (ILO Conventions 82 and 138);
- Elimination of all forms of discrimination in employment and occupation (ILO Conventions 100 and 101)

However, the implementation of these standards by factories is often ineffective due to the following practices:

Brands and retailers will always have to meet simultaneously two standards: the first one is for quality, cost and speed so as to provide customers with products of the highest quality possible,

the lowest cost possible and at the fastest speed possible of introduction and delivery of new products to meet the needs of customers; and the second one is to ensure core labour standards in the factories producing for them under pressure of civil society, notably trade unions, consumer associations and human rights organizations. However, these double standards are not considered equally important by brands and retailers and priority is often given to the standard of customers' needs because it is also for their own profits. That the implementation of double standards are not standardized, including sourcing practices of retailers and brands^v, which are listed below has led to the current situation of labour violations and workers at the bottom of GVCs are squeezed as mentioned above:

- Brands and retailers require manufacturers to improve labour conditions in the absence of adjustment of costs and delivery deadlines. Costs are low and delivery deadlines have been shortened significantly compared with the initial period of the formation of GVCs due to new technologies for tracking purchases and placing orders, due to competition and customers' demand. This is the reason why manufacturers refused to increase wages and improve working conditions as well as committed violations of labour rights and labour standards.
- Brands and retailers change models and prices or delay notification of changed design and prices without extending delivery time, resulting in workers having to work excessive overtime;
- When being informed of labour violations at factories, instead of discussing with manufacturer to adjust the compliance, the firms/ factories at the top of GVCs withdraw labour standards;
- Brands and retailers change manufacturers constantly, affecting the long-term application of committed labour standards;
- Intermediary suppliers often do not provide information on requirements of applicable labour standards to manufacturers and workers along the chain.

GLOBAL FRAMEWORK AGREEMENT (GFAS)

The Global Framework Agreement is a negotiated and signed agreement between the Global Unions Federations (GUFs) and multinational corporations to create a framework of labour standards applied to all manufacturing units and affiliates of multinational companies throughout the world, including throughout their supply chains. GFAs has been signed FGAs with garment brands such as Inditex, H & M, Tchibo and Mizuno.

The GFA decides international labour standards as the foundation for national and company-level trade unions to negotiate specific standards in the country and in their factories, in particular to support negotiations of CBAs at the sectoral/industrial level or multi-enterprise CBAs.

However, the limitation of GFAs is that, although there is a procedure for handling violations, no specific obligation is imposed on the remedy when a breach is discovered.⁵⁷ The content of the GFAs only covers the general respect for labour standards and does not specify the commitments of brands and retailers regarding the cost of implementing labour standards in the price. The order is suitable for the manufacturers to pay the living wage and to ensure the working conditions of the workers⁵⁸.

57 Review of 44 International Framework Agreements signed between IndustriALL and MNCs. VGCL-IndustriALL-FNV-LO/TCO, 2013. Các Thỏa thuận Khung Toàn cầu của IndustriALL. See Mark Anner, Jennifer Bair and Jeremy Blasi. Toward joint liability in global supply chains: addressing the root causes of labour violations in international subcontracting networks. *Comp. Labour Law & Policy Journal*, Vol. 35:1, 2013. pp.26, 27

58 Mark Anner, Jennifer Bair and Jeremy Blasi. Toward joint liability in global supply chains: addressing the root causes of labour violations in international subcontracting networks. *Comp. Labour Law & Policy Journal*, Vol. 35:1, 2013, p.27.

v Mark Anner, Jennifer Bair and Jeremy Blasi. Toward joint liability in global supply chains: addressing the root causes of labour violations in international subcontracting networks. *Comp. Labour Law & Policy Journal*, Vol. 35:1, 2013, p.3.

As a result, the implementation of GFAs has not been much different from CoCs, until the tragedy of Rana Plaza which led to signing of an agreement on work safety (i.e. Accord on Building and Fire Safety in Bangladesh) by more than 70 major garment brands and retailers with Union Network International (UNI) and the IndustriALL in May 2013⁵⁹, stating the safety standards and commitments of financial obligations of brands and retailers to manufacturers on improvement of safety conditions in the factories as well as commitments to stop orders for non-compliant signatories⁶⁰. This is an improved step of GFAs, although this agreement is just in a single field of safety and in a single country of Bangladesh and promises enforceability, but it is newly signed and there has been not yet assessment of effectiveness in the improvement of safety and effectiveness also depends on the strength of workers and their organizations in monitoring implementation.

Support of solidarity donors

Solidarity organizations from Northern Europe and other countries play an important role in supporting the capacity building of trade unions to fight for and protect workers' rights. The topics include: understanding of international labour standards, enhancing union representation, improving negotiation skills and negotiating collective bargaining, supporting public development advocacy on specific issues such as wage increases, social security improvements, etc. Solidarity organizations supporting trade unions in Vietnam include the Swedish Trade Union Development Cooperation Council (LO Sweden), Danish Trade Union Confederation (LO Denmark), Norway Trade Union Confederation (LO Norway), Council of Trade Unions of Finland (SASK), Dutch Trade Union (CNV International), German Trade Union (DGB), FES, Rosa Luxemburg Stiftung, Australian Agency for Overseas Development (APHEDA), etc.

Multi-stakeholder initiatives

Serious fire in factories in Pakistan and Bangladesh in 2012 and the collapse of Rana Plaza in 2013 in Bangladesh have put pressure on parties to demand responsibility from brands/factories in terms of exercising its management throughout the supply chain. The Bangladesh Fire Safety Agreement, jointly developed by the UNI, IndustriALL together with its affiliates and international NGOs, was signed. The agreement involves more than 200 global garment brands committed to compensating workers or their families who were victims of the Rana Plaza collapse and to bind supply chain operators to assess compliance of labour standards and occupational safety as well as develop improvement plans. The agreement also supports the establishment of a management-labour consultative board to promote dialogue and exchange of issues on occupational safety and health in the factory. This agreement will be evaluated for effectiveness in 2018 in order to adjust and improve implementation.

Another multi-stakeholder initiative involving global trade unions (GUF) is the ACT initiative, formed in 2015, to address the issue of living wage in the supply chains of the garment industry by supporting negotiation of a sectoral agreement.

Ethical Trade Initiatives (ETI) involves the participation of national trade unions, international unions and NGOs to promote the implementation of ILO core labour standards, including freedom of association and collective bargaining. The ETI also support the idea of living wage throughout the supply chain, and supports the capacity of workers to promote social dialogue, and has a say in wage bargaining and other issues at the workplace.

59 Mark Anner, Jennifer Bair and Jeremy Blasi. Toward joint liability in global supply chains: addressing the root causes of labour violations in international subcontracting networks. *Comp. Labour Law & Policy Journal*, Vol. 35:1, 2013, p.26

60 Mark Anner, Jennifer Bair and Jeremy Blasi. Toward joint liability in global supply chains: addressing the root causes of labour violations in international subcontracting networks. *Comp. Labour Law & Policy Journal*, Vol. 35:1, 2013

Another initiative, Fair Wear, with the participation of more than 80 European Union factories producing for more than 120 brands, conducted factory-level assessments, including Vietnam to improve conditions for workers in the garment industry.

Better Work initiative between the ILO and the International Finance Corporation (IFC) must be mentioned. Started in Cambodia in 2001, the program expanded to seven other suppliers in the garment sector, including Vietnam. Better Work aims to improve the competitiveness of the industry by helping factories to comply with national legislation and basic international labour standards. Better Work pursues this goal by assessing working conditions at factories and then providing counseling and training for improvement. At the same time, the PICC (Enterprise Improvement Advisory Committee) was established at the factory to enhance dialogue on issues at the enterprise, in which elected employees are members.

The FOA Protocol is an initiative created by the Oxfam Workers' Rights Project to help Indonesian trade unions promote the commitment of brands to the exercise of their right to freedom of associations in the textile and garment industry. The participating brands include Adidas, Nike, Puma, Pentland, New Balance and Asics, and suppliers include PT Adis, PT Tungex, PT Nikomas and PT Panarub.

Bilateral and multilateral mechanisms

The longest multilateral initiative is the OECD Guidelines, which are a kind of soft, voluntary and non-binding law that allows for public complaints, assessments and audits. The next is the ILO Tripartite Declaration on Principles Relating to Multinational Factories and Social Policy, issued in 1977, aimed at promoting multinational and national factories, governments, workers' and employers' organizations to ensure the employment, training, working and living conditions of workers. Most recently, the 2011 UNGP states the corporate responsibility for ensuring human rights, including labour rights, along with the 2030 Sustainable Development Agenda, which aims to promote decent work for employees.

Other initiatives include the Asian-Pacific Dialogue (ASEM) since 1996, the ASEAN Guidelines for Good Labour Relations Practices through 2012, etc.....



05



RECOMMENDATIONS

While the model of development has not changed, the conditions of the workers face with a lot of challenges even when there are many initiatives at national and international level. While the garment sector continues to grow in the future, the following recommendations should be considered to protect the social rights of the garment workers from further erosion.

TO THE GOVERNMENT

The government should propose appropriate institutional modifications concerning industrial relations actors before amending the law to apply the market mechanism in industrial relations.

The government should ensure the strictness of the law in order to build a culture of corporate compliance, thereby encouraging a collective bargaining culture. While compliance with the law is not good, it is difficult to say about higher conditions than the law.

Governments need to join with the international community to ensure that minimum wages in Vietnam are up to the benchmark of Asian Floor Wage to avoid the race to the bottom and ensure the lives of workers. If Vietnam accepts low wages to attract investment, Vietnam will fall into the double traps: labour force is squeezed, which not only affects the current generation but also affects future generations. The risk of “people become old while not rich yet” has been warned. In-work poverty and hard-work poverty is the paradox of the development. At the same time, working long hours do not create conditions for workers have time to study for improvement of their qualification and creativity when factories change technology in Industry 4.0.

The government also needs to reconsider the policy of attracting foreign investment because it seems that investing in the labour-intensive and low-cost sectors will be a disadvantage in the near future, especially in the Industry 4.0, but there seems to be no drastic action to replace current industrial policy.

Governments should also pay attention to promoting active implementation of ILO conventions on fundamental labour standards in an active way instead of passive way.

TO THE ENTERPRISE COMMUNITY

Factories need to adopt compliance culture to show respect for workers and respect for themselves as well as the culture of sharing a worthy part of their bread pie to workers in order to show respect for workers as their assets. Factories always say that employees are their assets. In addi-

tion to the words, factories need to show respect by action. We think the VCCI's law compliance initiative is a step in the right direction.

TO TRADE UNIONS

Trade unions - as a representative body of workers in both formal and informal sectors, should play an active role in this socio-ecological transformation. With an advantage of being in the political system, having the right to be consulted on the Party's and State's policies and guidelines, trade unions should raise a voice to promote the socio-ecological transformation in the development policy and law making process. The role of trade unions is no longer merely to protect the rights and interests of workers but also to contribute to the development of a better society, both socially and ecologically. With six delegates elected in parliament, Vietnamese Trade Unions can directly participate in the making of constitution and legislation, give opinions on national decisions concerning important issues of the country and participate in monitoring activities of the State. Besides, according to the working relationship rule between the Government and Vietnamese Trade Unions (VGCL), the VGCL would be invited to attend the government's meetings and this is an opportunity for the VGCL to express its opinions in order to step by step exert influence for adjustment of the current development model of Vietnam.

Through mass media and social network, trade unions can contribute a voice to change the society's perceptions on social and ecological transformation and, through its membership network, to change the social conception of growth measurement. Growth is not GDP but social security and ecological development should be the first criteria to measure growth. Growth is not based on natural resources, but based on green energy such as solar, wind, and so on. At the same time, trade unions should ally with other groups in society, especially environmental and ecological activists' groups to make their common voices stronger.

Trade unions should strive for more democratization of the decision-making process of the State to involve more people and various forces in society in the relevant policy-making. This process requires the thinking of democracy be cultivated in every individual worker and that workers need to fight to get their democratic rights enforced, first for the policies that concern them - especially social and environmental policies. Because of this, the trade union itself must become a democratic organization, working for its members and based on members. In the context of multi-national corporations joining "the race to the bottom", sourcing in countries with low labour standards, Vietnamese Trade Unions needs to align with national and international unions around the world to set common standards, for example, the Asian Wage Floor, and campaign for enforcement.

More than that, in order to change others, trade unions needs to change itself first so as to act appropriately and effectively in the new situation and at the same time, change the perception of individual members about their personal values, about the ideal of living towards the goal of social progress and ecological development, and about cultivating the sharing and community responsibility rather than just caring about jobs and daily income. Union members need to be aware of their individual roles in social, environmental and ecological development.

TO INTERNATIONAL ORGANIZATIONS

In addition to supporting the capacity building of partner organizations to engage in advocacy for change of the development paradigm for social progress, international organizations need to pay particular attention to raising awareness for workers on their rights so that they can use their rights, speak out for their rights, contributing ideas to necessary institutional changes towards social and ecological transformation and for a better society for everyone.



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