



‘Decent Work’ Examined: Eyes Wide Open in Labor Relations in Vietnam

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The primary goal of the 1999 ILO Decent Work Report has four laudable strategic objectives: the promotion of rights at work; employment; social protection; and social dialogue.⁸ I focus on the “social dialogue” goal, because it is one of the most oft-cited ways to reduce industrial conflicts in a country that has witnessed thousands of wildcat strikes, mostly over basic labor rights (wages, benefits, working conditions). These strikes, led by workers not the unions, have gained only short-term fixes.⁹

The definition of social dialogue, one of the four Decent Work objectives, is progressive and encompassing, as it: “requires participation and freedom of association, and is therefore an end in itself in democratic societies. It is also a means **of ensuring conflict resolution, social equity and effective policy implementation**. It is the means by which rights are defended, employment promoted and work secured” (my emphasis).¹⁰ The tripartite system is prominent in the ILO Decent Work declaration to engender social dialogue: “Governments, employers and workers have to accommodate their different interests in creative ways to respond to the demand for decent work placed upon them by individuals, families and communities everywhere.”¹¹

However, the assumption that the three sides in the enshrined tripartite structure have equal voice at the negotiating table does *not* reflect the reality in Vietnam. I argue that the implementation of social dialogue has *not* genuinely benefited workers when the three sides in this framework do not have equal voices at the negotiating table. As demonstrated in the three

⁸ Decent Work. International Labour Conference, 87th Session 1999.

[https://www.ilo.org/public/libdoc/ilo/P/09605/09605\(1999-87\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09605/09605(1999-87).pdf), p. 3.

⁹ Tran, AN (2013) *Ties That Bind: Cultural Identity, Class and Law in Flexible Labor Resistance in Vietnam*. Southeast Asia Program (SEAP), Cornell University Press, Ithaca, NY; Anner, Mark and Liu, Xiangmin. *Harmonious Unions and Rebellious Workers*. *ILR Review*, 2016, 69(1):3-28.

¹⁰ ILO 1999, pp. 3-4.

¹¹ ILO 1999, p. 4.

cases below, labor relations in Vietnam have witnessed the strengthening of the state-management alliance and the weakening of labor, represented by one overarching labor union, the Vietnamese General Confederation of Labor (VGCL).¹² Moreover, the actual implementation of social dialogue at the factory level focuses on only conflict resolution, missing the other two goals: social equity, and effective policy implementation, which would have addressed the deep-rooted problems in labor relations and improved workers' lives.

Vietnam has an even more rigorous periodic workplace dialogue, which I have called "democratic dialogue."¹³ After the peak of the strike wave in 2011, the government became wary of this instability and required periodic workplace dialogues, as stated in the 2012 Labor Code revision.¹⁴ A year later, the government introduced the progressive Decree 60 – Grassroots Democracy Regulation in the Workplace, to implement this workplace dialogue provision, specifically detailing the purpose, forms, and content of these dialogues.¹⁵ Democratic dialogue at the factory level requires management to disclose financial information to workers, which can empower workers and unions in collective bargaining. Every three months, employers are required to hold discussions, during which they must publicize a long list of information, including, but not limited to, the following three key items: production and business plans, wage scales and grades, and the annual financial statement on all items related to workers.¹⁶ Clearly, this long list requires *management's compliance* with transparency, and if enforced properly, can level the power relations in the labor–state–management tripartite system.

The VGCL had tried in good faith to implement democratic dialogue but was mostly unsuccessful. They formed a Department of Labor Relations, focusing on harmonizing labor relations on the factory floor based on the laws, and holding management accountable to social insurance contributions in 2014.¹⁷ In 2015, they issued a resolution called "Pushing Forward Workplace Dialogues in Enterprises" and published guidelines for management and the unions to facilitate democratic dialogue at the enterprise level. Unfortunately, they were not able to articulate the guidelines clearly, partly due to their unrealistic expectation of "harmonious relations" between

¹² Vietnam still has not yet ratified ILO convention #87 (freedom of association) which would have allowed many unions to compete to represent workers.

¹³ Tran, Bair and Werner, "Forcing change from the outside? The role of trade-labor linkages in transforming Vietnam's labor regime," *Competition and Change*, October 2017

¹⁴ The 2012 Labor Code, Chapter 5, "Dialogue at the Workplace, Collective Bargaining, and Collective Labour Agreement"

¹⁵ Ministerial Decree 60/2013/ND-CP. Available from:

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=94441&p_country=VNM&p_count=532

¹⁶ The rest of the required management's disclosure includes: rules and regulations on recruitment and employment, bonuses, and labor protections; implementation of policies especially on severance allowance, wages and bonuses, social insurance, unemployment insurance and medical insurance for employees, collective labor agreement of enterprise, the use of funds contributed by employees, management's contribution to the union's fund and payment to social, medical and unemployment insurance funds.

¹⁷ Pham Chi (2014) Thực hiện 5 nhiệm vụ trọng tâm về quan hệ lao động. Lao Động, April 18.

<http://laodong.com.vn/cong-doan/thuc-hien-5-nhiem-vu-trong-tam-ve-quan-he-lao-dong-194259.bld>

labor and management in a market system.¹⁸ Moreover, the union representatives at the workplace level lack the capacity to carry out these tasks.

With the VGCL's inability to implement democratic dialogue, the ILO intervened by using "social dialogue," as a form of workplace dialogue, in the platform that it created in 2007 and developed in Vietnam in 2009. In consultation with the Ministry of Labor, Invalids and Social Affairs and the unions, Better Work Vietnam (BWV) is a social compliance auditing service provider, funded by global capitalists (including the International Finance Corporation, industries and businesses). The ILO funded the Research Center for Employment Relations, a private labor consultancy, to create a manual for unions and employers on how to conduct these periodic dialogues, in collaboration with the management association (the Vietnamese Chamber of Commerce and Industry) and the unions.¹⁹ The manual includes management interests and admits that the main goal is to help "minimize labor conflicts."²⁰ For instance, it elaborates a step-by-step procedure for "emergency dialogues" to deal with *potential strikes*, sudden policy changes that can negatively affect workers without their input, and external conditions such as inflation and natural disasters. Again, the focus on conflict resolution ignores the other two goals – social equity and effective policy implementation – which would have addressed the root causes of these strikes.

I present the following three cases to demonstrate that the implementation of social dialogue will *not* genuinely benefit workers when the three sides in a tripartite framework do not have the same power at the negotiating table.

Lopsided Tripartite Structure: The National Wage Council

Strikes are costly, so promoting harmonious relations between labor and management to avoid strikes is important. Since most strikes are about non-livable minimum wages, the formation of a National Wage Council (NWC) to bring all three sides to the table in a transparent manner should be a good thing. However, the reality is more complex. The NWC was formed in 2013 to advise the prime minister on annual minimum wage increases.²¹ Using the ILO tripartite structure, the 15 representatives are divided equally among the three interests: five members for each side; the state's interests, business interests, and labor interests. A downward trend of minimum wage increases over seven rounds of negotiations by the NWC confirms the strengthening of the state-management alliance and the weakening bargaining power of the VGCL to establish livable wages for workers. Here is the evidence of eroding annual minimum

¹⁸ Pham thi Thu Lan (2017) Why always wildcat strikes in Vietnam? Global Labour Column, University of Witwatersrand Johannesburg, October.

¹⁹ Do, QC, Nguyen LA, Nguyen VQ, et al. (2016) Social dialogue at the workplace: Manual for unions and employers. Research Center for Employment Relations, VCCI, VGCL: Hanoi

²⁰ Do et al., 2016

²¹ Prime Minister Decision 1055/QĐ-TT formed the National Wage Council (NWC), 2013. Available from: <http://thuvienphapluat.vn/van-ban/Lao-dong-Tien-luong/Quy-dinh-1055-QĐ-TTg-thanh-lap-Hoi-dong-tien-luong-quoc-gia-nam-2013-198352.aspx>

wage increases since the formation of the NWC: 29.5% (2013), 22.9% (2014); 14.3% (2015), 12.4% (2016), 7.3% (2017), 6.5% (2018), 5.3% (2019).²² A study by the Institute for Workers and Trade Unions argues that while the 2018 increase (6.5%) addressed some inflation and labor productivity concerns, it failed to address the basic necessities of workers.²³ The average monthly wage of a factory worker in Vietnam is less than \$150 a month,²⁴ which is not a livable wage and thus requiring a second (or third) job to make ends meet. Newspapers have exposed the hard lives of workers, their substandard housing, and inadequate nutrition for them and their children.²⁵

Better Work Vietnam, or Else!

Better Work Vietnam (BWV) opened its office in Vietnam in 2009. It is a one-stop shop, providing services for a fee, such as organizing social dialogues, providing assessment and compliance audits, and other management services. This program demonstrates how social dialogue has been used to promote management's key goal: reducing industrial conflict. While harmonious labor relations benefit both employers and workers, this issue represents only one third of social dialogue's charge (ILO definition), and falls far short of demanding management's compliance as required in *democratic* dialogue (Vietnamese definition). Corporations in the global supply chains claim to use "social dialogue" to comply with Vietnamese labor laws and ILO's Decent Work to appease conscientious global end-users. Global brands and retailers, local suppliers, factory owners, and managers pay fees to receive detailed compliance reports gathered by audits on participating factories, not available to the public.²⁶

BWV is a watered-down version of its predecessor in labor-monitoring programs.²⁷ Better Factories Cambodia (BFC) is a much more rigorous and robust factory-monitoring program, arising from a binding trade-labor linkage model between the U.S. and Cambodia to ensure labor compliance for access to US markets. The BFC auditing program creates the Transparency Database Report, which provides detailed information regarding violations at particular factories, including the factories' full names so the general public can monitor these and the remediation processes.²⁸ On the other hand, after a lot of foot-dragging, BWV finally published their

²² Tran "Contradictions of Multi-Stakeholder Framework in the Transformations of Vietnamese Labor Relations," in *Routledge Handbook of Contemporary Vietnam*, edited by Jonathan London, et al., forthcoming in 2019.

²³ The 2018 minimum wage increase was discussed in 2017. This is cited in Thuy Truc, Tăng lương 13,3% để đáp ứng mức sống tối thiểu, *Kinh tế và đô thị*, reprinted in *Người Lao Động*, <https://nld.com.vn/cong-doan/tang-luong-133-de-dap-ung-muc-song-toi-thieu-20170726142732634.htm>

²⁴ Voice of Vietnam, Average Salary <https://www.vietnamonline.com/az/average-salary.html>, accessed December 5, 2018.

²⁵ Tran, 2019 and photos.

²⁶ Bair J (2017) Contextualizing compliance: Hybrid governance in global value chains. *New Political Economy* 22(2):169–185.

²⁷ See Tran, forthcoming 2019, for more in-depth analysis on the formation of BWV (with a strong ILO role) and impacts of BWV.

²⁸ BFC (2018) Welcome to Better Factories Cambodia's Transparency Database. <http://betterfactories.org/transparency/en/> (accessed on July 24, 2018).

transparency database to make available publicly a list of labor violations at participating factories. The BWV factory-level compliance report database provides a skimpy bullet-point list of generic violations of selected international core labor standards and domestic laws, with no details about how violating factories address their violations.²⁹

BWV claimed to have successfully fulfilled the social-dialogue requirement,³⁰ but this claim is questionable at many levels. First, the mechanism used to promote social dialogue, the worker–management bodies known as Performance Improvement Consultative Committees (PICCs), shifts the responsibility for improving the company’s–performance to workers, instead of management as required by the original democratic dialogue. The key intention of PICC is to use social dialogue to reduce strikes, so listening to workers’ grievances can help bring about “harmonized relations” by pre-empting strikes. Second, PICC’s claim that using social dialogue has a spillover effect in reducing strikes has been called into question by scholars, noting that strike statistics actually increased, not decreased, after BWV opened offices in Vietnam.³¹

Taking Power to the Street, not at the Table

In 2015, the seven-day Social Insurance strike demonstrates the power of collective action by workers who rose up to protect themselves when the unions did not represent their interests and the state tried to enforce a law that does not protect workers from footloose employers. These irresponsible employers (mostly foreign) abandoned factories, avoiding social insurance contributions and leaving workers stranded without pay. These rampant management behaviors resulted in underfunded social insurance, job insecurity, and precarious work conditions that led workers to select the second-best option, withdrawing a single lump-sum social insurance payment, to protect themselves.³² In an ideal situation, workers would benefit from accumulating 20 years’ worth of social insurance payments and collecting them after reaching their retirement ages (60 for men and 55 for women). However, given the above realities, this law, if implemented, would have forced workers to be exploited by the global supply chains when their bodies are exhausted way before their official retirement ages.

It took the collective action of over 90,000 workers to pre-empt the 2014 Social Insurance Law, which was to take effect starting January 1, 2016. This 2014 law required that workers reach their respective retirement age before they can receive their monthly pension after accumulating 20

²⁹ Statistical Data. Better Work. <https://portal.betterwork.org/transparency/compliance#> (accessed on July 24, 2018).

³⁰ BWV, Presentation at the Ton Duc Thang University Labor conference in 2015.

³¹ Tran “Contradictions of Multi-Stakeholder Framework in the Transformations of Vietnamese Labor Relations”; Anner, M (2017) Wildcat strikes and Better Work bipartite committees in Vietnam: Toward an elect, represent, protect and empower framework. Better Work Discussion Paper No. 24. Available at: <https://betterwork.org/blog/portfolio/12829/> (accessed 5 July 2017); Chae, S (2013) The Political Economy of strikes in 2011: the cases of four Korean garment factories in Binh Duong, unpublished report for the ILO-Vietnam Industrial Relations Project, Chonbuk University, South Korea.

³² Tran Ties That Bind, 2013.

years of social insurance payments. Thus, it denied workers the right to withdraw a single lump-sum social insurance payment (based on their total contributions) when they stopped working before reaching their retirement age.³³ When the workers understood the negative ramifications of the 2014 law, they went on a massive strike in the Taiwan-listed PouYuen Vietnam Co. Ltd. (manufacturing sports shoes and apparel for the world's biggest brands) in Ho Chi Minh City, which then spread to sympathetic strikes (many took place in BWV factories) in nearby provinces.³⁴ As a result, the workers won a small victory: on 2 April 2015, the Prime Minister issued a decree which was ratified by the National Assembly on 22 June 2015. This measure allows workers to receive a single lump-sum payment of their social insurance benefits whenever they stop working, even if they have accumulated less than twenty years' work time.

Conclusion

Realities in Vietnam show that the ILO tripartite framework is lopsided, and that well-intentioned social dialogue can be appropriated by management to be a cost-effective risk management tool, not benefiting labor as intended. To be fair, one should not expect the PICC model to do the union's job of collective bargaining, but it is important to note that as currently practiced in these PICCs, social dialogue serves the interest of the side that holds the most power in the tripartite system: management. As such, social dialogue not only falls short of the ILO definition, it is much more limited than "democratic dialogue," as defined in Vietnamese labor law. Without a level playing field in the tripartite system, a limited implementation of "social dialogue" (strike reduction) can lead to an illusion of harmonious industrial relations, which do not genuinely improve workers' conditions. Moreover, the continuous downward spiral of the annual minimum wage increase demonstrates clearly that management garners more power when their position receives support from the state, leaving the unions in the minority at the tripartite negotiating table.

Understandably, top-down "democratic dialogue" requires the agreement to participate on the part of both management and workers, but it is important to stay alert to how "social dialogue" has been commodified, watered down, and used to divert our attention away from genuine efforts to empower workers from the ground up.

The Vietnamese case shows that workers and the unions should not settle for less, given both national and global labor standards. Attention should be paid to informing workers of their rights so they can seize their power effectively *at the table*. Unions need to push back and demand management's compliance to disclose, for instance, these three items: production and business plans, wage scales and grades, and the annual financial statement related to workers. This crucial information can empower the workers and the unions at the negotiating table, especially when

³³ This was permitted under the former 2006 Social Insurance law.

³⁴ Tran, AN (2015) "Small Victory, Systemic Problems: The Strike of over 90,000 Vietnamese Workers for Social Insurance Justice," New Mandala (Australian National University), April 30. Available from: <http://asiapacific.anu.edu.au/newmandala/2015/04/30/small-victory-systemic-problems/>

bargaining for wage increases, decent benefits, and job security. Only then can we approach a more genuine tripartite framework to ensure “Decent Work” for the workers.



Lives of migrant workers and their children in a small rental unit in Ho Chi Minh City. Image © Lê Tuyết, 2018.



A Korean owner fled his factory in Ho Chi Minh City, leaving workers stranded without pay and no insurance (social, health, and unemployment). Image © Lê Tuyết, 2018.