

Working Paper No. 42



International
Labour
Office
Geneva

Employee participation in Viet Nam

Dr. Do Quynh Chi

November 2012

Industrial
and Employment
Relations
Department
(DIALOGUE)

ILO Regional
Office for Asia
and the Pacific

Employee participation in Viet Nam

Dr. Do Quynh Chi

**Industrial and Employment
Relations Department
International Labour Office, Geneva
ILO Regional Office for Asia and the Pacific
November 2012**

Copyright © International Labour Organization 2012
First published 2012

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Chi, Do Quynh

Employee participation in Vietnam / Do Quynh Chi ; International Labour Office, Industrial and Employment Relations Department. - Geneva: ILO, 2012

1 v. (DIALOGUE working paper; ISSN: 2226-7433; 2226-7840 (web pdf) ; No.42)

International Labour Office; Industrial and Employment Relations Dept

workers participation / workers representation / codetermination / labour relations / labour legislation / comment / Viet Nam

13.06.7

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our web site: www.ilo.org/publns

Foreword

This paper is part of a series of national studies on employee participation practices in Asia undertaken within the research programme in the field of industrial relations in the region. This is linked to the ILO Global Product on supporting collective bargaining and sound industrial and employment relations, involving close collaboration between the Industrial and Employment Relations Department (DIALOGUE) at ILO headquarters, the ILO Regional Office for Asia and the Pacific, and the ILO Decent Work Team for South Asia. The national studies aim at analysing the degree of employee participation within the enterprise, the forms such participation has taken, the issues that have been its focus, and its impact on workers' rights, employment conditions and the economic efficiency of the enterprise.

Employee participation at workplace level facilitates better labour-management communication, prevents and absorbs disputes and helps to find solutions for both work- and production-related issues. It also has the potential to reflect the voices of those whose trade union representation tends to be either low or absent. Various employee participation practices can thus play a complementary role to promote collective bargaining and sound industrial relations, so long as they are not used as replacements for collective bargaining.

The paper provides an in-depth overview of industrial relations developments in Viet Nam with a focus on how various forms of employee participation have evolved, how they are regulated and how they are put into practice. The changes in labour relations in Viet Nam since the introduction of the Doi Moi economic reform policy resulted in the enactment of the Labour Code and Trade Union Law in the early 1990s which envisaged employee participation through enterprise unions and workers' congresses. However, mainly due to the ineffective functioning of collective bargaining and workers' congresses, a series of wildcat strikes occurred against terms and conditions of work arbitrarily set by management. In order to prevent such disputes, affected companies have taken steps on their own initiative to improve labour relations, particularly through encouraging employee participation. The paper identifies some such successful employee participation initiatives which opened up channels for giving a voice to workers. It also examines their impact by grouping participatory models into those led through either team leaders, trade union units or workers' representatives.

DIALOGUE working papers are intended to encourage an exchange of ideas and are not final documents. The views expressed are the responsibility of the author and do not necessarily represent those of the ILO. We are grateful to Dr Do Quynh Chi for undertaking the study, and commend it to all interested readers.

Yoshiteru Uramoto
Regional Director,
ILO Regional
Office for Asia and the
Pacific

Moussa Oumarou
Director,
Industrial and Employment
Relations Department

Contents

Foreword.....	iii
Executive summary.....	vi
1. Background for workplace cooperation.....	1
1.1 Economic transition since Doi Moi	1
1.2 Labour market developments.....	2
1.3 Challenges facing manufacturing firms	2
1.4 Vietnamese industrial relations legislation	3
Effects of industrial relations institutional arrangements on labour relations in enterprises	4
1.5 Trade unions	5
1.6 The labour administration.....	6
1.7 Employers: VCCI, VCA and business associations.....	6
1.8 Recent industrial relations developments in the manufacturing industry	7
2. Legal provisions for employee participation.....	9
3. The practice of employee participation.....	10
Model 1. Employee participation through team leaders	12
Case study 1. Piaggio Vietnam	12
Case study 2. Canon Vietnam.....	14
Model 2. Employee participation through union units.....	15
Case study 3. Poong-in Vina	15
Model 3. Employee participation through workers' representatives	17
Case study 4. Pung Kook III.....	18
Case study 5. Shang Hyung Cheng	19
Case study 6. Ching Luh	20
Subconclusion	22
4. Policy implications.....	23
References.....	27

Executive summary

The economic reform, Doi Moi, which resulted in the emergence of the private sector and the downsizing of the state-owned enterprises, has changed the context for labour relations in Vietnam. In response, the state, in the early 1990s, promulgated the Labour Code and Trade Union Law which envisioned the employment relations to be shaped by labour-management negotiation. It envisaged extensive employee participation through enterprise unions and workers' congresses. Unfortunately, these mechanisms failed to function properly due to the unions' inability, in most cases, to live up to their mandate, which has resulted in the malfunction of all the employee participation pillars: compulsory consultation through enterprise unions, collective bargaining and workers' congresses. Without a feasible mechanism for employee participation, wages and working conditions were set arbitrarily by management at, or close to, the minimum standards. This has led to severe discontent among workers who have since resorted series of wildcat strikes.

Revising the legislative framework for employee participation has become an urgent task for the Government of Vietnam. Yet, before the law is reformed, many strike-affected companies have initiated their own experiments to improve labour relations, particularly through allowing and encouraging employee participation. This study, which based on a survey by the Vietnam Chamber of Commerce and Industry (VCCI), one of the two major employers' organizations in Vietnam, was aimed at discovering, documenting and analyzing these employers' successful initiatives in encouraging workers' participation as inputs to the policy discussion at the national level and for sharing with other members of the business community.

The study found that the surveyed employers were motivated to initiate new approaches to employee participation mainly to prevent wildcat strikes and reduce attrition. In almost all cases, the employers had earlier adopted an authoritarian approach to labour relations and had refused or blocked the compulsory mechanisms for employee participation. However, after a series of strikes that started to affect work in their factories, they began to reconsider their approach by opening up channels for workers to voice their concerns. Although different in terms of methods and purposes, the best practices can be grouped into three main models: employee participation through team leaders; employee participation through union units; and employee participation through workers' representatives. The first model, employee participation through team leaders, was the most popular one among the surveyed companies but had only modest impacts on labour relations if not combined with other forms of employee participation. The employee participation model through workers' representatives proved to be the most effective one even though the companies that adopted it risked overstepping the existing legal framework by encouraging workers to elect their own representatives who may not be union officials.

A quick survey of the policy debate at the national level, however, showed that policy-makers have been tolerant and receptive to the 'fence-breaking' initiatives at the workplace level. The Ministry of Labour proposed to revise the Labour Code so as to allow workers in non-unionised enterprises to elect their own representatives who may enjoy almost all of the union's mandates including collective bargaining, compulsory consultation and organizing strikes. This proposal closely reflected the third model found in the study. Despite the national union's opposition, this bold proposal has gained increasing support, most importantly from the Prime Minister and the National Assembly. However, this proposal was dropped from the Amendment to the Labour Code, due to strong union opposition.

1. Background for workplace cooperation

1.1 Economic transition since Doi Moi

The economic reform (Doi Moi) that Vietnam government initiated in 1986 brought about three important changes for the enterprises in the country. First, it provided a legal framework for the prospering of the up-and-coming private and foreign-invested sectors along with the state-owned enterprises. Second, the labour market was freed from excessive government control and planning. Rather than being assigned to workplaces according to state plans workers were now able to apply for jobs of their choice. Third, as a result of the government's shift from import-substitute to export-oriented strategy, the export manufacturing industries including garment and textile, footwear, electronics, food processing, wood processing, and automobiles quickly became the engine of growth for the whole economy. In 2006, according to General Statistics Office (GSO) export manufacturing sector accounted for 20 per cent of gross domestic product (GDP), 50 per cent of export value, and contributed to over 80 per cent of the total value of the industrial sector. Manufacturing has also attracted 50 per cent of foreign direct investment (FDI) to Vietnam between 1988 and 2008, being the largest FDI-receiving sector in the economy (GSO 2008a).

Thanks to Doi Moi, Vietnam achieved major economic successes: an average GDP growth rate of eight per cent from 1997 to 2007; the volume of foreign direct investment (FDI) increased ten times, from US\$2.45 billion in 2001 to \$20.3 billion in 2007 (GSO 2008a). However, these economic gains were attributed primarily to the contribution of domestic private and foreign-owned enterprises, which are often referred to collectively as the 'non-public' sector. The non-public sector has also become the biggest employer, with 74.5 per cent of total employment being provided by domestic private enterprises and 11.4 per cent by foreign investors in 2007. In 2007, the state-owned enterprises (SOEs) that used to employ most workers prior to Doi Moi provided only 14.1 per cent of jobs (GSO 2008b).

Despite rapid economic growth, the macro-economic institutions of Vietnam have experienced only modest changes over the last two decades. The party-state of Vietnam continues to grant the SOEs the lion's share of the valuable resources and financial privileges, while leaving the local private companies thirsty for capital (Beresford 2003). Without appropriate investment in infrastructure and technology, Vietnamese industry remains in its infancy, dealing primarily with assembling and finishing. In the electronics industry, for instance, only 20–30 per cent of the components of the electronic items are manufactured in Vietnam, and this local content comprises packaging and very basic plastic or mechanical parts (Vietnamnet, 26 June 2006). Therefore, domestic producers either have to buy parts from the multinational corporations (MNCs) or import from regional countries. Hence, as simple assemblers of electronic products, they rely on cheap labour costs as their major competitive advantage.

As a result of weak macro-management, Vietnam plunged into economic downturn marked by double-digit inflation rate in 2008 and again in the late 2010 and 2011. Production costs, including wages increased whereas production orders from overseas reduced creating problems for export-oriented companies. Small to medium-sized enterprises were the first to be affected. In late 2008, Diep Thanh Kiet, Chairperson of the Garment and Textile Association in Ho Chi Minh City, admitted that there had been a growing trend of close-downs among smaller garment companies, domestic and foreign-owned, due to the reduction of orders, increased labour costs, and inaccessibility to bank credits (Vietnamnet, 19 November 2008). Export manufacturers reported an average loss of 50 per cent of overseas production orders in the first quarter of 2009 (VCCI 2009).

1.2 Labour market developments

In 2008, the total population of Vietnam was approximately 86 million, of whom 45 million were engaged in the labour force. Over 70 per cent of the population lived in rural areas and around 54 per cent of the labour force was employed in agriculture, aquaculture and forestry (GSO 2008b). The population of Vietnam is young, with 53 per cent under 24 years of age and a mere 10.7 per cent over 50 (Qi et al. 2003). Every year, around 1.6 million workers enter the labour market. The urban unemployment rate decreased from over seven per cent in the early 2000s to 4.6 per cent in 2008. However, shortage of land for cultivation and off-farm livelihoods resulted in high underemployment in rural areas, which reached 18.2 per cent in 2007 (GSO 2007).

The large pool of labour in rural areas, where there are not enough employment opportunities and where there is growing income disparity between the industrialized and agricultural regions, has resulted in the increasing influx of rural migrants to the cities. According to the 2004 Migration Survey by GSO, income and employment were the two most significant causes of rural-urban migration.

The concentration of migrant labour is particularly high in the industrial processing zones, with roughly 70 per cent of the labour force being non-residents (Institute of Workers and Unions 2007). According to the 2004 Migration Survey (GSO 2006a), one-quarter of female migrants found jobs in foreign-invested companies such as garment and textile, footwear, food processing, and electronics which were highly labour-intensive. Among the migrant workers who accounted for 65 per cent of the labour force in the foreign-owned manufacturing companies, over 80 per cent were female (GSO 2006a).

1.3 Challenges facing manufacturing firms

Most Vietnamese manufacturing companies participate in the lowest value-added part of the international production chain, focusing mainly on assembling and packaging. Employing low level technology and unskilled labour, competition in this part of the production chain is based primarily on production costs, especially low wages. Competition in labour costs in manufacturing industries around the world is fierce as profit margins are generally small. According to a worldwide survey of manufacturing industries by the United Nations, labour costs account for an average of 5.8 per cent of total inputs in electronics and 19.1 per cent in clothing production (UNIDO 2004).

Most export-oriented manufacturing firms in Vietnam supply goods to multinational corporations (MNCs). The Vietnamese firms have to import a majority of the materials and components from other countries for assembling and packaging. The electronics industry, for instance, produces a mere 20 per cent of the components locally (Dien dan doanh nghiep, 10 October 2009). Reliance on imported materials and components has placed Vietnamese manufacturers in an unstable and vulnerable situation. Production depends on the delivery of raw materials and components from other countries, and fluctuations in the world material market often threaten the profits and sustainability of assembly plants in Vietnam. Reliance on imported materials and components further reduces the profit margin of Vietnamese manufacturers, and exacerbates the pressure on firms to lower labour costs and increase productivity.

Manufacturing is a highly labour-intensive sector, employing 4.8 million workers in 2004 and 6.3 million in 2008 (GSO, 2008b). As firms in this sector rely on an abundant supply of unskilled and low-cost labour, labour market changes have direct impacts on the performance and business strategy of each company. More than a decade after the launch of Doi Moi, the rapid growth of the manufacturing industry and its concentration in a few provinces quickly exhausted the local labour supply. Employers have increasingly relied on the supply of migrant labour from the rural areas. Since late 2005, labour shortages have emerged in the industrialized regions, first in the south and then spread to other parts

of the country (VNTrades, 13 April 2006). The peak of labour shortages in the manufacturing industries coincided with an economic boom between 2005 and 2007. The GDP growth rate reached eight per cent in 2005, and the flow of FDI quadrupled from US\$3.3 billion in 2005 to \$12 billion in 2006 and then almost doubled again to \$20.3 billion in 2007. Additionally, the rapid spread of industrialization to agricultural provinces has absorbed the surplus labour in the countryside. The growth of the service sector reduced a significant proportion of the supply of migrant workers from agricultural provinces for the industrial sector. All of these factors resulted in severe shortages of labour, both skilled and unskilled, in the industrialized regions.

1.4 Vietnamese industrial relations legislation

The country's transition 'from command to market' has entailed the need to revise the legislative framework for employment relations. Prior to the economic reform, the state played the central role in defining employment conditions through a network of government decrees, ministerial circulars and directives. Management and labour were state employees and hence, were not supposed to have conflicting interests. The economic reforms in the early 1990s resulted in the formation of a new legislative framework, which included the Labour Code and the Trade Union Law (for a review of labour regulations in Vietnam, see Qi, Taylor and Frost 2003).

The 1995 Labour Code sought to protect and enforce workers' rights by providing for detailed working standards including minimum wages, working hours and overtime premiums, rest time, benefits for female and young workers, social insurance contributions and benefits. The law also makes it difficult for the employer to impose discipline or dismiss workers by stipulating a limited number of legitimate reasons for such punishments to be imposed.

Apart from the provision of minimum labour standards, the Labour Code ideologically recognizes the autonomy of employers and workers in regulating their employment relations through labour contracts and collective agreements, while the State withdraws to minimal intervention. The law provides that employers have to consult and secure the consent of enterprise unions for decisions on signing labour contracts, discipline and dismissal, development of internal work regulations, fixation of wages, bonuses and allowances, and work timetables. If the enterprise union initiates the collective bargaining process, the employer has the obligation to accept and participate in the negotiation with good faith. However, the Labour Code provides few supportive mechanisms for union-management negotiation in the workplace. Individual and collective labour disputes are to be settled at the enterprise conciliation council, which consists of an equal representation of management and union. There is no third-party representative in the council, nor are there any independent mediation services available. The law grants workers the right to strike but they have to follow a lengthy and complicated procedure and satisfy a lot of conditions, including having the official trade union as the organizer of the strikes, exhaustion of all legal mediation and arbitration measures, and the approval of a majority of the labour force. These strike provisions make it extremely difficult for workers to practise their right to strike in a lawful way (Chan and Wang 2005; Tran 2007b; Lee 2005).

The Trade Union Law was enacted in 1990 and marked the culmination of efforts of the national union organization at the 1988 Congress to gain a certain level of independence from the party-state and extend its scope of organization to the non-public sector (Chan and Norlund, 1995). However, even though the union is allowed its own opinions independent of the state and management, the definition of the union's functions in the Trade Union Law implies that the traditional functions of the trade union in state-owned enterprises be replicated in the private sector with few changes (Clarke et al. 2007). Unlike trade unions in capitalist countries, the Vietnam General Confederation of Labour (VGCL) and its subordinate unions have three major functions, namely protecting the

rights and legitimate interests of workers, participating in state administration and firm management, and educating workers about state policies and legislation (1990 Trade Union Law, Article 2). The latter two functions are emphasized by the provision that the union is ‘under the leadership of the Communist Party’ (1990 Trade Union Law, Article 1) and has to ‘liaise with the State in order to increase production, create jobs, and improve the standard of living of workers’ (1990 Trade Union Law, Article 2). The continuity of this traditional approach was reaffirmed by VGCL’s 1993 statute and its 2002 amendment. The statute recognizes no tangible difference between employers and employees by allowing all Vietnamese managers, including the top executives, to join the union and places no limit on the state enterprises’ practice of having the deputy director or personnel manager as a union chairperson at the same time.

In a nutshell, the promulgation of the Labour Code and Trade Union Law in the 1990s marked the intention of the Vietnamese Government to provide a new legislative framework for industrial relations in a new political economy. However, the features of the old industrial relations system inherited from the state socialism era remained strong in both laws. The Labour Code envisioned a more pro-active role of unions in negotiating with employers to regulate employment relations in the workplace. Yet the shortage of supportive systems for such negotiation and the unchanged approach of the socialist union did not seem to facilitate such negotiation in the workplace.

Effects of industrial relations institutional arrangements on labour relations in enterprises

The existing labour legislation and the disparity between law and implementation have created the following constraints on the employment practices of enterprises.

First, the minimum wage – which in other countries serves as a safety net for unskilled workers – is used in Vietnam as the basis for many other wage-related policies including social and health insurance. This approach has discouraged most employers in labour-intensive manufacturing industries from paying workers higher than the minimum wage level. Minimum wage is widely used in combination with wage tables for computation of the actual wage. In fact, the minimum wage has practically become the basic wage level paid to a majority of workers in the manufacturing industries (VCCI 2009). Yet, while the minimum wage is adjusted annually by the government, the employers still need to catch up with the real wages in the labour market, which has increased rapidly in recent years. The gap between the basic wage (or minimum wage) and the market-based salary was filled by overtime premium and various allowances, which together accounted for approximately 40 per cent of the total take-home salary of an average manufacturing worker in Ho Chi Minh City, Binh Duong and Dong Nai in 2009 (VCCI 2009). Negotiations, if any, between employers and unions/workers, were about the adjustment of the latter components of the remuneration package rather than the basic wage.

Second, there is no feasible mechanism for employee participation at the workplace. Although the Labour Code stipulates that employers should consult enterprise unions on a number of labour-related issues including recruitment, dismissal, disciplinary action, it does not provide for the establishment of a body or process aimed at their institutionalization. In 2007, Ministry of Labour, Invalids and Social Affairs (MOLISA) and VGCL jointly issued Circular 32 requiring companies in the non-public sector to organize annual workers’ congresses to ensure democracy in the workplace. Despite these legal provisions, independent studies have shown that the management-union consultation mechanism was largely moribund (Clarke, Lee and Do 2007; Clarke 2005).

Third, the government does not provide any mediation and conciliation services to support employers and workers to address their differences in consultation and negotiation processes. At the moment, the support of the local governments, if any, is largely confined to settlement of labour strikes after they have already happened. The shortage of working mechanisms for labour-management consultation and negotiation as well as the support

from the state for such interactions have deprived enterprises of instruments to effectively deal with workers' grievances, adjust wages and working conditions timely and prevent labour strikes. At the same time, workers have few channels available to have their disputes and demands properly addressed by management.

1.5 Trade unions

The Vietnam General Confederation of Labour (VGCL) is the only trade union organization officially recognised in Vietnam. VGCL was established in 1929 by the founders of the Labour Party (the precursor of the Vietnam Communist Party) with the prime purpose of assisting the VCP in mobilizing workers for the revolutionary war. The historical background of the Vietnamese national union organization and its long-lasting alliance with the ruling party, granted the VGCL a special position in the political regime. The status of the VGCL as a trade union that represents not only its members but the whole working class of the country is sealed by Article 10 of the 1992 Constitution. As stipulated by the Trade Union Law and Trade Union Charter, the union is placed under the leadership of the Party, and the union's interests are supposed to coincide with, or if not, be subordinate to the Party's interests and goals (Article 1 of 1990 Trade Union Law; Preface to 2009 Union Statute). In the SOEs, the Party cell still dictates enterprise union activities. However, as there are few active Party organizations in the private and foreign-owned sectors, the Party-union relations have been loosened in foreign and domestic private firms.

At the end of 2007, the VGCL reported a total membership of six million, which accounted for 13.3 per cent of the total labour force and 48 per cent of the employed population (VGCL 2008). The union membership in the state-owned and civil service sectors was 90 per cent. However, recruitment and organization of new unions in the private domestic and foreign-owned companies have been difficult. According to the VGCL statistics, the union membership proportion in the foreign-owned and local private sectors are 50 per cent and 30 per cent, respectively (Clarke et al. 2007).

The structure of the VGCL is complex, based on both geographical-based federations of labour and industry unions. Geographically, the trade union is formed at the provincial, district, and in some industrial regions, zone levels. Both industrial zone unions and district unions report to the provincial Federation of Labour. The industry-based unions that are in line with different ministries and state-owned corporations are also divided into central industry unions and their branches at the local level, not to say also the provincial industry unions which are subordinate to the local Federation of Labour.

The union at the enterprise level (or 'enterprise union') is the primary unit. The VGCL Charter and Government Decree¹ of September 2006, provide that a provisional union must be appointed by the higher-level union, which can be a district or an industrial zone union, depending on the firm's location. The higher-level union also appoints the members of the provisional union's executive board. A year later, the first union election should be organized for members to elect their union leaders. Higher-level unions would provide only limited support to primary unions after organization. Primary unions are required to report periodically to the superior union organization, whereas the former updates the latter on new legal changes or union campaigns.

Apart from the union dues of one per cent of members' salaries, the employers also have to pay two per cent of the payroll (or one per cent for foreign-owned companies) to the union fund. In principle, 30 to 50 per cent of these contributions are transferred to the higher-level union but in practice, primary unions are allowed to keep almost all of it to fund weddings and pay funeral benefits to members, production emulation campaigns, and cultural and sporting events (Clarke et al. 2007: 554).

¹ 96/2006/ND-CP dated 14 September 2006.

1.6 The labour administration

The highest body in the government responsible for labour policies in Vietnam is the Ministry of Labour, Invalids and Social Affairs (MOLISA). MOLISA was set up in 1987 when the Ministry of Labour and the Ministry of Invalids and Social Affairs were merged. MOLISA 'is the governmental agency in charge of state administration of labour, employment, work safety, vocational training, policies for wounded veterans, fallen soldiers, national devotees, social assistance, and prevention from and combating social evils in the whole country' (Article 1, Government Decree 29 of 31 March 2003). At the time of MOLISA establishment, industrial relations was not a significant issue in the centrally-planned Vietnam. Consequently, there is no department or unit in charge of industrial relations policy or collective bargaining in MOLISA.

MOLISA is responsible for drafting labour legislation and implementation guidelines, setting the minimum labour standards including the minimum wage, providing the regulatory framework for a union's operations in enterprises, and coordinating with social partners in tripartite consultation. At the provincial level, labour offices enforce the programmes and regulations that MOLISA issues. Labour officials are also responsible for inspecting local companies, imposing sanctions, registering collective agreements, wage tables, internal regulations, and settling individual and collective disputes between workers and management.

The enforcement of labour legislation at the local level has been largely constrained by the limited number of labour inspectors. In the years between 2004 and 2008, there were a total of 350 labour inspectors in the national and local offices. These inspectors have to monitor the compliance with labour regulations of over 400,000 firms, ensure that 30 million children receive the social benefits they are entitled to, and ensure that 10 million war victims and veterans get state credits. Though the Government Decree² issued in August 1998 stipulates that each enterprise must be inspected once a year, according to the chief labour inspector of MOLISA, the cycle in practice is once every 150 years (Vietnamnet, 7 January 2009). Even when the labour inspector uncovers a violation, the sanctions are not punitive. Exceeding the working hour limit or obstructing union establishment causes a fine of maximum 20 million dong (US\$1,265).

1.7 Employers: VCCI, VCA and business associations

In Vietnam, none of the existing employers' organizations were set up with the original purpose of representing employers in industrial relations (Nguyen and Stromseth 2002: 15–19). After the promulgation of the 1995 Labour Code, two government-established business associations, the Vietnam Chamber of Commerce and Industry (VCCI) and Vietnam Cooperative Alliance (VCA) were appointed as official employers' organizations to represent the business community during consultations with the government and the trade union. The membership of the VCA is based mostly in cooperatives and agricultural businesses. The VCCI has a more extensive membership, ranging from major state corporations to private and foreign-owned companies in various industries; yet, its local network is limited to seven provinces, whereas the VCA has branches in all provinces.

Apart from the VCCI and VCA, there are over 200 business associations in the country. Foreign investors either form nationality-based associations, such as those of Taiwanese, Japanese, Korean, Hong Kong employers; or affiliate with their respective national chambers of commerce, most notable of which are the American Chamber of Commerce (AmCham) and the European Chamber of Commerce (EuroCham). Few foreign investors' associations are members of either VCCI or VCA. However, some of these associations have considerable influence over the labour policy of their members.

² 61/1998/ND-CP dated 15 August 1998

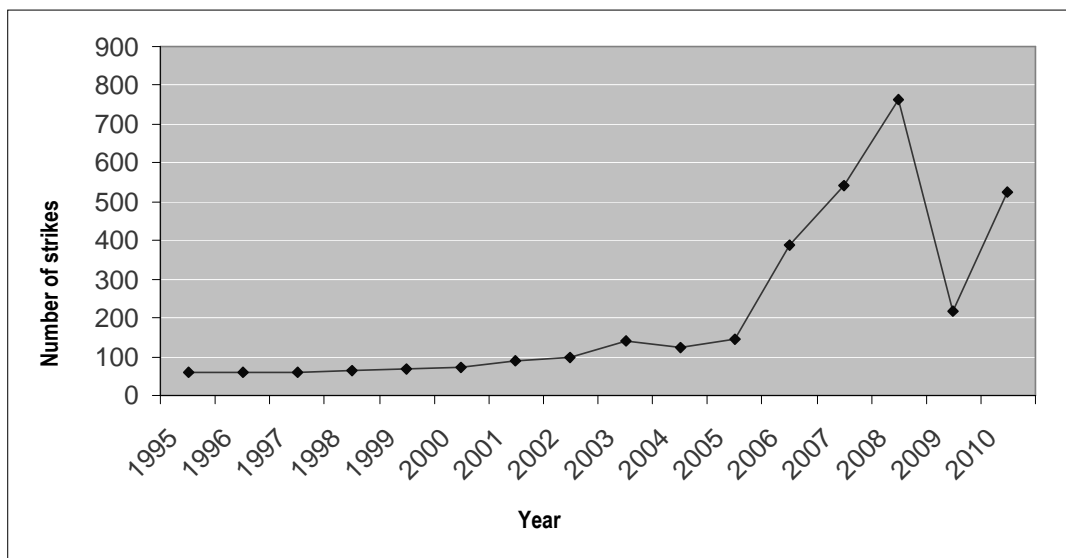
The Japanese business association in Hanoi and Ho Chi Minh City, for instance, meets regularly to set the average wage rate for all member companies. Korean and Taiwanese employers do not adjust their wages without asking their associations for approval. Foreign investors' associations are politically supported by their national diplomatic missions.

The local business community in Vietnam however remains fragmented and uncoordinated. The VCCI and VCA have the authority to participate in tripartite consultation at the national level; however, at the local level, they can hardly compete with other business associations.

1.8 Recent industrial relations developments in the manufacturing industry

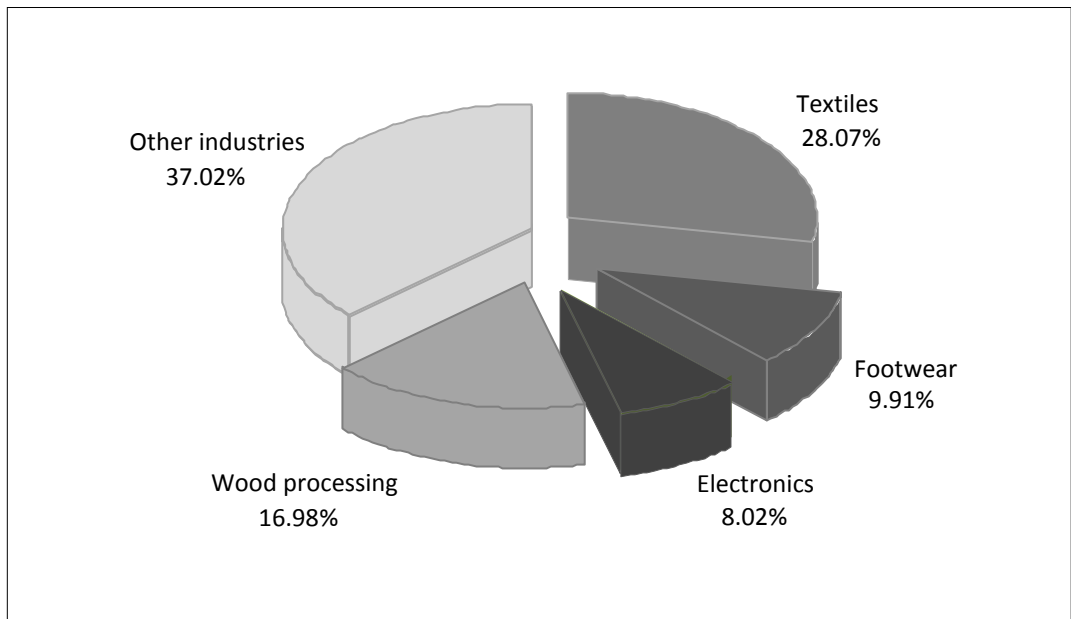
While the manufacturing industry has been the growth engine of the Vietnamese economy since Doi Moi, it has also been most exposed to the changes and turbulences in labour relations, including wildcat strikes, labour shortages and high attrition rate. As seen in Graph 1, the number of strikes have steadily risen since 2005 and reached a peak in 2008 with almost 800 strikes. It dropped in 2009 due to the impact of the global economic crisis but increased again in 2010 and reached 857 by November 2011.

Graph 1.
Strike figures, 1995-2010



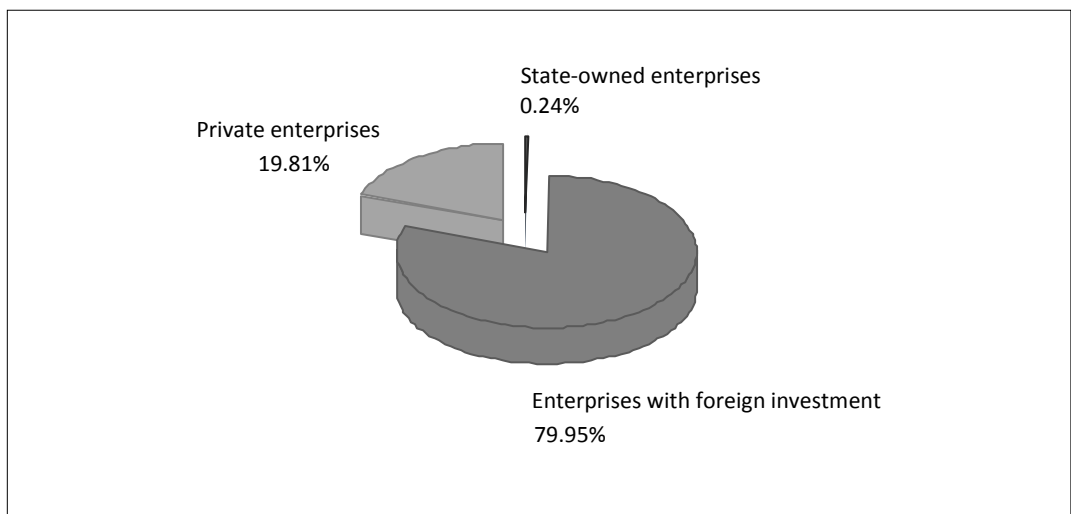
Manufacturing industries suffered the most from strikes. The labour-intensive and low-technology industries such as textiles, wood processing, footwear and electronics accounted for over 60 per cent of strikes in 2010 alone (see Graph 2).

Graph 2.
Strikes by industries, 2010



Source: ILO IR Project Strike survey, 2011

Graph 3.
Strikes by enterprise ownership



Source: VGCL 2010

Almost 80 per cent of strikes since 1995 have taken place in the foreign-invested sector while the number of strikes in the state-owned enterprises (SOEs) has decreased to nearly zero (see Graph 3). One of the reasons for this trend is the downsizing of the SOE sector and the growth of the FDI sector. But a more important reason has been the lack of communication between the foreign management and the local workers in the FDI companies (Sunoo 2007).

2. Legal provisions for employee participation

The legal provisions for employee participation in Vietnam can be divided into three areas: compulsory consultation of unions; collective bargaining; and Workers' Congress. First, the right of workers to be consulted by management in decision-making has been well provided in the Labour Code, which stipulates that the employer is required to consult unions about decisions relating to: (i) individual and mass lay-off (Art. 17.2& 38); (ii) development of wage tables (Art. 57); (iii) deduction of workers' wages (Art. 60); (iv) development of bonus regulations (Art. 64); (v) issuance of annual leave schedule (Art. 76); (vi) issuance of work rules (Art. 82); (vii) discipline of workers (Art. 87); (viii) temporary termination of a worker to facilitate the investigation of his/her violation (Art. 92).

The Labour Code also provides that the Executive Committee of the trade union of the enterprise or a provisional trade union organization can negotiate collectively on behalf of workers. Both the union and the employer can request to negotiate a CBA. Within 20 days after receiving a request, the other party must agree to bargain and agree on a date to start the bargaining. Negotiations should be carried out in good faith, with both parties negotiating with the expectation and willingness to compromise, discuss and reach a mutually agreed solution.

Apart from the right to participation through the enterprise unions, Vietnamese workers have another form of participation – through Workers' Congress. Workers' congresses were originally a practice of state-owned enterprises to create an environment of democracy at the workplace. A Government Decree³ promulgating the Regulation on exercising democracy in state-owned enterprises is specified by a joint circular⁴ by VGCL and MOLISA guiding the organization and operation of Workers' Congress in state-owned enterprise. Then, in 2007, the Government spread the workers' congresses to non-state enterprises by another Decree,⁵ the implementation of which is guided by a joint circular⁶ by MOLISA and VGCL. Both decrees require the management to inform workers about: (i) business plan and performance; (ii) company regulations and labour-related policy; (iii) financial situation; (iv) welfare funds. The dissemination of information by management and the feedback from workers can be made through several channels including the enterprise union leadership, production unit meetings, meetings between supervisors and company managers, the collective bargaining process and particularly the annual Workers' Congresses.

Workers' Congress is jointly organized by the management and the enterprise union leadership on an annual basis. However, either management or the union leadership can call for an ad hoc workers' congress to get workers' approval on important decisions. A workers' congress in a company employing fewer than 100 workers will include all workers. However, workers' congresses in larger companies are organized on delegate basis. In preparation for the company-level workers' congress, each production unit will organize a meeting on their own to discuss all the issues emerged from management and workers' side as well as to elect the delegates to participate in the company-level workers' congress. A workers' congress is eligible only when at least two thirds of the elected delegates attend. A congress resolution needs to be approved by more than 50 per cent of the participants.

³ Decree No.07/1999/ND-CP dated February 13, 1999

⁴ No.01/2005/TTLT-TLDDVN-BLDTBH (May 16, 2005)

⁵ No.87/2007/ND-CP

⁶ No.32/2007/TTLT-BLDTBXH-TLDDVN (December 31, 2007)

According to the VGCL, the rate of organizing workers' congresses was much higher in the SOEs than in the private sector. A VGCL survey over 16 provinces in 2009 showed that while 93.87 per cent of SOEs organized annual workers' congresses, it was only 60.27 per cent in the private sector (Dan Tri, 8 July 2009).⁷ The approval of collective bargaining agreements (CBAs) is normally regarded as the key component of a workers' congress. However, the percentage of workers' congresses that resulted in CBAs was low, only 45 per cent in Hanoi, for example.

After wildcat strikes broke out in 2006, the Government named 'weak enterprise unions' as one of the key reasons for conflicts at the workplace. The other two pillars of employee participation, namely compulsory consultation and collective bargaining, have not functioned effectively, mainly due to the dependent of enterprise unions on management, especially in the non-public sector. While trying to improve the capacity of the enterprise unions, the Government and VGCL has promoted workplace democracy by encouraging the practice of workers' congresses to increase bipartite communication and information sharing both in the public and private sector.

Despite certain efforts of VGCL and the Government in promoting democracy at workplace, workers' congresses are constantly faced with criticisms of being formal and ineffective in providing a channel for employee participation. An official from the Legal Affairs Department of Ministry of Labour (MOLISA) commented:

The Congresses of workers and employees in state-owned enterprises have made progress over the years. ... However, inevitably there were some cases of organizing the congress in a token way with poor preparation and deficient in-depth analysis on the specific situation of the enterprise, failure in adherence to laws and regulations and the actual needs of the enterprise. Many congresses were formalistic, not a true democratic forum where workers could express their voices and opinions. The employers did not fully understand the laws and regulations; the fact that newly established trade union lack information and experience was also an obstacle to organize workers' congress in the majority of joint-venture enterprises.⁸

In the non-state sector, it was reported that in many cases, the employers considered organization of workers' congresses as the task of the unions or simply ignored it.⁹ In certain cases, employers refused to provide information about the contents of CBAs, the establishment and distribution of welfare and bonus funds. In addition, time for workers to raise their voices in congresses was limited.¹⁰

3. The practice of employee participation

Employers' approach to industrial relations and labour management practices in Vietnam has been diverse since the transition to market economy. The first approach often found among the SOEs and POEs whose owners are former employees in the public sector is influenced by the socialist management style. In these companies, the union is a part of the

⁷ <http://dantri.com.vn/c133/s133-335920/nhieu-hoi-nghi-nguoi-lao-dong-bi-quen-lang.htm>

⁸ Interview with the Legal Affairs Department, MOLISA, April 2011

⁹ *Implementation of democracy regulation and employees' conference in enterprises - "key" of coherence (Thuc hien Quy che dan chu va to chuc hoi nghi nguoi lao dong tai doanh nghiep- "chia khoa" cua su gan ket)*, Binh Dinh Newspaper, Tuesday, 08Mar2011, http://www.kktbinhdinh.vn/default.asp?id=0&ID_tin=1478; see also: Thu Ha (2010), *Implementation of regulation on democracy in joint stock companies, limited liability companies - Thuc hien Quy che dan chu trong cong ty co phan, cong ty trach nhiem huu han*, Newspaper of Vietnamese Communist Party, <http://www.baomoi.com/Home/ThoiSu/www.cpv.org.vn/Thuc-hien-Quy-che-dan-chu-trong-cong-ty-co-phan-cong-ty-TNHH/5145681.epi>

¹⁰ *Implementation of democracy regulation and employees' conference in enterprises - "key" of coherence (Thuc hien Quy che dan chu va to chuc hoi nghi nguoi lao dong tai doanh nghiep- "chia khoa" cua su gan ket)*, Binh Dinh Newspaper, Tuesday, 08Mar2011, http://www.kktbinhdinh.vn/default.asp?id=0&ID_tin=1478

management, in charge of welfare schemes and acts as the ‘transmission belt’ of the company. Labour disputes in these companies are resolved informally, often with the employers offering concessions to workers on a case-by-case basis; yet the formal voice and participation channels are stifled. Such a strategy prevents these companies from visible forms of labour disputes such as strikes and go-slows but it does not provide an official and transparent mechanism to address workplace conflicts. The consequence has been the accumulation of workers’ discontent as they have no way to negotiate with the employer on working conditions on a regular and official basis, resulting in mass ‘exit’ and high labour attrition.

The second approach is found among foreign-invested companies from East Asian economies like Japan, Korea, Taiwan, Hong Kong and China. These employers often avoid the establishment of enterprise unions and if that is not possible, try to keep the union leadership under tight control. The enterprise unions in these companies often exist as ‘rubber stamps’ whereas industrial relations issues are addressed by the HR department and the management. When the unions act as a rubber stamp for the management without participating in the worker-employer relationship, mechanisms for labour-management interactions at the workplace are not created. In such a scenario, workers’ concerns are not addressed in time by the employer, leading often to spontaneous strikes.

In both the abovementioned approaches when the formal mechanisms for indirect employee participation including enterprise unions and workers’ congresses became ineffective and the employers were not willing to provide workers any alternate channel for voicing their concerns regarding higher wages and better working conditions, the latter turned to spontaneous expressions of discontent. Workers in the manufacturing industries have frequently resorted to wildcat strikes, absenteeism and mass-quitting. Faced with severe losses due to strikes and low productivity due to high absenteeism and constant labour shortages due to high rate of attrition employers developed their own systems for direct and indirect employee participation.

Within the framework of this study, the researcher visited six companies in the North and South of Vietnam. In each company, the researcher carried out in-depth interviews with three groups of informants: the management (director or deputy director and HR manager); the union (union chairperson and a member of the union executive board); and rank-and-file workers (two to three workers at each company). Interviews with the management and the union leadership were conducted on site and separately from one another. As rank-and-file workers often felt uncomfortable talking to the researcher on site, the substantial part of interviews were carried out at their communities. In so doing, the quality of interviews with workers was much higher. They not only proved to be a reliable source of information but also for cross-checking the information provided by the management and union leadership.

The main characteristics of the six companies are as follows:

Companies	Location	Industry	Ownership	Labour force
Piaggio Vietnam	Vinh Phuc (North)	Motorbike Manufacturing	Italian	550
Canon Vietnam	Hanoi – Vinh Phuc – Bac Ninh (North)	Electronics	Japanese	22,000
Pungkook III	Binh Duong (South)	Footwear	Korean	3,600
Poong-in Vina	Binh Duong (South)	Garment	Korean	2,200
Shang Hyung Cheng	Binh Duong (South)	Footwear	Taiwanese	7,469
Ching Luh	Long An (South)	Footwear	Taiwanese	24,000

Although all six companies are in manufacturing, the motorbike manufacturing and electronics used higher technology compared to footwear and garment. Except Piaggio, the other five companies are large with labour force ranging from 2,200 to 24,000 workers.

With such large labour force, effective indirect employee participation is crucial for maintaining harmonious labour-management relationship and preventing labour activism.

The six case studies are grouped into three models of indirect employee participation, although in each model, the companies vary in application of the model. Model 1 is employee participation through team leaders/supervisors. This has been the most popular way for management to consult workers and for workers to voice their opinions. Model 2 is participation through union units. This model relies on a strong union structure and good support from management. Model 3 is the most effective and well-structured as it provides a regular channel for workers' representatives to participate in consultation and negotiations with management over such crucial issues as wages and working conditions.

Model 1. Employee participation through team leaders

Labour organization in manufacturing companies is often based on production lines. Workers in one line or several lines are grouped into a team, headed by a team leader. The team leaders are normally promoted from rank-and-file workers. Although team leaders are the lowest level of management in a company, they play a crucial role in labour management because: First, they are in charge of work assignment, performance evaluation, wage calculation, on-the-job training etc. for workers in the teams. Therefore, they have significant power and influence over the team members. Second, they are the first ones who receive and address workers' queries and grievances before they are transferred upward. At the same time, they receive orders and information from the company and disseminate to workers in the teams. For these reasons, many companies including Piaggio and Canon have relied on the team leaders as workers' representatives.

Case study 1. Piaggio Vietnam

The Vietnam subsidiary of the well-known Italian scooter manufacturer, Piaggio, was set up in Vinh Phuc province in 2007 and started operation in 2008. The company manufactures mainly for the domestic market and has claimed significant growth since its establishment. In 2010, the sale of its two main products, Cub scooter and automatic scooter, increased by 15.2 and 27.2 per cent respectively¹¹. By the end of the year, it employed 360 technical workers, 190 office clerks and 16 Italians who were in top executive and technical positions. With high level of automation, Piaggio placed high standards for recruitment. The worker had to be a graduate from a technical college with at least one year of formal technical training. Previous experience with other scooter manufacturers was considered additional qualification. The entrance exams included a theory test, an interview and a practical test.

Despite its high recruitment criteria, Piaggio did not experience labour shortage. According to the HR manager of the company, 50 to 100 applications were received for each post. This was attributed to the wages which were substantially higher than those in the region and its main competitors. For instance, in the early 2011, Piaggio paid a basic wage of 1.8 million dong/month for the production worker while the average in the region was 1.4 million dong/month and Honda, its main competitor, was only paying 1 million dong/month. The wage rates were revised every year to ensure that Piaggio remained the top payers. In particular, it would increase and adjust the workers' wages against the rate of inflation of the past year. Performance-based raises were also given. According to the annual review in February 2011, many workers enjoyed as much as 30 per cent wage increase during the year.

According to Piaggio HR manager and union chairperson, its workers had never demanded wage increase. Instead, they were satisfied with the annual wage review. However, high wages did not necessarily mean workers at Piaggio did not have the need

¹¹ Piaggio Group, 2010 Annual Report, www.piaggiogroup.com

for participation. As Piaggio workers were among the most experienced and qualified ones in the motorbike industry in the North, it was imperative for the company to retain its workers and not lose them to their competitors. To be able to achieve this, various measures of two-way communication were set up, including installing public computers that workers could easily access during their breaks to send emails of complaints directly to the HR Department and assigning HR officers to visit production units at the beginning and end of each day to collect workers' feedback and complaints.

The enterprise union leadership, as both the interviewed workers and the HR managers commented, was not effective. Apart from organizing annual sport events for workers, they would rarely involve in addressing workers' grievances or voicing workers' opinions to the management. The labour-management communication, consequently, was solely handled by the HR department and the unit supervisors or 'team leaders'.

The assembling of scooters was organized in production lines. Each line consisted of several teams specializing in different sections of the product assembly while each team had around 20 workers, headed by a team leader. As most of production workers were male, all of the team leaders at Piaggio were also men. The team leaders were normally the most experienced workers in their own teams. They were in charge of job assignment, training new workers, quality control, and performance appraisal for all workers in the team. The team leaders also had daily interactions with the workers, through which they got to know their opinions, concerns, and reactions to management policy as soon as they emerged. With their authority over the workers and their intimate contacts with them, team leaders naturally became de facto workers' leaders. The HR manager admitted that the key to smooth labour-management communication was to convince the team leaders: 'The workers may not listen to me but they will definitely listen to their team leaders. So when the company makes any important changes, I will have to talk to them through the team leaders. If the team leaders are persuaded, the workers will be persuaded'.

As a result, the team leaders would be asked to meet with the HR manager and top executives when an important decision was to be made. However, meetings between team leaders and management at Piaggio were far from a regular and not regarded compulsory. Instead, it grew out of the practical need to ensure that workers understood and complied with management decisions. And if workers had any negative feedback, they would be addressed timely through the meetings with the team leaders.

Team leaders were often given two days to one week's notice about their meeting with the management. Topics for discussion would be informed to all the team leaders and normally team leaders were required to consult their workers in advance on the subject although they were not required to keep record of their consultation. The consultations, therefore, were conducted informally between team leaders and individual workers. The meetings between team leaders and management were normally conducted at the company's meeting hall or at the canteen. The union chairperson was also invited to participate in the meetings, together with the HR manager, the director or deputy director of the company. The union chairperson often acted as the intermediary between the team leaders and the management. The agreement between team leaders and the management would be announced by the HR department on the notice boards and through internal emails.

In 2010, the contents of meetings with the team leaders included:

- i. adjustment of working hours (changing winter and summer time)
- ii. welfare benefits: gifts for workers' weddings, improving shift meals
- iii. early leave for workers on Saturdays and Sundays
- iv. overtime arrangement
- v. quality control
- vi. production target

vii. occupational safety and health (OSH)

As the workers seemed satisfied with the wages and working conditions, these were not brought up for discussion in the meetings with the team leaders.

Case study 2. Canon Vietnam

Canon Vietnam is one of the largest companies in the North of Vietnam. It was set up in 2001 as the main manufacturing site of printers for the Canon Group. Printers produced by Canon Vietnam are sold domestically as well as exported to other markets in the world. In the last ten years, Canon Vietnam has set up three factories, one in Hanoi and the other two in Bac Ninh, a neighbouring province of Hanoi. In total, Canon employed 22,000 workers by the end of 2010. The company reportedly has plans to open a fourth factory. Nicknamed “big brother” in the industrial region of Hanoi, it not only employs a large work force but also wields considerable influence over the other companies through its wide-ranging network of local suppliers. Neighbouring Canon factories are Taiwanese, Korean and Japanese companies that supplied directly for Canon.

With most of its materials and parts supplied or imported, Canon factories only assembled the finished products, which did not require high level of automation and technology. Therefore, it recruited low-skilled workers, mostly graduates from secondary and high school, rather than technical workers. Other than health checks, the applicants did not need to go through a recruitment test. The new recruits were provided with one week’s on-the-job training before they started working in the production lines.

In terms of remuneration, Canon applied the same wage policy as Piaggio that is they paid the best wages in the region. The executive director of Canon Vietnam asserted that the company’s wages were always kept 12 per cent higher than the average wages paid by other companies. In the first quarter of 2011, when the minimum wage applied for foreign-invested companies in Hanoi (Zone 1) was 1.6 million dong/person/month and most companies would pay their workers the basic wage at the minimum wage level, Canon was paying 1.8 million dong/month as basic wage. The average wage that a worker at Canon received, according to the union vice chairperson, was 2.8 million dong/month compared to the regional average level of 2.5 million dong/month. Also, while Canon had two factories in Bac Ninh where the Zone 2 minimum wage of 1.4 million dong/month was applied, the company paid workers at Bac Ninh the same as those in the Hanoi factory.

During the interview with the researcher, the Director admitted that as the company regarded itself as the most popular employer, it did not pay due attention to communication with workers or encouraging their voice until in December 2003 there was a strike due to a misunderstanding between the Japanese management and local workers over wages. While workers thought that wages would be increased by January 2004, the company only adjusted wages in April 2004, the beginning of the Japanese financial year. Without clear communication between the two parties, the workers of two production lines stopped working for one day. To settle the dispute, Canon promised to raise wages by 10 per cent from 1 January 2004 but the actual wage review was carried out by April.

Although the strike lasted for just one day, it alarmed the Japanese management about the need to communicate effectively with workers to prevent misunderstandings and encourage their participation to minimize labour disputes. Canon used a combination of various communication channels. First, the Executive Director tried to keep direct communication with workers by attending monthly meetings at all the factories. In these meetings, he worked with the factory management and met with all workers at the factory canteens. Every Monday morning, he spoke to workers through speakers installed at all three factories to inform them of the current situation of the company as well as changes in policies, if any. Second, the company classified information to be shared with employees based on its significance. Normal information like those about changes to the canteen’s menu was put up on the notice boards of factories. For more important information such as

electricity cut timetable, changes of working hours, the HR department sent email to the heads of departments and required them to inform their workers.

For the most important information including changes in wage, allowance, bonus, the management would organize a direct meeting with the group leaders of the company. The group leaders are one level higher than the production team leaders in the company's managerial structure. While each team leader was in charge of around 20 workers, a group leader was responsible for around 100 workers. There were 300 group leaders in the whole company. Each time the company needed to consult workers, these group leaders would meet with the company management. The director would announce and explain the new policy. Afterward, the group leaders were responsible for disseminating the information to workers in their groups. Although the group leaders were given the opportunity to ask questions on any new policy, their opinions were not expected to change the decision that had been made. Like Piaggio, by paying the most competitive wages in the region, Canon refused to negotiate or consult workers on wage adjustments. The Director of Canon confidently declared: "we do not negotiate wages with workers. But we guarantee that we set the wages at the level that workers are satisfied with".

The Canon union was structured in parallel with the management. At each factory, there was one factory union executive board which would meet once a week with the shop stewards to get workers' feedback on company policies and grievances. The factory union leadership would keep a record of the meetings and prepare a list of questions and proposals to send to the factory management one week before a meeting. All three factory unions would meet once a month and meet with the company management one week later.

Model 2. Employee participation through union units

Most of the employers interviewed in this study had low confidence in the enterprise unions as capable representative of workers. Some employers complained that they had no one to talk to when wildcat strikes occurred because the union leaders disappeared and thousands of workers had no visible leaders. Rather than relying totally on the enterprise unions, these employers developed alternative mechanisms to handle labour relations. However, Poong-in Vina was different. After a strike in 2008, the company changed its approach to the enterprise union, giving the latter more autonomy and support to improve their representation capacity. Poong-in Vina was a rare case where indirect employee participation was effectively conducted through the official union system.

Case study 3. Poong-in Vina

Poong-in Vina, a Korean-owned garment company located in an industrial zone of Binh Duong province, was established in December 2006 to produce t-shirts for Antler. Within the company, five factories were set up, employing 2,200 workers in total. Around 70 per cent of Poong-in's rank-and-file workforce were workers from other provinces (or 'migrant workers'), mostly from Northern provinces. The characteristics of the workforce influenced significantly the management approach to employment relations. The migrant workers, especially those from the North, tended to change jobs frequently. Due to the bureaucratic difficulties in changing household registration, many migrant workers could not settle down in Binh Duong to work for Poong-in for a long term. Without local household registration, migrant workers could not send their children to the public kindergartens and schools but had to send them to private facilities which charged much higher and provided low-quality services. As it was difficult to settle down, the migrant workers would change to better-paid jobs whenever they found an opportunity. The local workers did not have strong commitment as most were farmers who worked on their families' rubber plantations as well. During the rubber high season, many local workers would quit Poong-in to support their families in harvesting rubber and returned to industrial factories when the high season was over. Poong-in, as well as many other

companies in the region, suffered from a labour turnover of 10 per cent per month on average.

As a supplier to Antler, 50 per cent of materials were purchased by the buyer and imported to Vietnam for Poong-in. Poong-in only needed to hire workers to assemble the final products. The level of automation, therefore, was not high and the company mostly relied on low-skilled labour. Almost all recruits were graduates of secondary and high schools. Many of them had not even graduated secondary school. Right after recruitment, workers were assigned to sewing lines for on-the-job training by the team leaders.

The company drew a clear line between basic wage and the non-basic components of wage for rank-and-file workers. Poong-in paid the basic wage at the level of the applicable minimum wage, which was 1.3 million dong/month for Zone 2. Since the basic wage was used as the base rate for calculation of social insurance contribution and other social taxes Poong-in, like many other employers, was reluctant to pay the basic wage higher than the minimum wages.

As the basic wage was too low to cover the living costs in Binh Duong, Poong-in paid a large number of allowances such as accommodation allowance (400 thousand dong per month), attendance allowance (200 thousand dong per month) and shift meals. Therefore, an average worker received a gross amount of 2.4 million dong/month.

The first few years after its establishment, Poong-in saw a number of labour conflicts. The Korean managers were reluctant to allow for the establishment of an enterprise union, which they felt would be adversarial to the management. However, a strike in 2008 and frequent loss of its most experienced workers urged the company to change their approach to labour relations and union. Prior to 2008, the union leadership was controlled by the personnel picked by the management, including a staff of the HR department and department manager.

After the 2008 strike, the Korean management decided not to intervene in the union elections. Workers in each production team were allowed to vote for their shop stewards. The union unit elections were often organized in a simple way: the team would meet and nominate three to five candidates. Then, the workers would vote by raising hands for their candidate of their choice. The result would be recorded to submit to the union executive board. Again, at the company level, union election was organized free from management intervention. At the time of the study the union chairperson was a staff of the administration department while the vice union chairperson was a worker. The criteria for shop stewards and union leaders, according to the workers and union officials, were the willingness to speak for workers in meetings with management, responsiveness to workers' concerns and questions, and good leadership capacity. These criteria were different from the traditional criteria for union officers of VGCL including good knowledge of the law, high position and prestige in the company, and good relationship with the employer (see Clarke 2005).

Every month, the enterprise union held four rounds of union meetings. First, each union unit (production team level) would meet. Then, all shop stewards would meet to discuss the outcome of their union unit meetings and submit their report to the union executive board. The union executive board would then convene a meeting before meeting with the management. At the beginning of the month, the union executive board would prepare a schedule of meetings for all the four rounds and send it to the management. The management would inform the managers at the factory and team level to allow the necessary time for these union meetings. In the union meeting schedule for June 2011, for instance, eight meetings were planned, including:

- meeting between union executive board and shop stewards
- meeting with workers of production line 1 to 4 to inform about compensation for work-related accidents

-
- meeting with workers of production line 5 to 8 to support workers with difficulties
 - meeting with workers of production line 9 to 12 to address grievances
 - meeting with workers of production line 13 to 16 to review union fund in the first quarter of 2011
 - meeting with the maintenance division on law on labour, union and social insurance
 - meeting with Factory 1 on grievances
 - MEETING of the union executive board

Most of the meetings took place in the company's canteen and after lunch time. These meetings were funded through the union fund and not from the management's budget. The issues that workers raised during union meetings were ranged from safety and health problems such as heat inside the factories, to meal quality, adjustment of allowances, calculation of bonus, and increase of wages. What makes Poong-in union different from most of other enterprise unions in Vietnam was its capacity to negotiate with the Korean management on behalf of workers over wages and working conditions. For example, in the beginning of 2011, the double-digit inflation rate was causing difficulties for workers, especially the migrant workers who were faced with high food cost and rental. Workers made their proposal for the company's support through union unit meetings. The union leadership negotiated with the Korean management, demanding a living cost allowance of 150 thousand dong/person/month for all workers. It took the management two weeks to consider and finally agreed with the proposal.

Another example was the early adjustment of minimum wages. Poong-in was supposed to adjust the basic wage in accordance with the minimum wage transition from Zone 2 to Zone 1 on 1 July 2011. However, to support workers in through high inflation, in May 2011, the union leadership met with the management and proposed that the company adjusted the basic wage one month earlier than the Government's fixed date. The Korean management agreed and raised the basic wage for workers from 1.3 million to 1.7 million dong/month as of 1 June 2011.

Apart from the enterprise union, the HR department also assigned two officers at each factory to report workers' grievances to the management. However, according to the HR manager, workers preferred to transfer their grievances through the union structure. Therefore, most of the time, the HR officers would advise workers on law-related issues rather than handling their grievances. The Korean management also made an effort to communicate better with the Vietnamese workers, first by learning Vietnamese. The company sponsored Vietnamese classes for all Koreans. Among 56 Koreans at Poong-in, nine could speak conversational Vietnamese.

Model 3. Employee participation through workers' representatives

Poong-in Vina was one of the very few companies that had an effective enterprise union. Most other companies found that they had to figure out an alternate way to encourage workers' participation when the enterprise unions were not representative of their members. While many companies relied on team leaders as workers' representatives, others allowed workers to choose their own representatives who were not necessarily the team leaders. The three cases presented in this section have developed their alternative mechanism for indirect worker participation, though with different purposes and in different ways. More importantly, there was no conflict of interest between the workers' representatives and the shop stewards; instead, the former was complimentary to the work of the latter.

Case study 4. Pung Kook III

Pung Kook III is a member company of the Korean-owned Pung Kook group which has been operating in Vietnam for 14 years. Pung Kook III (PK 3) was set up in 2008 in An Trach, Binh Duong. It employed 3,600 workers. Adidas was the biggest buyer of PK3, accounting for 90 per cent of the company's production value. PK3 exported all of its products to the U.S. and European markets. The monthly labour turnover was high, ranging from 6 to 7 per cent. The management had long tried to reduce this figure to 5.5 per cent but in vain. At the same time, PK3 had difficulty recruiting 1,000 workers more to reach its maximum capacity although it had tried many recruitment measures such as advertising through the local community network and paying bonuses to its workers to help recruit new workers, among others.

In 2009 PK3 workers demanded a travel allowance of 70,000 dong (as was being paid in other companies in the province). This demand was reported to the management by the union leadership but the company turned it down, reasoning that it already paid a higher-than-average basic wage. One week later, workers of two production lines staged a go-slow, followed by workers in other sections of the company. After two days, the company eventually gave in and paid workers the travel allowance.

The go-slow experience at the factory prompted the management to change its approach to labour relations. Prior to the strikes, the Korean management allowed for minimal space for communication with workers, through meetings between the union leadership and the HR department. In fact, the Korean management rarely met with the union leaders themselves. All grievances were either ignored or handled by the HR department alone. If workers made a proposal for improvement of wages and working conditions, the management would invariably turn it down. After the 2009 go-slow, the Korean management allowed workers more channels of communication, such as suggestion boxes. Every week, 15 to 20 letters were collected from the suggestion boxes which were read and handled by the HR department.

More importantly, the Korean director wanted to talk directly to the rank-and-file workers instead of relying totally on the HR department. Every week, the Director and Vice Director met with the representatives of one factory. Each production line would nominate two representatives to meet with the Korean managers. The nomination was rotated to make sure that all workers would have the chance to talk to the executives. PK3 had four factories and after one month, the management were able to meet with workers from the whole company once.

According to the Vice Director of PK3, wage increase and more overtime work were two most common issues raised during these meetings. In April 2011, PK3 was paying an average of 2.1 million a month to each person. Even though the company was paying a basic wage of 1.8 million dong a month which was higher than the regional average rate it did not require workers to work overtime nor were they being paid high allowances. The total wage, therefore, was not high compared to other companies in the region. Workers, therefore, demanded for more overtime work or higher allowances to improve their income but the company had constantly declined.

The minutes of the weekly meeting with workers, were announced the following Monday with replies from the management. However, the interviewed workers complained that while the management were responsive to questions about quality, productivity, work organization, arrangement for annual leave and worker-supervisor relationship, they often turned down workers' demands for improved wages. On the other hand, the interviewed Korean managers found these meetings with workers were not as effective as workers were not willing to speak out all their concerns and demands.

The enterprise union was set up in June 2008 with only 108 members. After over two years, the number of union members had increased to 2,700. The union executive board had 12 members, among them six were rank-and-file workers and team leaders and the union chairperson was a factory manager. Prior to 2009, the union was mainly in charge of

organizing social activities and managing welfare benefits for workers such as sickness allowance, gifts for workers' weddings, among others. After 2009, the Korean management met with the union leadership at the end of each month to learn about workers' feedback, grievances and demands. However, the union chairperson admitted that workers preferred to voice their demands through their team leaders rather than the union officers. Also, it was difficult for the union leaders to negotiate with the Korean management as the former was reluctant to confront with the employer in fear of losing their jobs.

In short, although PK 3 had made certain attempts to allow for workers' direct and indirect participation, the management had not shown the willingness to negotiate with workers and their representatives in good faith; the participatory system thus proved to be ineffective.

Case study 5. Shang Hyung Cheng

Shang Hyung Chen (SHC) is a Taiwanese footwear company in An Thach industrial zone, Binh Duong province. It started operation in 2004 and has since supplied solely to Adidas. By the end of 2010, SHC employed 7,469 employees; among them 103 were foreign specialists and managers. Like other companies in the province, SHC has suffered from shortages of low-skilled labour since 2008. In fact, its labour force decreased from a peak of 9,000 workers in 2008 to the current figure and the management was striving to recruit 1,000 more.

Over 80 per cent of SHC rank-and-file workers were migrants from Northern provinces. The work at the shop floor did not require a lot of skills. Unskilled workers, after recruitment, were trained for three days on work rules, OSH rules, labour law, lean production concept, and shoe-making techniques. They were then assigned to different production lines where they received on-the-job training by their team leaders.

The union of SHC was established in 2003, even before the company started its operations. By the end of 2010, the unionisation rate was 89 per cent. The enterprise union is structured in parallel with the production arrangement. Each production line is organized into one union unit. There are 61 union units in total. At the company level, the union is led by a union executive board consisting of 15 members, among them three full-time unionists. As a common practice among SOEs and many enterprises in Vietnam, the chairperson of SHC union was an HR officer who, once elected union chairperson, worked full-time for the union.

Situated in Binh Duong, one of the most industrialized as well as the most strike-prone provinces in the southern Vietnam, SHC also faced the risk of labour protests. In 2008, there was a wave of strikes across Binh Duong. Workers demanded wage increase to compensate for high inflation rate which reached over 20 per cent in June 2008. Although SHC adjusted wages twice in March and June, its workers still walked out. The strike was not organized by the enterprise union but, as the head of the HR section informed, it was led by some team leaders. The strike lasted for four days and was settled by a wage increase of 200 thousand dong. After the strike, the management found it necessary to improve workers' participation, at least in the areas that were regarded as 'sensitive' to the latter, especially wage adjustment. To encourage workers' direct participation, various channels for exchange of information were developed, such as: suggestion boxes, daily bulletins, weekly meetings between all employees and the management. But all these measures, as admitted by the union chairperson, were not enough to prevent labour conflicts. It was then decided to involve workers' representatives who were union members but not union officials in consultations and negotiations with the management.

At first, the meetings between union officials, workers' representatives and management were only convened when a potential labour conflict was to be settled. In 2009 and 2010, when strikes happened in the region and other companies responded by raising wages, there was high risk that wildcat strike would explode at SHC. The company

and the union executive board agreed to negotiate a new wage rate as a preventive measure. The union units were asked to survey workers' concerns, especially regarding their increase in their living costs as well as the wage levels in the neighbouring companies. Then, the union chairman estimated the number of worker representatives to participate the meeting with management and evenly allocate to production units. Normally, each production line would have one representative. The union executive board informed production line leaders about the purpose and schedule of the union-worker-management meeting and asked them to organize a meeting with all workers in the line to elect one representative. The representatives should not be the team leaders. In some cases, the worker representatives were the shop stewards but in most cases, the elected ones were rank-and-file workers who were outspoken and willing to take part in the meeting with management. Also, during the meetings at production teams, workers were also required to write down their demands to be raised at the meeting with the management. The workers were also asked to refrain from walking out until the negotiation with management was over. The worker representatives were responsible for collecting all these demands and sending it back to the union chairperson. The union chairperson collected all workers' demands and translated them into Cantonese. The translated list of demands was forwarded to the management at least one week prior to the meeting for the latter's consideration.

At the meeting with the Taiwanese management, the union leadership would act as both the facilitator and coordinator for the 28 workers' representatives in negotiating with the management. So far, three such negotiations were held. All of them were very intense. After each day's negotiation, minutes would be made and shared with production teams through the workers' representatives. Normally each negotiation lasted one to four days. But the days of negotiation were scheduled in such a way that each party would get a few days of interval to have internal discussion. An example was the negotiation in July 2010. The negotiation lasted three days. On the first day, i.e., on 7th July, the two parties discussed the least contentious issues. On the 8th, they engaged in wage negotiation but failed to reach an agreement. Workers proposed an increase of 200 thousand dong/person/month but the management agreed only to 150 thousand. The last day of negotiation was the 12th July when two sides settled for an increase of 180 thousand. The increase was a victory for the union leadership and workers, according to the union chairperson as they had not expected the company to agree to the increase. The final result was announced by a decision of the management.

Since the beginning of 2010, SHC has been conducting such meetings quarterly. Each quarterly meeting would focus on one topic proposed by the workers and the union leadership. For instance, the second meeting was about workers' demands and the third was about management approach. The procedures for such quarterly meetings were similar to the ad hoc meetings, starting with the election of workers' representatives at the production team level, collection of workers' opinions through team meetings, translation of workers' opinions for the Taiwanese management followed by the meeting between workers' union representatives and management.

The union chairperson and the HR manager of SHC both found the worker representative model effective in improving labour-management relationship and preventing wildcat strikes. However, when asked if they wished to use the mechanism for regular wage negotiation with the management, they admitted that it was too early as the union remained weak and the company was facing many difficulties. Only under the threat of wildcat strikes did the management agree to sit down at the negotiation table with the union leaders and worker representatives.

Case study 6. Ching Luh

Ching Luh is a Taiwanese footwear company supplying exclusively to Nike. The company is located in Thuan Dao industrial zone, Long An, a newly industrialized province south of Ho Chi Minh city. The company started its operation in November 2003 and currently employs 24 thousand workers. Like many other companies in the South of Vietnam, Ching

Luh faced with high labour attrition and severe labour shortages. Every month, the company lost 200 to 700 workers. It still needed to recruit 6,000 workers to reach its maximum capacity but were not able to do so. While companies in Binh Duong and Ho Chi Minh city relied on migrant workers, Ching Luh recruited 70 per cent of its workforce from the local province.

Nike being its sole buyer, Ching Luh had intimate relationship with the multinational company. Apart from complying with the Nike code of conduct with regard to labour and environmental standards, Ching Luh was under constant monitoring and supervision of a Nike-appointed CSR (corporate social responsibility) division installed in the HR department. Ching Luh management were also required to get Nike's approval on any public relations issues.

Ching Luh's union consisted of 400 union units. There were 16 full-time union officers working at the union office. In Vietnam where enterprise union chairpersons are often managers, the fact that Ching Luh union was headed by a rank-and-file worker was exceptional. The union chairperson used to be a sole maker and thanks to the confidence of his co-workers, was elected union chairperson in 2008 and has been working as a full-time unionist ever since.

With a large labour force, maintaining an effective two-way communication was crucial for Ching Luh. The HR department and the union office each ran six hotlines for workers to call to make any query about the company policy, labour law, OSH, wage calculation or complaints about their supervisors, meal quality or any other issue. According to the HR manager and the union chairman, the hotlines were the most effective channel to respond to workers' grievances on a daily basis. The HR department assigned two officers to visit factories every day to reply to workers' questions and handle their complaints on the spot. The management also had meetings with two to three workers from each factory on a monthly basis.

In accordance with the company's collective bargaining agreement, the union executive board and the management met once every quarter. However, based on his understanding of workers and the weaknesses of the union system, the union chairperson initiated an alternative mechanism for involving rank-and-file workers into consultations and negotiations with management. He knew well that among the workers in any team, there would be a natural leader who might not be the supervisor or the shop steward. The person could be a rank-and-file worker but had the leadership capacity and was able to persuade and influence other workers. The current union chairperson told the interviewer that he was a worker with the sole team. "I was kind of a leader of all the workers there so I know how important it is to involve these de facto leaders in our discussion with the management. They would tell workers what to agree with and what not". One worker from each production team was chosen by the union chairperson to represent the team. There were over 300 team delegates in the whole company. The union used its own fund to impart training to these delegates in skills such as public speaking, collection of workers' opinions, grievance-handling, among others. However, if these team delegates were promoted to become team supervisors, they could no longer act as team delegates.

The team delegates informed the union leadership and the management about workers' grievances and feedback on management policy on a daily basis. According to both the union chairperson and the HR manager, the team delegates provided the fastest and most effective channel to communicate with workers.

The company was paying workers on average 2 million dong per month, not a high level compared to other companies in the region. It would adjust workers' basic wages when the minimum wage was increased. However, adjusting wages proved to be a sensitive issue when the company experienced a go-slow in 2004. Ever since, the management decided to consult the union leadership before adjusting the basic wages. The union chairperson decided to involve the team delegates in this consultation process. But unlike Shang Hyung Cheng where workers' representatives participated in the negotiation,

team delegates at Ching Luh only consulted internally with the union leaders about the proposals to the management. The union leaders then met with the management and made demands on the basis of workers' proposals. Sometimes, the consultation between team delegates and union leaders was conducted in parallel with the union-management negotiation to make sure that the team delegates understood and supported the changes in negotiation. Such negotiations normally lasted a day but sometimes could last one week as the management had to consult the headquarters in Taiwan for approval. In the meantime, the team delegates were required to keep the workers in their team informed of the negotiation process.

Subconclusion

The most important leverage for the employers in almost all of the mentioned cases had been resorting to informal labour activism, particularly wildcat strikes and go-slows. This prompted the employers to adjust their approach to labour relations. On the other hand, the fact that workers in these companies were able to mobilize collective action despite the weakness of the enterprise unions and the authoritarianism of the management proved that they had the capacity to organize and had a strong need to voice their demands and opinions about wages and working conditions.

In most of the cases mentioned in the study, indirect worker participation was limited to labour-management communication and consultation rather than negotiation. On the other hand, the employers allowed workers to express their grievances and demands and explained to workers the management decisions. But workers and their representatives were not able to negotiate for higher wages and better working conditions. It should be noted that such negotiation had become crucial for workers because the right to collective bargaining was granted solely to the official enterprise union whereas most of the time, the latter was not able to conduct genuine negotiation on behalf of their members. Without a mechanism for real negotiation, wages and working conditions were set by the employers at the legal minimum level or just slightly higher.

Among the three models of indirect employee participation mentioned in this study, the last model of workers' representatives proved to be most effective, especially in the cases of Shang Hyung Cheng and Ching Luh. Interviews with workers from these two companies showed that they were relatively satisfied with the current system of grievance-handling and representation although the wages that these two companies paid were not the highest in the region. The union leaders of these two companies did not perceive these workers' representatives as a threat or competition because (i) they [elected representatives] were also union members; (ii) union leaders recognized them to be in the best position to get to know and collect the opinions and concerns of their fellow workers; (iii) union leaders perceived workers' representatives as complementing the work of the enterprise unions and thus helping the union become more effective in representing workers' voices. In an interview, a union chairperson said engagement of workers' representatives in labour-management meetings was initiated to create an environment of democracy for workers and gain their confidence in the communication process. Workers often trusted their co-workers more than their supervisors. Therefore, these workers' representatives knew best the workers' concerns to reflect to the management. At the same time, the workers' representatives were in the most favourable position to report the outcome of labour-management meetings to their co-workers.

Although the six case studies present no remarkable achievement in indirect employee participation, they showed that there are ways for Vietnam to reform labour relations at workplace, particularly in providing effective mechanisms for better worker participation. As described in the following text (Part 4), the Government and social partners have made initial efforts to provide a regulatory framework for direct and indirect employee participation.

4. Policy implications

When the wave of wildcat strikes first exploded in the Southern provinces, the Government focused mainly on settling strikes. At first, VGCL attributed the strikes to show of resentment against the employers' violation of workers' rights. However, after 2006, when the vast majority of strikes were over interests, the government of Vietnam gradually realized that harmonizing labour-management relationship, especially by improving workers' representation at the workplace, was far more important than settling strikes when they had already happened. Consequently, the Party leader Truong Tan Sang pointed out at a meeting in 2008 with VGCL leaders and provincial government officials, the shortage was of 'REAL' components of a working industrial relations system which he named as: real representation, real negotiation, real issues, and real implementation.¹² In particular, he said the trade union must be strengthened to represent workers in consultations and negotiations with employers.

The VGCL, however, has made little progress on improving their representation at the workplace despite various efforts including a major member recruitment campaign, promotion of collective bargaining, and participation in strike settlement taskforces. Therefore, the government was looking for alternative measures to improve workers' participation apart from relying on the trade union structure. At the beginning of the fourth revision of the Labour Code in 2009, MOLISA proposed that workers in non-unionized enterprises could elect a group of representatives who enjoyed the right to represent workers in negotiation with employers (Labour Code Revision 1st Draft, Article 188). While the 2006 Labour Code, Chapter 14 provides that workers in non-unionized enterprises could elect their representatives to organize strikes, the 2009 proposed revision went further by granting almost equal authority to enterprise unions for negotiating collective agreements, settlement of disputes and regulation of employment relations, as the so-called 'group of workers' representatives' ('Ban dai dien cong nhan').

The National Assembly Committee for Social Affairs which oversees the revision of labour and union legislation has vocally voiced its support for non-union representation at the workplace. In an interview with Sai Gon Tiep Thi, a popular newspaper in Ho Chi Minh city Dang Nhu Loi, the vice chairman of the National Assembly Committee for Social Affairs, praised the new provision on workers' representatives in the draft Amendment to the Labour Code as a necessary change. He said:

I think this provision is necessary ... The trade union organization has not been genuinely representative of workers. I am not talking about state-owned companies because in these companies, unions and management are the same. But this is not the case in non-public enterprises. In these companies, the unions must prove their role in representing the rights and interests of workers. That is the best answer to the current problem. (Sai Gon Tiep Thi, 11 August 2009)

In line with the proposal for non-union representation in the draft law, the National Assembly introduced a master plan for the formation of labour councils from national to enterprise level (Sai Gon Tiep Thi, 27 September 2009). According to it, tripartite labour councils had to be set up at national and provincial level to provide guidelines on wages and working conditions for enterprises. Labour councils at enterprises would consist of management and unions or workers' representatives and enterprise labour council would negotiate and regulate employment relations at the workplace. The architects of the master plan emphasized that 'the labour council will exist in parallel with, but not replace enterprise unions' (quoted in Sai Gon Tiep Thi, 27 September 2009).

The VGCL strongly opposed the non-union workers' representative proposal not only by running a vehement media campaign through the union-affiliated newspapers but also through political lobby. The proposal was postponed in the end of 2009 but it was taken up

¹² http://tintuc.xalo.vn/00-1842635778/Xay_dung_co_che_thuong_luong_4_that.html

again in the late 2010, especially because of the rise in strikes and the VGCL's inability to improve enterprise unions' representation capacity. In the early 2011, the Prime Minister approved the non-union worker representative proposal by MOLISA so that it is further developed before being submitted to the National Assembly.

Still, the debate between MOLISA and the VGCL regarding non-union worker representation has been particularly fierce with regards to the drafting of the Amendment to the Labour Code which is supposed to be discussed at the National Assembly in May and June 2012. Such a disagreement between the two parties may even threaten to obstruct the approval of the whole revision of the Law. MOLISA therefore opted for a compromised solution by dropping the proposal on non-union worker representatives and reducing the section on employee participation and social dialogue to only three articles (Art. 64-66) at the beginning of the revised Collective Bargaining Chapter. Article 64 defines the purposes of social dialogue as "sharing information and improving the mutual understanding between employers and employees". Art. 65 stipulates the various issues for social dialogue at the workplace including "the demands by the employees towards the employers", among others. Art. 66 provides for meetings between workers and employers every 3 months and the employers have to cover the costs of social dialogue at the workplace.

While making necessary concessions in drafting the Amendment to the Labour Code, the Legal Affairs Department, MOLISA proposed a draft Decree to provide more detailed guidelines on the social dialogue chapter of the revised Labour Code. The draft Decree defined social dialogue at the enterprise as 'bipartite communication and consultation about all issues of mutual interests so as to ensure the legitimate rights and interests of both workers and the employers' (Art. 3).

The subject issues for bipartite dialogue include (Art. 8):

- recruitment, work assignment, training and retraining;
- drafting, issuance and implementation of the work regulations
- OSH, environmental protection
- working hours and rest time
- development and implementation of regulations on wages and bonus
- innovations on technical improvement, work procedures, productivity, quality, cost-saving and saving of materials
- scenarios for technological change, merger, split-up and other economic changes
- development and implementation of regulations on awards
- development and implementation of regulations on welfare benefits, especially with priorities given to the disabled people and female workers
- settlement of labour disputes and grievances
- cooperation between the employers, enterprise union leadership/workers' representatives, workers in monitoring the compliance with the labour law.

The draft Decree also prescribed the following forms of social dialogue:

- suggestion boxes
- internal bulletin
- direct talks with employers, union officials/workers' representatives
- direct talks with supervisors, shop stewards/ workers' representatives at production units
- irregular meetings upon the request of the employer or enterprise union/workers' representatives

-
- regular meetings every three, six and nine months or annually in accordance with the agreement between the employer and the enterprise union/workers' representatives
 - annual enterprise congress

In response to the draft Decree proposed by MOLISA, VGCL introduced its own draft of the social dialogue chapter of the revised Labour Code in September 2011. While the provisions on forms and issues of social dialogue are the same as the MOLISA proposal, the VGCL proposal had two significant differences. First, the social dialogue provisions are expected to be compulsory for all enterprises employing over 50 workers whereas the smaller companies are encouraged to comply with (Art. 1). Second, in the non-union enterprises, the representatives of workers will be the upper-level union and the workers' representatives nominated by the upper-level union officials (Art. 3). In other words, VGCL still disagreed with MOLISA's proposal to allow workers in non-union enterprises to elect their own representatives.

References

- Beresford, M. 2003. "Economic transition, uneven development, and the impact of reform on regional inequality", in H. V. Luong (ed.): *Postwar Vietnam: Dynamics of a transforming society* (Oxford, Rowman & Littlefield Publishers), pp. 55-80.
- Chan, A.; Wang, H. 2005. "The impact of the state on workers' conditions-comparing Taiwanese factories in China and Vietnam", in *Pacific Affairs*, 77(4), pp. 629-646.
- Clarke, S. 2005. "Post-socialist trade unions: China and Russia", in *Industrial Relations Journal*, Vol. 36, No. 1, pp. 2-18.
- Clarke, S.; Lee, C. H.; Do, Q.C. 2007. "From rights to interests: The challenge of industrial relations in Vietnam", in *Journal of Industrial Relations*, Vol. 49, No.4, pp. 545-568.
- Dang, N. A.; Tacoli, C. 2003. "Migration in Vietnam: A review of information on current trends and patterns, and their policy implications", paper presented at the Regional Conference on Migration, Development and Pro-Poor Policy Choices in Asia, organized by the Refugee and Migratory Movements Research Unit, Dhaka, Bangladesh, 22-24 June 2003.
- "Dien dan doanh nghiep Leo let nganh dien tu", [The dying electronics industry], 10 October 2009, available at: <http://ddd.com.vn/20091009112316450cat82/leo-let-nganh-dien-tu.htm> [12 Oct 2011]
- Do, Quynh Chi. "Understanding industrial relations transformation in Vietnam: Towards a multi-dimensional approach", unpublished doctorate thesis (University of Sydney).
- GSO. 2008a. "Đầu tư trực tiếp của nước ngoài được cấp giấy phép từ 1988 đến 2008 phân theo ngành kinh tế" [Foreign direct investment projects licensed from 1988 to 2008 by industries available at: <http://www.gso.gov.vn/default.aspx?tabid=392&idmid=3&ItemID=8691> [1 Nov2010].
- . 2008b. "Tình hình kinh tế xã hội năm 2008" [Economic and social development in 2008], available at: <http://www.gso.gov.vn/default.aspx?tabid=413&thangtk=12/2008> [1 Nov 2010]
- . 2006a. *The 2004 Survey of Migration in Vietnam: Internal Migration and its Relations with Life Events* (Hanoi, GSO and UNFPA).
- . 2006b. "Tình hình kinh tế xã hội năm 2006" [Economic and social development in 2006]. Available at: <http://www.gso.gov.vn/default.aspx?tabid=413&thangtk=12/2006> [20 Oct2008]
- . 2007. "Tình hình kinh tế xã hội năm 2007" [Economic and social development in 2007]. Available at: <http://www.gso.gov.vn/default.aspx?tabid=413&thangtk=12/2007> [20 Oct 2008]
- Institute of Workers and Trade Unions. 2007. *Survey on labour relations in foreign-invested companies* (Hanoi).
- Qi, L.; Taylor, B.; Frost, S. 2003. "Labour relations and regulation in Vietnam: Theory and practice", Working Paper No. 53 (City University of Hong Kong, Southeast Asian Research Center).
- Sunoo, J. 2007. *Understanding and minimizing risk for strikes in Vietnam* (ILO Hanoi).
- UNIDO. 2004. *Industrial Development Report 2004: Industrialization, Environment and the Millennium Development Goals in Sub-Saharan Africa: The New Frontier in the Fight against Poverty* (Vienna, UNIDO).

-
- Vietnam Chamber of Commerce and Industry (VCCI). 2009. *Survey on labour in garment-textile industry: Labour issues from employers' perspective* (Hanoi).
- Vietnam General Confederation of Labour (VGCL). 2008. “Báo cáo tổng kết hoạt động công đoàn năm 2007” [Evaluation report of union activities in 2007]. Available at: www.congdoanvn.org.vn
- Vietnamnet. 19 Nov 2008. “Phá sản đã diễn ra ở các doanh nghiệp dệt may” [Bankruptcy spread across garment factories]. Available at: <http://www2.vietnamnet.vn/kinhte/2008/11/814313/> [15Oct102009].
- . 26 June 2006. “Ngành điện tử 30 năm chưa thoát kiếp lắp ráp” [Electronics industry: Still assembling after 30 years]. Available at: <http://vnn.vietnamnet.vn/kinhte/kinhdoanh/2006/06/585117/> [11 Aug2009].
- . 7 Jan 2009. “Labour inspectors and 150-year cycle of inspection”. Available at: <http://english.vietnamnet.vn/social/2009/01/822636/> [28 July 2009].
- VNTrades. 13 April 2006. “Gi3 bài toán thii lao đđo đocác khu công nghiin phía Nam” [Addressing labour shortages in southern industrial zones]. Available at: <http://www.vntrades.com/Giai-b%C3%A0i-toan-thieu-lao-dong-o-cac-khu-cong-nghiep-phia-Nam.sid-5326.htm> [1Feb2009].