

CASE STUDY:

Better Work Vietnam Shows Path for Labour Law Reform



BETTER WORK

In 2013, a groundbreaking change was made in the Vietnamese labour law, which now calls for worker/management committees in all enterprises to serve as a mechanism for social dialogue. The new Labour Code covers all industries and enterprises, and approximately 8–10 million workers.

Overview

Since 2009, factories participating in Better Work Vietnam have established worker/management committees to jointly improve working conditions, which have been at the core of the programme's factory-based operations. Worker representatives are elected by workers instead of appointed by managers, and dialogue provides the basis and structure for sustainable change.

By introducing a concept of worker representation that previously was unknown in the country, Better Work Vietnam served as a model for changes to the nation's Labour Code. The provisions on workplace cooperation in the revised law now anticipate regular bipartite dialogue at the workplace, involving regular meetings and ensuring equal numbers of worker and management representatives.

Better Work Vietnam has partnered with the ILO Vietnam office and the government on the design of the implementation decrees, which will guide how the new social dialogue mechanism will be put into place. To ensure the new mechanism reaches its full potential, the programme is also working with both the Vietnam General Confederation of Labor (VGCL) and the Vietnam Chamber of Commerce and Industry (VCCI) to help them build representational skills at the enterprise level.

Looking for a Model

In the course of the Labour Code revision that was being undertaken in 2011, the ILO in Vietnam—led in particular by its Industrial Relations (IR) Project—worked closely with the VGCL to introduce a proposal for a mechanism of consultation at the enterprise level. The goal of this effort was to increase communication between workers and managers and create a more effective platform for negotiation at the enterprise level. Among the inputs gathered to drive this process were studies the VGCL had previously conducted of the “works council” system in Germany and the bipartite consultative committee system in Korea. In addition, the Ministry of Labor, Invalids and Social Affairs (MOLISA), as the chair and secretariat of the Drafting Committee for the

revision of the Labour Code, was requested to develop some provisions on “democratic regulation” of workplaces.

Based on the proposal of the VGCL and at the initiative of MOLISA's Legal Department, the ILO's IR Project helped to organize a workshop at the end of 2011 on the topic of “consultation mechanisms” (social dialogue) at the workplace level. At this workshop, the VGCL made a key presentation on the need for a mechanism of consultation that could supplement the collective bargaining process and also provide a more regular process and forum for union/management dialogue.

MOLISA's Legal Department invited Better Work Vietnam to present information about its joint workplace cooperation committees, as a case study of enterprise-level dialogue and as a living example from within Vietnam about the potential of creating this regular communication channel.

As the process continued, the VGCL also conducted an assessment of Better Work Vietnam in October 2012 in order to further understand the impact of the programme's worker/management committees. According to the results of that study, all Better Work Vietnam enterprises visited by the VGCL saw an improvement in industrial relations.

“Better Work Vietnam has seen a significant change in many of our factories since we introduced the PICC model,” said Tara Rangarajan, Programme Manager of Better Work Vietnam. “We now have real worker voices at the table, sharing legitimate concerns of their peers, and constructively engaging with management to find solutions that can be sustained and supported for the long term.”

WHAT IS SOCIAL DIALOGUE?

Social dialogue refers to all types of negotiation, consultation and exchange of information between, or among, representatives of governments, employers and workers on issues of common interest.

Setting an Example for Cooperation

The Better Work approach to sustainable improvements in working conditions has since its inception been rooted strongly in social dialogue at the factory level. Through the establishment of enterprise-level Performance Improvement Consultative Committees (PICCs)—which bring together equal numbers of worker and manager representatives to develop and implement

improvement plans—factories build a framework for co-operation that promotes shared decision-making and ensures greater sustainability of changes.

Moreover, since March 2012, union representatives on the Better Work Vietnam PICCs have been directly elected from the factory floor. Each worker on the production line is provided with a ballot to vote for a member from their line. The lines are then categorized into “production units” and a second run-off is held for the 4-7 union members who will serve on the PICC. The election itself is overseen by the enterprise-level trade union, with guidance from Better Work Vietnam staff members. While the election is initially only for the PICC itself, some unions have indeed used the election results as a way to identify representatives to serve on the broader enterprise union committee.

The ILO's Industrial Relations Project in Vietnam aims to put into practice the new Labour Code and Trade Union Law to ensure that, by 2016:

- Vietnam's minimum wage system is reformed,
- industrial relations institutions and mechanisms for collective bargaining and social dialogue have been perfected, and
- capacity of all stakeholders is strengthened to bring the regulations and practices into closer compliance with international labour standards.

For many workers, serving on the PICC is an honor and a very new type of opportunity. “I had heard about the PICC’s role and responsibilities before and was very proud when I found out that I had won the elections,” says Cong Nguyen, 22, who was elected to the PICC of Quang Xuan in April. “Now I represent roughly 100 workers from my lines at the PICC.” In April 2013, Cong joined his first PICC meeting, which he describes as a great forum to share ideas and talk about occupational health and safety and the relationship between workers and management.

For many factories, the notion of regular meetings with workers can seem threatening. However, Better Work Vietnam has repeatedly seen skeptical factory managers become strong proponents of regular dialogue after participating in the programme. By providing workers with a platform to directly raise their concerns to management, and offer practical solutions for improvement, the working environment becomes more constructive, productivity increases, and the incidence of disputes and strikes is dramatically decreased. In an industry where wildcat strikes are common, Better Work Vietnam has seen that factories with PICCs are much more likely to attempt negotiation before walking out and as a result, the number of strikes in Better Work factories is significantly lower than the industry average. Creating such an environment can be critical in a country where the number of officially recorded strikes went from an average of 111.8 a year in the six-year period from 2000-05 to an average of 567 strikes in the years 2006-11.¹

Research findings show that workers in Vietnam who view PICCs as effective tend to have higher earnings and are able to send more money back to their communities through remittances, are more

¹ A. Chan: “Strikes in China’s export industries in comparative perspective”, in *The China Journal* (2001, No. 65, Jan.), p. 29; A. Chan and K. Siu: *Strikes and living standards in Viet Nam: The impact of global supply chain and macroeconomic policy*, presentation at an International Expert Conference, Nuremberg, 8–9 Oct. 2012.

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~ CONG NGUYEN, 22, WHO WAS ELECTED TO THE PICC OF QUANG XUAN IN APRIL



FIGURE 1: Training by PICC Status

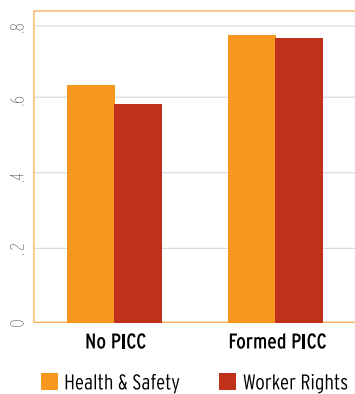


FIGURE 2: Earning by PICC Status (in millions of Dong)

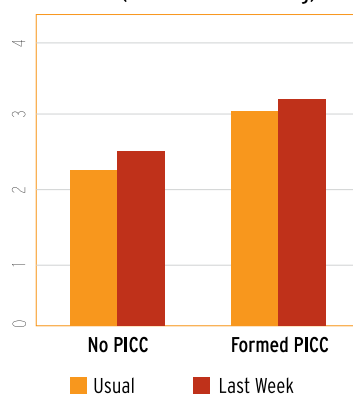
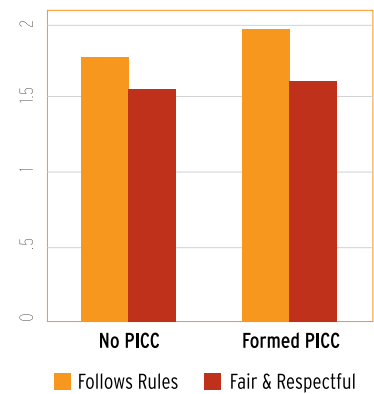


FIGURE 3: Supervisor Relationships by PICC Status



BETTER WORK VIETNAM HAS REPEATEDLY SEEN SKEPTICAL FACTORY MANAGERS BECOME STRONG PROPONENTS OF REGULAR DIALOGUE AFTER PARTICIPATING IN THE PROGRAMME.



BY PROVIDING WORKERS WITH A PLATFORM TO DIRECTLY RAISE THEIR CONCERNS TO MANAGEMENT, AND OFFER PRACTICAL SOLUTIONS FOR IMPROVEMENT, THE WORKING ENVIRONMENT BECOMES MORE CONSTRUCTIVE, PRODUCTIVITY INCREASES, AND THE INCIDENCE OF DISPUTES AND STRIKES IS DRAMATICALLY DECREASED.

likely to perceive that supervisors follow rules, less likely to think that supervisors pose an obstacle to promotion, report worker rights training taking place in the factory and report the presence of health and safety training in the factory.

From Example to Law

While the draft Labour Code that was finalized by MOLISA and submitted to the National Assembly (NA) did not contain specific provisions on the mechanism of consultation, the Assembly's Social Affairs Committee (SAC) agreed to revisit the proposal at the request of the VGCL. At SAC expert meetings, including invited ILO specialists,

participants carefully examined the "Korean model" of bipartite "Labour-Management Consultative Committees" and the Better Work PICC model.

Members were particularly drawn to the Better Work model because of the successes of the programme in Vietnam itself. As of 2013, Better Work Vietnam operates in roughly 200 factories, with almost that number of PICCs, and the tangible achievements it demonstrated helped to show the potential of social dialogue within the framework of Vietnam. According to the October 2012 VGCL study, the PICCs not only helped improve industrial relations, but also helped to strengthen trade unions overall. According to the final VGCL report:

KEY ELEMENTS OF THE IMPLEMENTATION DECREE

- The employer has an obligation to conduct social dialogue in the workplace.
- Workers have the right to information; to be consulted and to negotiate on certain issues; and to monitor implementation of agreements/conclusions.
- Regular bipartite dialogue will be conducted every three months. Ad hoc dialogue may be organized additionally, at the request of one or more parties.
- Parties to regular and ad hoc dialogue must include at least three representatives from each party.
- Worker representatives are factory-level trade union executive committee and other worker collective members elected by the annual worker congress.
- Issues for dialogue can be brought to the table by any party.

Piers Birtwistle © ILO/IFC

“The structure of grassroots trade unions at BWV enterprises has been improving. The unions have better implemented their tasks in taking care of and representing the labour collective and contributing to the sustainable development of enterprises. The grassroots trade unions have become more active in advising, encouraging and understanding concerns and expectations of trade union members; [and] gathering legitimate demands and expectations of trade union members and workers for employers to handle... Trade union officers have improved their understanding and skills to do trade union work through training activities of BWV Programme.

The role of grassroots trade unions at BWV enterprises has been strengthened. Employers have become more and more respectful towards trade union work, creating favourable conditions, sharing information and discussing how to develop sustainable enterprises. There are positive changes on the employers' side. Some employers consider grassroots trade unions as a 'counterpart' in enterprise administration rather than 'assisting body'.”

Putting Policy Into Practice

The efforts to embed a social dialogue mechanism in the new Labour Code were eventually successful, with the inclusion of Chapter 5, “Dialogue at Workplace, Collective Bargaining, and Collective Labour Agreement.” Section 1 of this chapter is devoted to “Dialogue at Workplace.”

In addition, the decrees relating to the implementation of the mechanism, which will indicate how to put the new legal guidelines into practice, have been finalized. To support this effort, Better Work Vietnam coordinated closely with the ILO to provide additional learning from its PICC experience—in particular, the election process—to influence this discussion and help ensure enterprises, and workers in particular, reap the greatest benefits from this fundamental shift in industrial relations practice in the country.



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~ TARA RANGARAJAN, BETTER WORK VIETNAM PROGRAMME MANAGER

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