



Wildcat strikes and Better Work bipartite committees in Vietnam

Toward an elect, represent, protect and empower framework

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Better Work Discussion Paper No. 24

**WILDCAT STRIKES AND BETTER WORK BIPARTITE
COMMITTEES IN VIETNAM:
TOWARD AN ELECT, REPRESENT, PROTECT AND
EMPOWER FRAMEWORK**

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Foreword

Better Work strives to improve working conditions in global supply chains while simultaneously increasing firm competitiveness. Central to our approach is ensuring factory workers and their managers have the opportunity and capacity to engage in constructive dialogue to address workplace concerns. Better Work's bipartite Performance Improvement Consultative Committees (PICCs) are used to create such space for worker-manager communication at the factory level.

Since launching in Vietnam in 2009, Better Work has witnessed the positive benefits of PICCs. Independent research into the programme's impact has demonstrated that factories with well-functioning PICCs tend to have healthier workers, less stressed supervisors and fewer instances of abuse such as sexual harassment. The benefits have also been recognized by policymakers: the Better Work PICC experience informed changes to the national labour code in 2012 requiring all enterprises to conduct regular dialogue at the workplace. At the same time, this past research finds that in order to deliver such benefits, PICCs must be of sufficient "quality" – that is, they must have a number of prerequisite characteristics, which include having freely elected workers and gender representation that reflects the workforce.

We are committed to continue learning about the impact of our services, including gaining a deeper understanding of the dynamics that make PICCs most effective. This paper was commissioned by Better Work to spur reflection and learning in this area, both internally and among external stakeholders. Its findings echo and build on what we have learned previously about dialogue mechanisms in the workplace: while getting managers and workers together in a consultative dialogue is critical to improving business performance and industrial relations, a more important determinant of sustainable improvement is the quality of that dialogue, and the commitment that workers and employers show to the process.

Better Work recognizes that PICCs alone are not sufficient to transform the business culture and safeguard industrial harmony in any garment factory. However, we know from experience that by establishing norms of communication and joint problem solving between management and workers, they provide an important start point on which to build trust and collective action.

To unlock the full potential of these mechanisms, wider systemic efforts are also needed to strengthen the industrial relations architecture – for example, through improved union autonomy and independence and a stronger role for collective bargaining as a means to protect workers and encourage stable business growth.

Looking forward, Better Work Vietnam is committed to strengthening our PICC mechanisms, building on the work of stakeholders such as the Vietnam General Confederation of Labour to identify gaps and deficiencies in current dialogue processes and chart a way forward for better worker representation and empowerment in the workplace. This study is an important contribution to these efforts.

Dan Rees
Chief, ILO-IFC Better Work Programme

Abstract

Vietnam's apparel export sector has been facing a sustained and substantial wildcat strike wave for much of the past decade. Approximately twenty percent of firms experienced at least one strike in the past three years, which makes the strike rate in the sector one of the highest in the world. This report explores the causes and outcomes of this industrial unrest, and it examines the impact of worker-management participation committees on reducing strike action. Better Work began establishing such committees, known as Performance Improvement Consultative Committees (PICCs), in 2009. The principal goals of PICCs are to establish factory-level social dialogue through Better Work mandated worker-management committees and to address non-compliance issues detected in Better Work factory assessments. The question this report seeks to explore is whether PICCs, by establishing this particular form of social dialogue, contribute to a reduction in strike likelihood in Vietnam.

This paper finds is that factories with well-functioning worker-management committees *may* contribute to lower strike rates when combined with other well-functioning employment relations institutions. This report puts forward four criteria for well-functioning PICCs:

1. Worker members are **elected** through a participatory and secret ballot election process without management presence.
2. Members fully **represent** workers, which includes consulting with workers before PICC meetings and reporting back to them after PICC meetings.
3. Members are carefully **protected** from potential management retaliation.

4. Members are **empowered** to adequately address serious non-compliance issues.

These four factors –*elect, represent, protect, and empower* - are inter-related and fundamental to any system of employee participation. At the time of writing, most PICCs do not meet these criteria and this report suggests steps to develop better functioning PICCs. However, even well functioning PICCS are not enough to adequately address worker grievances in a way that significantly reduces strike rates. Addressing strikes requires the development of democratic and autonomous unions and collective bargaining mechanisms. Thus, developing better functioning PICCs is only one step in addressing the causes of wildcat strikes --strikes without prior union approval-- in Vietnam.

This report is based on a review of relevant literature, an extensive examination of Better Work's assessment report data during two months of desk research in Geneva, analysis of factory progress reports, the author's original survey of Better Work Vietnam Enterprise Advisors and two months of field research conducted in Vietnam in March and April 2014.

Acknowledgements

Research for this paper was conducted through desk research with the ILO/IFC Better Work program in Geneva in October and November 2013 and during two months of field research in Vietnam in March and April 2014. The author greatly appreciates the support of Arianna Rossi during this entire process and the support of the Better Work team in Ho Chi Minh City. The author is also grateful for the research assistance provided by Penn State graduate student Joyce Sinakhone, helpful feedback from Jennifer Bair and the insightful comments and suggestions from two anonymous reviewers. Funding for this research was provided by the Pennsylvania State University for research in Vietnam. The ILO also provided a visiting scholar stipend for desk research in Geneva. The author appreciates this support.

Table of Contents

1. Introduction: Strikes and PICCs in Vietnam	7
2. Market Liberalization and Apparel Export Growth	11
3. Employment Relations in Vietnam.....	16
4. Strikes in Vietnam	20
5. Better Work and PICC Worker-Management Committees	30
Strike Dynamics According to Program Cycles	33
PICCs and Strikes: Progress Report Findings.....	35
PICCs and Strikes: Survey Evidence.....	38
6. Recommendations: Elect, Represent, Protect and Empower	42
Elect.....	42
Represent	44
Protect.	45
Empower.....	47
7. Conclusions	49
8. Appendix 1: Better Work PICC Progress Report Findings.....	52
9. Appendix 2: PICC Performance and Strike Rates (2012-2013)	53
10. References	54

Figures

Figure 1: Apparel Exports to US (millions of sq. meters)	13
Figure 2: Five Year Growth Rate, Top World Exports (2009-2014)	14
Figure 3: Production Cost of Men's Cotton Jeans.....	15
Figure 4: Strikes and Inflation Rate in Vietnam.....	21
Figure 5: Strikes and Political Openness/Institutional Access.....	22
Figure 6: Strikes Rates by Firm Ownership	24
Figure 7: Strikes in Vietnam: Causes.....	27
Figure 8: Strikes in Vietnam: Outcomes.....	28
Figure 9: Model of Potential Indirect Impact of PICCs on Strikes	32
Figure 10: Strike Rates by Better Work Program Cycles	34
Figure 11: No-Strike vs. Repeat Strike Factories (EA Survey).....	41

1. Introduction: Strikes and PICCs in Vietnam

Early one morning in July 2010, sewing machines in a factory in the Trang Bang Industrial Zone fell silent as workers went on strike; they had heard that other workers in a nearby factory received a 10% raise and they wanted a raise, too.

Elsewhere in Vietnam, workers were striking over bad cafeteria food, abusive supervisors, or dysfunctional toilets. In one case, workers posted their demands on the main entrance door to the factory in the early morning hours so that the owner would see them upon his arrival to work. In other factories, to express their discontent and announce that a strike was imminent, workers would hold up their chopsticks to management after finishing their lunch and break them in two. In other cases, workers began strikes by posting notes on bathroom walls, sending text messages to fellow workers, or hitting spoons in unison on cafeteria tables. In most of the ensuing strikes, workers would achieve at least some of their demands.

A wave of wildcat strikes has been ripping through Vietnam's apparel export plants over the last ten years. An examination of 3,943 factories during 2010-2012 indicated that 19.9% of factories in industrial parks (which were then dominated by apparel) in Vietnam had experienced at least one strike over the previous three-year period, with some factories had as many as four or five strikes during this period (Anner and Liu 2016). The strike wave in Vietnam is proportionally larger than that of China. Indeed, an article in Bloomberg Businessweek wondered if the strike wave had become so large that it could adversely affect foreign investment.¹

¹ Ha Oanh, and Diep Ngoc Pham, "Vietnam's Labor Unrest: Inflation pushes Vietnamese workers to strike –336 times in the first four months of the year." *Bloomberg Businessweek*, June 23, 2011.

Under typical circumstances, strikes are a normal but less frequent part of a well-functioning employment relations system (Katz and Kochan 1992). Indeed, much scholarship celebrates the efforts by workers to pursue concerted collective action and, through sustained solidarity, face off with recalcitrant employers or repressive state forces to achieve their goals (Atzeni 2010; Brecher 1972). The challenge for industrial relations systems is to establish well-functioning rules and mechanisms that allow these conflicts to take place and be resolved. Wildcat strikes are strikes that take place outside formal rules. As such, their prevalence in Vietnam suggests the underdevelopment of industrial relations institutions.² Wildcat strikes are unpredictable, and they entail considerable risk and effort on the part of workers. Striking workers often forego their salaries and face the risk of dismissal, blacklisting and police detention.

When workers feel the need to strike every time they face an issue, whether cafeteria food is inedible, salaries fail to keep pace with cost of living increases or production quotas are intolerably high, something is not working with a country's employment relations institutions. These institutions should provide regularized means for addressing workers' concerns without the need for strikes. In a well-functioning employment relations system, grievance mechanisms can address food issues, collective bargaining can adjust wages and national social dialogue can set adequate minimum wage rates. When such mechanisms are not functioning at their full potential and workers resort to strikes to address all issues – big and small – it creates uncertainty for workers, employers, investors and the state.

² The author thanks an anonymous reviewer for this observation.

This is the challenge that currently faces Vietnam. What started as a handful of strikes in the late 1990s and early 2000s, mushroomed into a dramatic strike wave that peaked in 2011. As strikes subsequently declined, some observers began to assert that the strike wave was ending because Vietnamese employment relations institutions had improved.³ Then, in May 2014, tensions with China resulted in a series of violent attacks on Asian-owned factories in which dozens of facilities were burned into ruins. This was followed by strikes in 2015, including one at a Taiwanese footwear manufacturer employing 90,000 workers. The wave of worker unrest that began a decade earlier had clearly not ended, and issues over the effectiveness of Vietnam's employment relations institutions remains acutely relevant.

This raises the question of which employer relations institutions are best suited to adequately address workers' concerns in an effective and timely fashion. Certainly, a complete answer to this question requires a thorough exploration of trade unionism, collective bargaining, grievance procedures, mediation and arbitration, and national-level social dialogue. Analyzing each element is beyond the scope of this report. Rather, it will focus on one employment relations institution that is developing in Vietnam: worker-management committees.

Worker-management committees have been a core element of employment relations in many countries. They are perhaps best illustrated by the works councils of the German system, which are attributed with contributing to workplace democracy and stable employment relations (Rogers and Streeck 1994; Turner 1991). However, scholars have also pointed to many potential limitations of non-union worker voice

³ Author's interview with VGCL leader, Hanoi, April 2014.

mechanisms. Bryson expresses concern that non-union representative voice may not be “genuinely representative of employees and independent of management” (2004: 230) while others find that workers using non-union voice mechanisms may not be protected by strong protects against retaliation (Kidger 1992). Others conclude that workers engaged in such cooperative approaches lack power to bring about more than very modest changes (Lund-Thomsen and Lindgreen 2014; Terry 1999).

Charlwood and Pollert find that workplace voice mechanisms are only effective with “less serious problems.” For more serious infringement of workers’ rights, they find no relationship between employer-initiated voice mechanisms and efficiency outcomes and with quit rates (Charlwood and Pollert 2014). In sum, the literature suggests that worker-management committees often provide a weak voice mechanism if they are not backed by collective, independent bodies that empower workers (e.g., trade unions).

Better Work aspires to establish well-functioning worker-management committees. It has made its committees – known as Performance Improvement Consultative Committees (PICCs) – a required component of its program. All factories that join the Better Work program must establish and develop a PICC. Worker representatives are to be elected and to meet with management on a regular basis to address non-compliance issues related to workers’ rights and labour standards. This allows us to ask an important question regarding strike dynamics in Vietnam: do PICCs directly help workers address their issues with management before these issues fester and cause workers to strike? More generally, do PICCs create an atmosphere of collaboration in factories and, in turn, contribute to resolving issues before they result in strikes, even if those issues are not addressed directly in PICC meetings?

This discussion paper finds that, in order for PICCs to address workers' issues of concern in a meaningful way before they resort to strikes, they must complement representative unions and collective bargaining. That is, the need for well-functioning industrial relations institutions cannot be overstated. In addition, PICCs should meet four criteria: 1) worker representatives must be elected in a participatory and secret-ballot election process; 2) members must be able to represent workers by consulting with them before PICC meetings and reporting back to them after PICC meetings; 3) members must be protected from retaliation; and 4) members must be empowered to remediate non-compliance issues. These four factors – elect, represent, protect and empower – are inter-related and fundamental to any system of employee participation.

Before exploring the dynamics of strikes and the criteria for well-functioning PICCs, it is important to first explore more deeply current employment relations practices and the economic context in which they operate. This paper then examines the nature of workers' grievances, how they organize their strikes and the outcomes. Finally, it looks to the question of Better Work Performance Improvement Consultative Committees (PICCs) in Vietnam, how they function and their impact. The final section of this report provides some tentative conclusions and recommendations regarding the needed *elect, represent, protect and empower* framework.

2. Market Liberalization and Apparel Export Growth

Vietnam's current economic system has its roots in the shift toward market-oriented reforms that took place in 1986 with the Communist Party Congress's adoption of *doi moi*, or economic renovation (Collins 2009). In the aftermath, the economy grew at a rapid pace, reaching almost a 10% growth rate in the late 1990s. In 2000, then U.S.

President Bill Clinton restored full diplomatic relations with Vietnam, and in 2001 the US-Vietnam Bilateral Trade Agreement went into effect. Following the agreement, trade in goods and services as a share of GDP went from 55% in 2000 to 87% in 2011.

The largest export growth sector in the economy has been apparel. In 2014, the textile and apparel sector employed 2.5 million Vietnamese (Better Work 2014). Apparel production in Vietnam remained mostly in the low-end, cut-make-trim segment for a long period of time (Gereffi and Frederick 2010; Nadvi and Thorburn 2004), and only recently began upgrading to full-package production in which factories not only cut fabric and sew garments, but also produce or source the fabric and other production inputs.

China continues to dominate global apparel trade. Yet, as wages rise in China, apparel exports from China have started to slow over the last five years while Vietnam's exports continue to soar. Indeed, measured in terms of volume of exports, by 2009, Vietnam surpassed Bangladesh, Indonesia and all Latin American exporters as the second largest apparel exporter to the United States. Mexico, once the largest apparel exporter to the United States, has been in decline over the last 15 years, and exports from Bangladesh are starting to stagnate (see Figure 1).

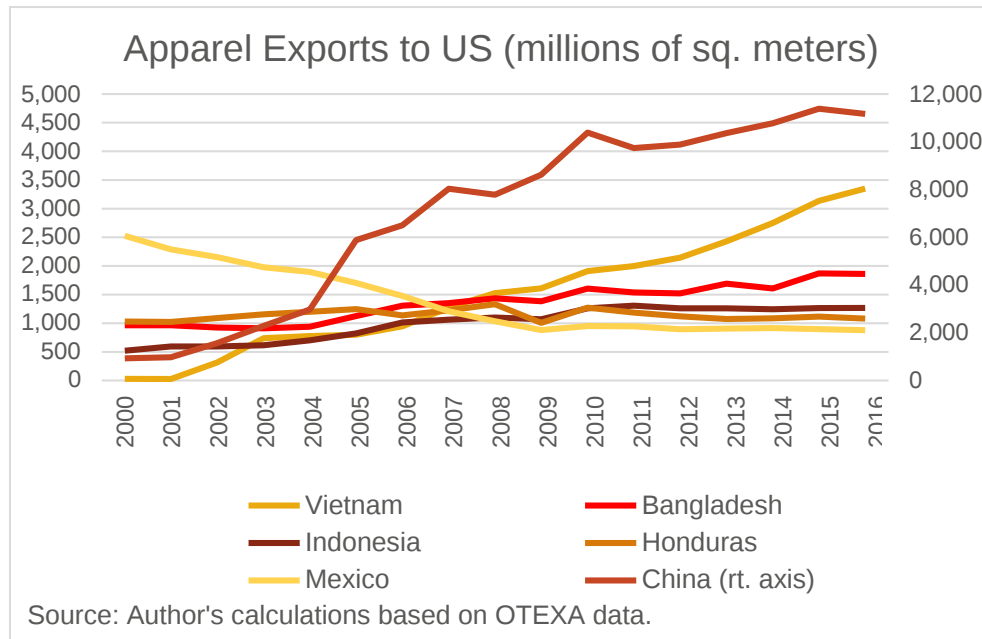


Figure 1: Apparel Exports to US (millions of sq. meters)

Looking at apparel exports to the world market, Vietnam remains not only a top exporter, but also the fastest growing exporter. Putting aside apparel exports from developed market economies such as the United States, Germany and Italy (the value of which include many imports and re-exports), the top five apparel exporters in the world in 2015 measured by value were China/Hong Kong, Bangladesh, Vietnam, India and Turkey. Vietnam is the third largest apparel exporter to the world. From 2010 to 2015, Vietnam had the fastest growth rate in the apparel export sector of the top exporters. The value of its apparel exports grew during this period by 126%. The growth rate for Bangladesh was 79% and in China it was 34% (see Figure 2).

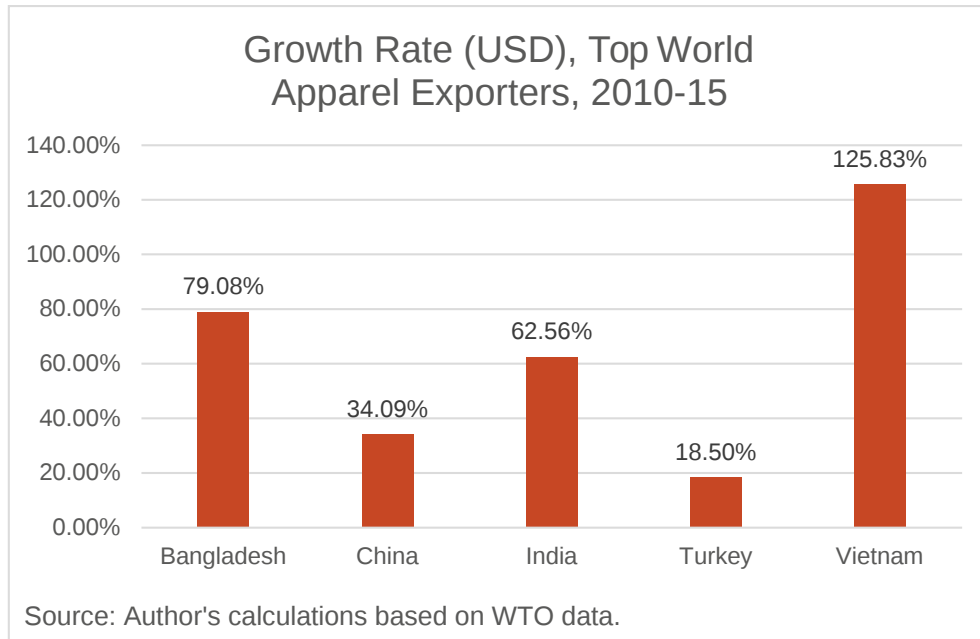


Figure 2: Five Year Growth Rate, Top World Exporters (2009-2014)

Yet, despite this remarkable growth rate, the hyper-competitiveness of the global apparel industry presents some challenges in Vietnam, not the least of which is the continuous pressure to keep production costs low. Comparing the cost structure to produce a pair of men's cotton jeans in Bangladesh to Vietnam, even though Vietnam was more competitive than Bangladesh in most components, the labour cost per garment was 9 cents higher in Vietnam (see Figure 3). As a result, the total production cost of the jeans was 3 cents higher in Vietnam than in Bangladesh. In an industry that makes money on large production volumes, a few cents could make a difference as to whether a firm gets or does not get a production contract. Thus, the pressure to keep costs low, notably labour costs, remains formidable.

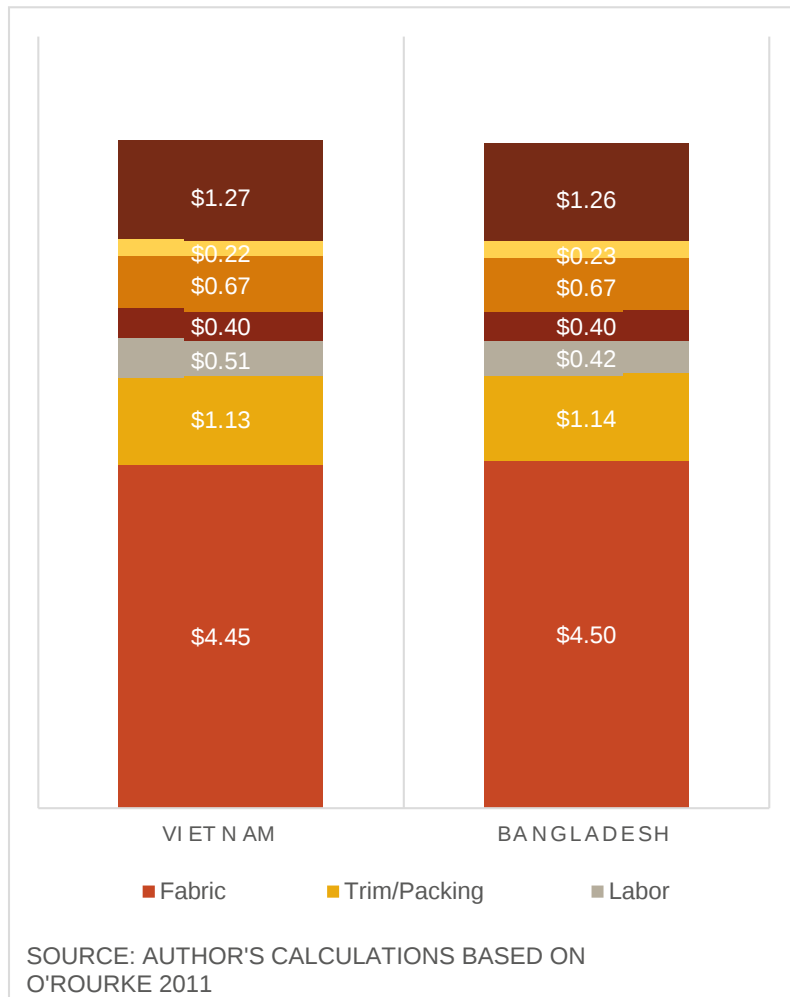


Figure 3: Production Cost of Men's Cotton Jeans

According to one study, the prevailing straight-time wage in the Vietnamese garment sector was US\$112.78/month in 2011 (WRC 2013).⁴ This salary covered 29% of workers' estimated living needs that year (WRC 2013). Thus, workers are not receiving salaries that cover their costs of living. Yet raising wages is an issue because Vietnam is competing with neighboring countries such as Bangladesh that pay much lower salaries (US\$68/month in 2016). New players, such as Myanmar and Ethiopia, are also entering the apparel export sector every year with potentially lower cost structures.

⁴ Pay before tax deductions and excluding extra for overtime work.

The pressure from workers to receive a living wage and the pressure of employers to compete in a hyper-competitive sector forms the crux of employment relations tensions in the sector. Better Work published its first Compliance Report on Vietnam in August 2010. It provides a window into conditions in the Vietnamese garment sector. While most firms performed well in areas such as child and forced labor, and gender equality, there were significant violations in the areas of freedom of association, occupational safety and health, and working hours. For example, in 97% of the cases, employers tried to interfere with, manipulate or control unions. This was often because the trade union representative was also the human resource manager. In 78% of the cases, chemicals and hazardous substances were not properly stored. And in 97% of the cases, factories violated the limits on overtime hours worked (Better Work Vietnam 2010). These challenging workplace conditions are situated in a country with a particular system of employment relations that was developed during a socialist era, as we will see next.

3. Employment Relations in Vietnam

Vietnam is a socialist, one-party state ruled by the Vietnamese Communist Party. The law allows for only one national labour center, the Vietnamese General Confederation of Labour (VGCL), to which the Communist Party appoints national leaders. Vietnam is a member of the International Labour Organization, yet it has not ratified ILO Conventions 87 and 98 on freedom of association.⁵ Unlike in China, trade unions in Vietnam are allowed to organize strikes (Nicholson 2002), although strikes are not allowed in

⁵ Under terms negotiated for the now defunct Transpacific Partnership, Vietnam had committed to ratifying both Conventions.

strategic industries (notably, state-owned public utilities). The law requires all trade unions to join the Communist Party controlled confederation, VGCL. Workers are allowed, in theory, to elect their own enterprise-level leaders, but in practice the election process is often heavily influenced by management, and it is not uncommon for human resource managers to be elected as the president of enterprise unions (Do 2008). This practice is a violation of trade union independence as defined by ILO Convention 98, which indicates that employers should not interfere with the functioning and activities of trade unions.

While the right for trade unions to strike is permitted, unions do not exercise this right for two reasons. First, the bureaucratic process to achieve legal permission to strike is onerous.⁶ Second, and more importantly, striking goes against the philosophy and ideological orientation of the trade unions and the Communist Party to which they are affiliated. Their explicit goal is to promote harmonious relations and defend the Vietnamese system by increasing production and ensuring stable economic growth (Anner and Liu 2016).

The Vietnamese system is notable for the extent to which industrial relations dynamics take place outside the formal institutional context. For example, while the Vietnamese law provides for conciliation and arbitration, there has only been, on average, one case

⁶ Notably, “the law permits strikes under certain prescribed circumstances and stipulates an extensive and cumbersome process of mediation and arbitration before a lawful strike may occur.” See: *Vietnam: Country Reports on Human Rights Practices for 2015*, United States Department of State, Bureau of Democracy, Human Rights and Labor, p. 49. The International Trade Union Confederation adds, “The voting thresholds for calling a strike are prohibitively high, and all strikes must relate to collective labour disputes or concern industrial relations. Furthermore, strikes that involve more than one enterprise are illegal, as are strikes called in public services or state-owned enterprises.” ITUC Survey of Violations of Trade Union Rights, 2009.

a year that proceeds through this system (Clarke, Lee, and Do 2007). At the same time, while the legal systems specifies when and how strikes are to take place, of the 978 recorded strikes between 1995 and 2005, not one took place according to these regulations (Clarke, Lee, and Do 2007).

Vietnam follows common patterns for trade unionism in socialist, one-party states. In their classic study on communist trade unions, Pravda and Ruble observed that such unions adhere to various forms of a Leninist model of “dual functioning” organizations in which, on the one hand, unions are subordinate to the party and must work to defend the socialist system by encouraging labour productivity – the “productivity” function – and on the other hand unions should protect workers against any potentially harsh treatment by management, the labour “protection” function (Pravda and Ruble 1986). In many socialist countries the productivity function has been emphasized over the protection function. At the same time, control of unions shifted from the state to the party. In such cases, which include Vietnam, it is permissible to criticize and lobby the state but not the party. Vietnamese unions have, for example, demanded the state provide better minimum wages and punished employers who abuse workers (Human Rights Watch 2009; Kerkvliet 2001; Tran 2007).

This system of party control and desire for harmonious employment relations is established in the Vietnamese Labour Law and Trade Union Law. Revised versions of each went into effect in 2013. Control by the Communist Party is established in the first article of the Trade Union Law, which states: “Trade unions are [...] an integral part of the political system of the Vietnamese society under the leadership of the Communist Party of Vietnam.” References to “harmonious” employment relations are made

throughout both laws. For example, Article 4.6 of the revised labour law states that the purpose of the labour law is “to develop harmonious, stable and advanced labour relations.” In Vietnam, strikes must be organized and/or approved by the official unions. The revised labour law also removed the right to strike over “rights,” which are understood as violations of the law. Unions can strike over “interests,” a desire to achieve demands that go above and beyond the law.

In 2009, the VGCL adopted statutes to prohibit management staff that serve on the company’s board of directors to stand for office in enterprise-level trade union elections.⁷ This was an important step and a sign that the VGCL is looking to make changes that would lessen managerial control over enterprise unions. However, these statutes have no legal weight and the practice of “electing” management representatives as trade union leaders at the enterprise level often continues (author’s interviews, Ho Chi Minh City, March-April 2014).

There are labour law enforcement limitations. According to Vietnamese law, every enterprise should be inspected a maximum of once per year. If there is any sign of a violation of the law, authorities can carry out ad hoc inspections. In 2007, the Ministry of Labour nationally had 350 inspectors to check approximately 100,000 enterprises (Clarke, Lee, and Do 2007: 500). In 2014, Ho Chi Minh City had 50 inspectors for 100,000 enterprises.⁸ If these inspectors visited one factory every day of the year, including weekends and holidays, they would only be able to inspect around 18% of the enterprises a year. In sum, there are many challenges facing employment

⁷ The existence of these statutes was confirmed by the author through interviews with trade unionists in 2011 and in 2014. A copy of the original document in Vietnamese sits with the author. It is dated May 6, 2009.

⁸ Author’s interviews, Ho Chi Minh City, March 2014.

relations in Vietnam. It is in the context of weak employment relations institutions, party-controlled “harmonious” unions and rapid market-oriented reforms that Vietnam has experienced its current strike wave.

4. Strikes in Vietnam

Vietnam witnessed the largest strike wave in its contemporary history beginning in 2005, and it reached a peak in 2011. Between 2010 and 2012, 17% of foreign owned enterprises experienced at least one strike in the previous three years. In industrial parks, which are dominated by apparel export plants, this strike rate was 20% (Anner and Liu 2016). Prior to the unrest, passive labour unions had made Vietnam an attractive, stable sourcing location and an alternative to countries with considerable labour problems. Yet, by 2011, observers were starting to wonder whether Vietnam’s strike wave had become so significant that it would begin to curtail foreign investment. Much of the literature on strikes suggests that they are tied to macroeconomic dynamics, such as GDP growth rate, inflation and unemployment trends (Katz and Kochan 1992). This would certainly help to explain strikes in Vietnam. The inflation rate, for example, is strongly correlated with strikes. Notably, when the inflation rate was below 10% in the 1990s and early 2000’s, there were fewer than 100 recorded strikes per year. However, as the inflation rate rose to highs of 23% in 2008 and 19% in 2011, strikes reached record levels (see Figure 4).

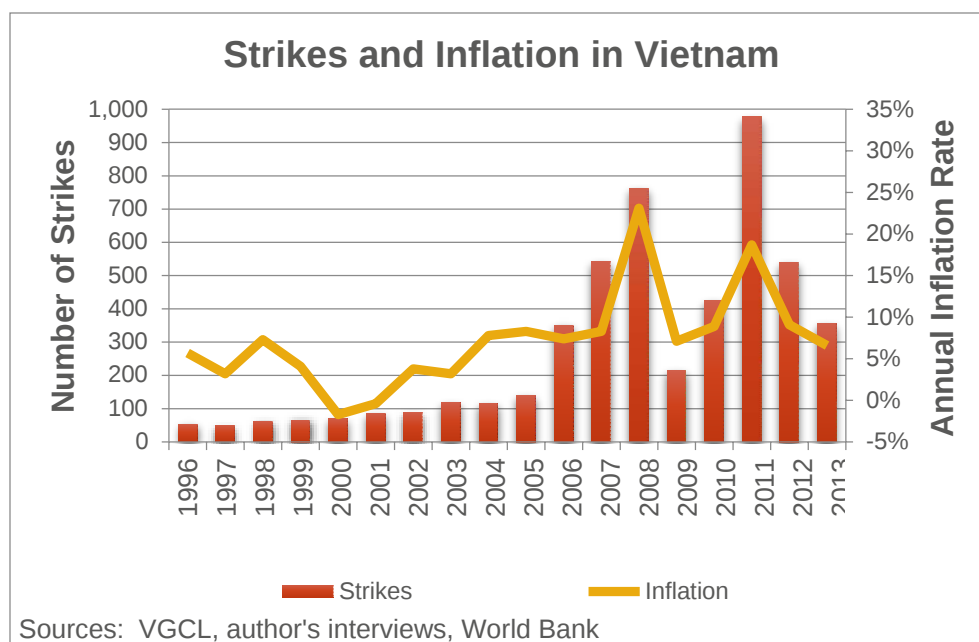


Figure 4: Strikes and Inflation Rate in Vietnam

In the political realm, an institutional access model also sheds light on strike dynamics. In this approach, strikes are a response to shifts in degrees of political openness or closure in society (Tarrow 1989). In highly repressive societies, such as North Korea, the model would suggest that strikes would be highly unlikely because the fear of repression is severe. In contrast, in highly open societies where the state fully supports freedom of association and collective bargaining rights, workers are able to address their concerns with employers; strikes are also less likely because they are less necessary. Nordic countries during their economic boom years would provide examples of open society/low strike rate dynamics.

Most countries fall somewhere in between these two extremes. Workers do not typically experience total repression, nor do they experience complete political openness. In other words, all else equal, strike trends might be expected to follow an inverted U curve, as seen in figure 5. This model helps to explain changes in strike dynamics over time within a country: as a country becomes relatively more open,

strikes may become more common. Thus, an increase in strikes in the left portion of the graph (represented by the green arrow) may be a sign of increasing regime tolerance and thus of decreasing worker fear of repression. This may be where Vietnam finds itself today (see Figure 5).

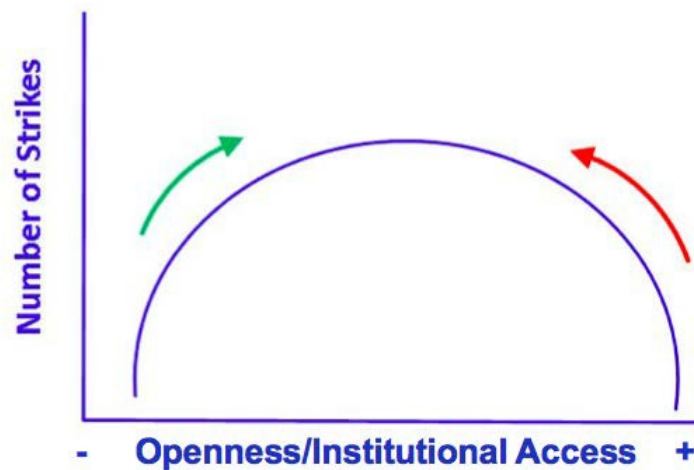


Figure 5: Strikes and Political Openness/Institutional Access

Yet, there is still much we do not know about strikes, particularly strike dynamics across firms during the same period of time. Why, in the same year (when all factories are facing the same inflation rate), do some factories go on strike while others do not? Here the literature on strikes in Vietnam provides many plausible arguments. For example, forms (varieties) of capitalism (Hall and Soskice 2001) might explain variation in strike dynamics, with factories from countries with more authoritarian management styles more likely to face strikes than factories elsewhere (Chan and Norlund 1998). Other scholars emphasize the role of gender, arguing that female gender identities provide a “binding force” that unites women in times of struggle (Tran 2013). Still others

look at migrant worker status, arguing, “Vietnamese migrant workers have taken center-stage as self-motivated actors taking collective strikes” (Chan 2011: 5). Finally, firm size and age may also influence strike behavior. In large firms, it may be more likely for workers to develop a stronger worker identity that facilitates collective action. In younger firms, management may be less experienced in handling worker grievances and thus more prone to strikes. Many of these studies either look at dynamics in the larger economy, or rely on a limited number of case studies to draw conclusions. Thus, a close examination of data provided by Better Work allows us to probe these arguments more deeply. Better Work conducts periodic assessments of factories in the garment sector in which, over a two-day period, a team of Better Work assessors interview managers and workers. When there has been a strike, the assessors ask workers open-ended questions on why they went on strike and how the strike was resolved. Better Work also collects data on firm characteristics, including firm ownership, share of the workforce that is female and firm size. It also records the year in which the firm began operations in Vietnam, which allows us to calculate factory age. Coding the assessment reports revealed that there was a total of 97 strikes in 70 factories from 2010 to 2013. Some 148 factories did not experience strikes. What do the Better Work Vietnam (BWV) data indicate about characteristics of firms that did and did not have strikes? First, we do see variation by firm ownership.⁹ South Korean-owned firms had the highest strike rates, with half of all Korean owned firms experiencing at least one strike in the 2010-2013 period (see Figure 6).

⁹ This may seem to contradict Ross William Jones (2013) finding that there was *not* a strong relationship between firm ownership and variation in labour standards compliance. But, as we will see ahead, strike dynamics are most often not tied to non-compliance dynamics.

It is notable that South Korean-owned firms also had the highest repeat strike rates, with 38% of firms with strikes experiencing at least one additional strike. The data thus suggests that firm ownership matters. Some literature suggests that Asian cultural traditions of social order and respect for authority can be conducive of hierarchical management styles that cause labour unrest (Van Gramberg, Teicher, and Nguyen 2013). However, other factors could also play a role, for example, whether a firm uses a piece-rate system or a fixed pay system. Such questions are beyond the scope of this report, but are very worthy topics for future research.

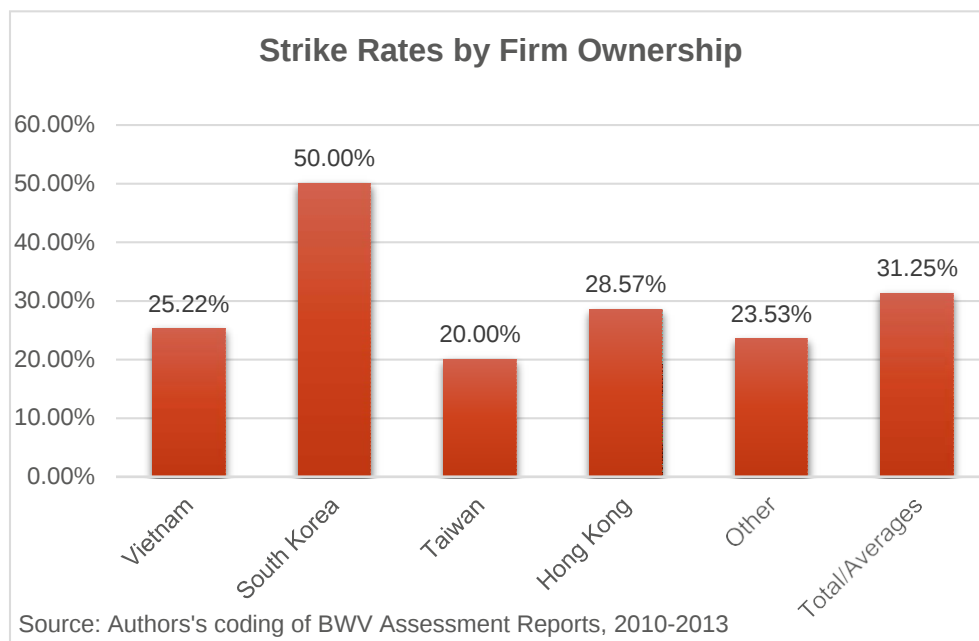


Figure 6: Strikes Rates by Firm Ownership

Examining the gender makeup of factories that did/did not experience strikes, there are very small differences. In factories where strikes occurred, 75.2% of the workforce was female, whereas in factories that did not experience strikes 74.6% of the workers were female.

The difference is therefore too small to confirm the argument that female gender identities contribute to a higher strike rate.

Better Work does not record internal migrant status of workers in its dataset (something it might consider doing in the future). As result, it was not possible to test the impact of migrant workers on strikes using Better Work data. However, it was possible to explore the argument about migrant workers through interviews with Enterprise Advisors. One advisor noted, “Workers from the same region will protect each other in the workplace. If a migrant worker is being harassed by a supervisor, co-workers from that workers’ region will quickly jump in to protect the worker” (author’s interview, Ho Chi Minh City, March-April 2014). This strong sense of affinity based on place of origin, combined with a sense of grievances, may – as suggested by Tran – increase their likelihood to strike (Tran 2013).

However, the question of migrant worker vulnerability as a factor that may reduce strike likelihood also emerged through the interviews. One Enterprise Advisor noted that some employers, “like to hire migrant workers rather than local workers because they have travelled long distances, and they don’t want to make trouble. They just want a job,” (author’s interview, Ho Chi Minh City, March-April 2014). This scenario presents the image of a more submissive worker. In the end, it is most likely that there are cases of assertive and submissive migrant workers, and further research would be needed to indicate which tendency is more prevalent.

The dataset did allow for testing the argument that the factory age influenced strike dynamics. What the data show is that younger factories appear more likely to experience strikes than older factories. The average age of factories that experienced a strike was 8.3 years versus a factory age of 9.6 years for factories that did not

experience strikes. This seems to indicate that more experienced managers are better able to address worker issues before they result in strikes. The data also suggests that the size of the workforce appeared to influence strike dynamics. The average number of workers in factories that had strikes was 1,866. The average number of workers in factories that did not have strikes was 972. This may be because in larger factories workers develop a stronger worker identity that facilitates collective action in the form of strikes. Coding the open-ended questions in the Better Work Assessment Reports indicates what workers were striking about. A desire for wage increases were found in 58 cases (41% of the workers' demands), bonuses and allowances in 19 cases (13%), food quality in 19 cases (13%), and conflicts with supervisors in 9 cases (6%). A particularly important discussion in Vietnam is the issue of strikes over 'rights' (issues that entail violations of the law) versus 'interests' (workers' demands that go above and beyond the law). Only 4% of strike issues were about rights. Vietnamese workers in recent years are overwhelmingly striking to achieve something that goes above and beyond the law (see Figure 7.)

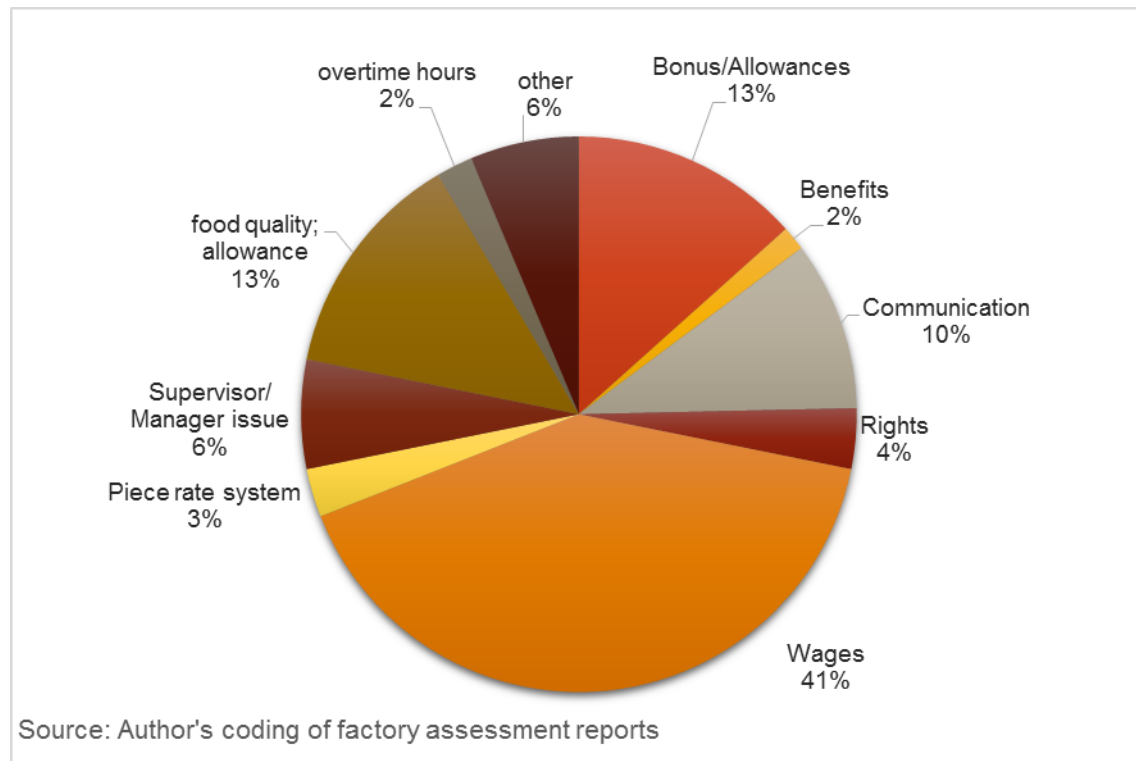


Figure 7: Strikes in Vietnam: Causes

The dataset also allows us to code the outcome of these strikes. This coding indicates that in 95% of the cases, workers won something during their strikes. Some 32% of outcomes included improved wages, 21% entailed better benefits or allowances, 13% resulted in better quality food or an increased food allowance, and 6% addressed the issue of abusive supervisors (see Figure 8).

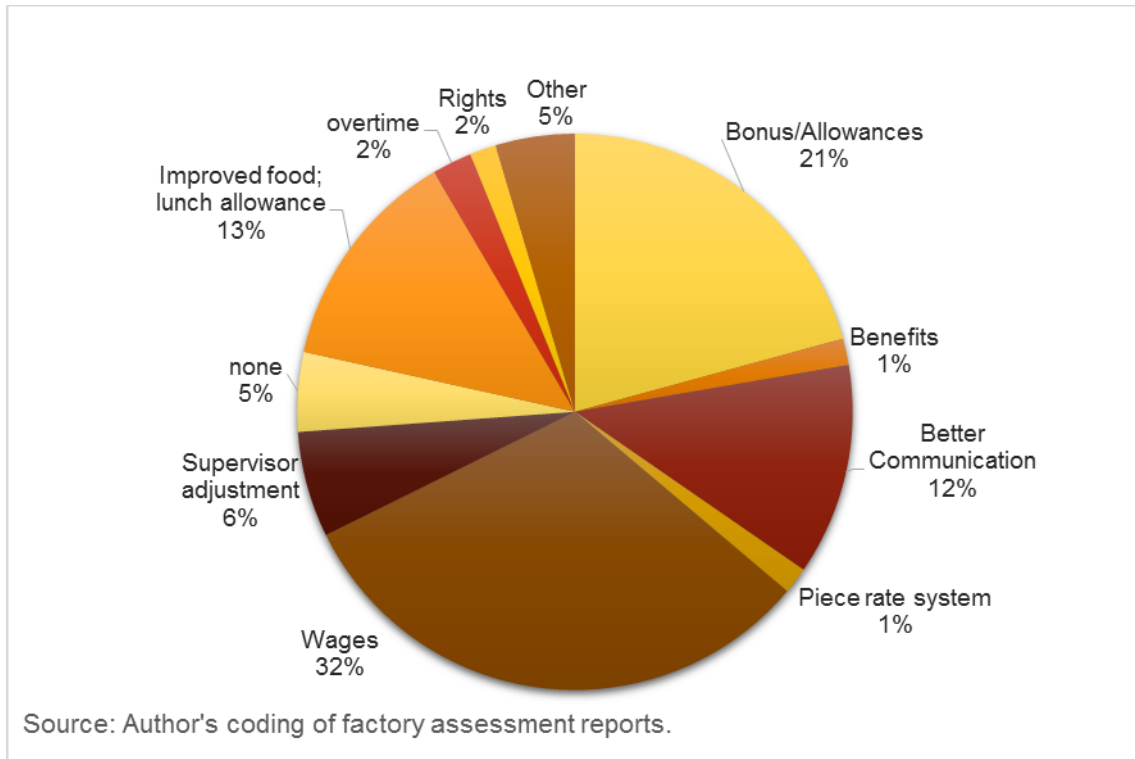


Figure 8: Strikes in Vietnam: Outcomes

It is noticeable from these findings that workers achieved almost exactly what they were demanding in several categories. For example, 13% of strike demands were over food related issues and 13% of outcomes addressed food related issues. However, while 41% of strikes included wage demands and 13% of strikes included demands for better benefits and allowances, workers won wage-related outcomes in 32% of strikes and benefits/allowances outcomes in 21% of strikes. What this indicates is that, when possible, employers responded to wage demands by providing increased bonuses. This is a common employer response in many parts of the world because wage increases often result in a series of additional corresponding increases to other compensation expenses (pensions, social security, overtime, etc.), whereas an extra bonus does not.

In some ways, one might conclude that Vietnamese workers have found that strikes are an adequate mechanism for addressing their concerns, given the limitations of the Vietnamese system of employment relations. Since plant-level (grassroots) enterprise trade unions do not adequately represent and bargain on behalf of workers, workers take matters into their own hands and strike. These strikes are tolerated by the party so long as they do not entail coordinated collective action across firms or question the political legitimacy of the regime. The strikes are relatively short, three days in length, on average.

What, then, is the downside of strikes in Vietnam from a worker perspective? One issue is that problems reoccur, which puts stress on the workers who have to take risks of losing pay and possibly employment each time they strike. Strikes do not result in sustainable solutions because often no mechanism is left in their wake to address issues before they result in future labour unrest. Once inflation erodes a wage gain, for example, workers feel they need to strike again in order to recuperate their purchasing power. A process that requires workers to strike to address any concern – big and small – is not viable in the long term for the workers or the enterprises.

Short lead times in the apparel industry contributes to worker bargaining leverage at the same time that it is a cause for short strikes. This is because employers are under considerable pressure to get production orders off to their buyers. One industry expert noted that often employers want to let the strike go longer in order to hold out and not give in to the workers' demands. But the buyers do not want to pursue a waiting out strategy. They want the orders delivered on time (author's interview, Ho Chi Minh City, 2014).

The challenge in Vietnam is to establish forms of workplace dialogue that will fill this void. Better Work has pursued such an endeavour when it required all its factories to have Performance Improvement Consultative Committees (PICCs). Vietnam has added a “dialogue in the workplace” chapter in its revised labour law. According to the new law, all enterprises must meet with elected worker and trade union representatives at least once every three months to discuss working conditions and “other issues of concern” (Vietnamese Labour Code, Chapter V).

The question remains whether these new industrial relations institutions have the capacity to adequately address workers’ demands before they result in strikes. The “workplace dialogue” law is only beginning to be implemented, whereas the Better Work PICCs have been functioning in Vietnam since 2009. PICCs, therefore, can provide a useful platform to assess the impact of improved workplace communications on strike prevention.

5. Better Work and PICC Worker-Management Committees

Performance Improvement Consultative Committees (PICCs) are a required component of all Better Work country programs. Through PICCs, worker representatives, factory level union leaders and management officials meet on a regular basis to discuss non-compliance issues detected through the Better Work factory assessment process, as well as “other issues of concern” that either party would like to address. As such, they provide a mechanism for workers to voice concerns that, from 2009 until May 2013 (when the revised labour law went in effect), went beyond what Vietnamese law required.

PICC membership size is determined by factory employment numbers. Factories with less than 800 workers will have eight PICC members. Factories with 800 workers up to 999 workers will have 10 PICC members. PICC size further increases as factory size increases, reaching a maximum of 16 members in factories with over 2000 workers.

PICC members are equally divided between management and labour. Hence, a PICC with eight members will have four management representatives and four labour representatives. Some of these labour representatives may be from the executive committee of the union, and some may be workers elected by the workforce. One important result of this selection process is that often union executive committee members are also members of management. As a result, the “labour” representatives on the PICC might include middle and even senior members of management.

The question becomes whether PICCs, by providing workers a voice they otherwise lack, reduce the likelihood or need for strikes. The assumption is that issues of concern to workers can be addressed through PICCs before they cause significant worker discontent and result in strikes. However, the findings on strike causes outlined above provide one limitation to this assumption. Most strikes are about interests: concerns that go above and beyond the law. This was the case in 96% of the strike demands in Better Work factories. Yet, the focus of PICCs is on rights: violations of Vietnamese labour law and/or ILO Conventions.

The logic of focusing on rights and not interests recognizes that to institutionalize the discussion of issues such as wages and benefits through the PICCs would be to engage with what should be a core issue of collective bargaining, not worker-management committees. The limitations of collective bargaining are well

established in the literature on labour in Vietnam (Clarke, Lee, and Do 2007). However, if the goal is to work toward more effective trade unionism and collective bargaining, these institutions need to be reinforced, not undermined through alternative mechanisms. Hence, PICCs rightly stay clear of negotiations over terms of employment that go beyond the law.

How then can PICCs be expected to reduce strike likelihood if their core focus is on issues that do not cause strikes? Better Work believes that good PICCs create an atmosphere of dialogue that spills over to other areas (Better Work 2013). That is, as workers and managers learn to address non-compliance issues through PICCs, they develop tools for conflict resolution that assist them when addressing interest-based concerns. The assumption is that PICCs have a spillover effect in that they contribute to mechanisms and a culture of participation. The question to be explored, then, is whether PICCs have such an indirect impact on strike likelihood. This model of potential indirect impact is depicted below (see Figure 9.)

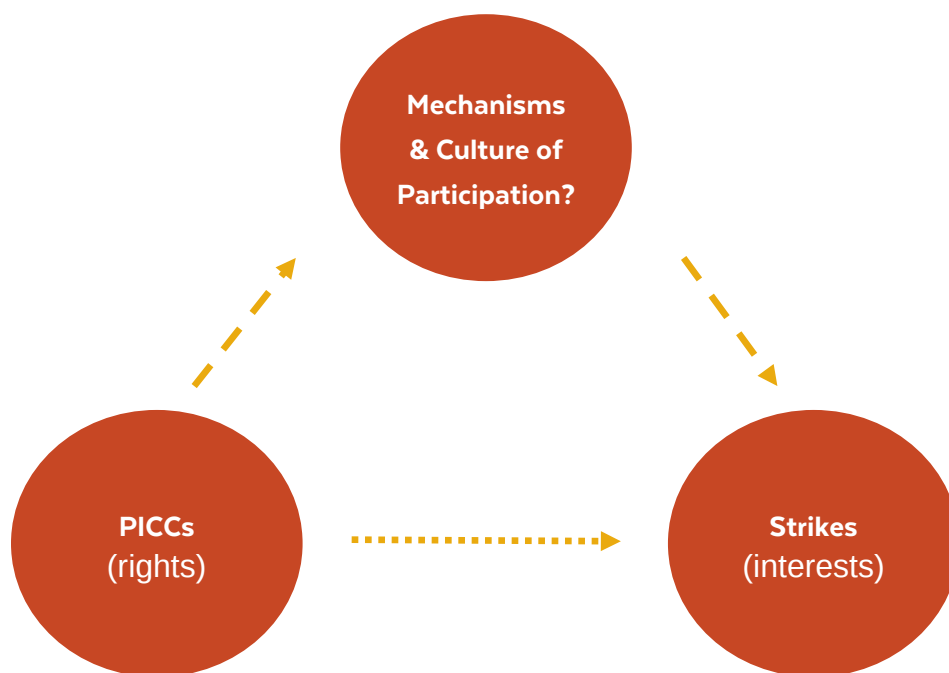


Figure 9: Model of Potential Indirect Impact of PICCs on Strikes

Since all factories participating in the Better Work program are required to have PICCs, testing the impact of PICCs on strike likelihood is not simply a matter of comparing the strike rate of factories with PICCs versus the strike rate of factories without PICCs. However, there is variation in how PICCs function. Some PICCs are older than other PICCs and thus are more established and experienced. Some PICCs elect their representatives, and some do not. Some PICCs enjoy strong management support and others do not. And, in some PICCs, workers have a perception of protection and thus feel free to speak up to management. The question is thus whether these favorable PICCs characteristics are associated with fewer strikes relative to factories with PICCs that do not have favorable characteristics. To answer this question, this paper analysed Better Work factory assessment and progress reports, and examined findings from an original survey of Better Work advisors conducted in April 2014.

Strike Dynamics According to Program Cycles

To examine the impact of PICCs age/experience on strike dynamics, we can compare factories by cycles within the Better Work system. Factories in Vietnam, depending on how long they have been active members of the program, can be grouped into cycles One, Two, Three or Four. One assumption we might make is that the more time a factory is in the Better Work program, the more experienced the PICC members will be at addressing issues. Thus, factories in Cycle Four should have lower strike rate than factories in Cycle One.

What the data indicate is that there is indeed a reduction in strike rates from approximately 26% during Cycles One and Two to 20% in Cycle Three and 13% in Cycle Four (see Figure 10). This is a promising indication as it suggests that strike rates may go down as PICCs gain experience. However, there are two limitations to this finding. First, we only have 16 cases of factories in Cycle Four, so this is a small sample from which to draw firm conclusions. Second, and perhaps more importantly, the overall strike rate in Vietnam has declined since 2011, and there is thus a likelihood that strike rate declines in Cycles Three and Four are influenced by a general strike decline in the country, largely as a result of lower inflation rates. Therefore, there is a need for deeper analysis to get a better sense of the impact of PICCs on strikes by developing a more nuanced indicator of PICCs quality than PICC age and cycles.

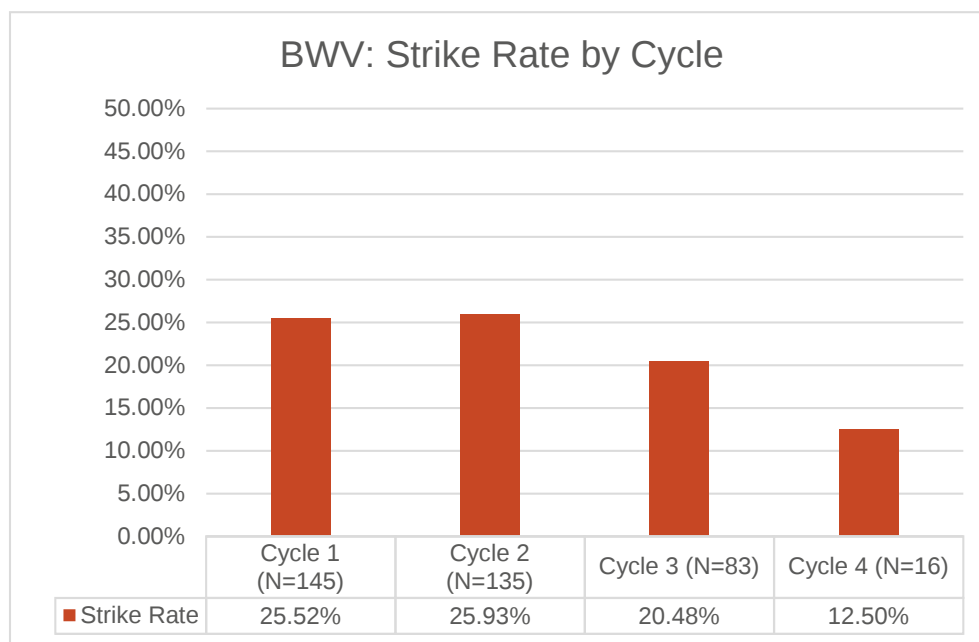


Figure 10: Strike Rates by Better Work Program Cycles

PICCs and Strikes: Progress Report Findings

Better Work Enterprise Advisors (EAs) conduct periodic factory progress reports that provide detailed information on PICCs. These reports allow us to ascertain with significant detail the quality of the PICCs. They explore levels of worker and management participation, examine the quality of communication, review PICC members' skill levels, explore resource allocation to address issues and assess committees' abilities to address noncompliance issues.

A limitation of early progress reports was that they were based on a series of open-ended questions. They thus provided information on what PICCs are doing well and where and how they needed to focus their attention in the future, but this did not allow for an easy coding of PICC progress. By 2013, progress reports added a series of yes/no questions and scale questions (1-3 or 1-4) on what PICCs did and did not do well. These questions allow findings to be summarized and to establish frequencies for responses for a range of PICC indicators for 138 factories.

What the results show is that there is significant variation in PICC quality and there is certainly room for improvement in most PICCs. For example, some 23% of PICCs are classified as having "excellent" overall progress in addressing non-compliance issues, indicating that 78% of PICCs had room for improvement. Indeed, approximately 27% of PICCs had over 25 pending non-compliance issues that needed to be addressed. And in 59% of the cases, PICCs were not able to function without the presence of a Better Work Enterprise Advisor. On the other hand, in 93% of the cases members regularly attended meetings, and in 70% of the cases, management attitude toward PICCs was considered adequate. In some 59% of cases, EAs found that PICC members were well

prepared to carry out PICC tasks, and in 43% of the cases, union-management collaboration was considered acceptable.

A few areas stand out that are of notable concern. For example, in only 32% of cases is management classified as providing adequate resources to address issues detected in factory assessments. It is also notable that in over 20% of the cases management does not provide workers with pay in order to attend meetings. This may create lower incentives for worker representatives to take an active role or feel their work is valued. As well, in 51% of the cases, workers are not informed of the PICC improvement plan. (For full progress report findings, see Appendix 1.)

Comparing indicators of PICC performance in factories with and without strikes, an important trend emerges. In most categories, factories that had strikes appear to have better functioning PICCs than factories that did not have strikes. For example, the coding indicates that management support for PICCs appears stronger in factories with prior strikes relative to factories without prior strikes. Similarly, in factories that had experienced strikes, PICC recommendations were more quickly implemented, PICC members were better prepared and worked better together, PICC guidelines were more likely to be posted, and there were few non-compliance issues pending.

At first blush, these findings appear counterintuitive. Why would factories with better functioning PICCs have more strikes? The answer to this puzzle requires a look at sequencing dynamics. The progress reports used in this paper were from the 2012-2013 period. They were thus written after most strikes took place during the strike wave

of 2011. That is, in most cases, strikes happened in 2011 and then, one to two years later, Better Work evaluated the quality of PICCs. When taking into consideration this sequencing, what these findings suggest is that strikes may have pushed PICCs to work more effectively.

In some cases, factories did experience strikes *after* the progress reports were written.

These cases provide some limited indication as to which factories were more likely to experience strikes based on PICC quality. Where these strike factories stand out is in two areas: factories that were more likely to experience a strike after being assessed were much more likely to have needed more management resources to address non-compliance issues and had a much higher rate of pending non-compliance issues.

Indeed, 50% of striking factories have over 25 pending non-compliance issues, whereas only 39% of factories that did not experience a strike had over 25 pending non-compliance issues (see Appendix 2).

In sum, the evaluation of Vietnam Progress Reports for the 2012-2013 period reveal three important findings:

1. While many PICCs are functioning well, the majority of PICCs have deficiencies. There is thus more work that needs to be done to improve PICC quality.
2. Factories that had strikes in earlier cycles (mostly in the 2010-2011 period) were more likely to have better functioning PICCs in the 2012-2013 period. This suggests that strikes may have pushed PICC members, particularly management, to work harder to improve PICC functioning.

3. Factories that did have strikes after being assessed did appear to have as many deficiencies in the functioning of their PICCs.

However, there were a limited number of factories in this last group of factories that had strikes (18), and there were many mixed findings that are hard to explain. For example, management appeared more supportive of PICCs in cases where there were subsequently strikes than in cases where there were no strikes. And workers where there were strikes were ranked as having more PICC skills than workers in factories where there were no strikes.

PICCs and Strikes: Survey Evidence

To better ascertain the potential impact of PICCs on strike dynamics Enterprise Advisors from Vietnam were surveyed in April 2014 on questions relating to the perceived quality of their PICCs over the past year (May 2013-April 2014) and whether these factories had experienced strikes during this period. The survey included a range of questions, such as whether the worker representatives were elected, whether the workers and the unions had time to discuss non-compliance issues before and after the PICC meetings, whether workers spoke up at meetings, whether workers feared retaliation and whether management had a good attitude toward the PICC. The survey was given to each Better Work Enterprise Advisor, and they were instructed to answer each question for each factory for which they were responsible. This provided a dataset on 141 factories, which represented 69% of the factories in the Better Work program in 2014.

Results from the survey indicated that 37% of union leaders are from upper management and 59% are from middle management. In 30% of the cases, the union representative was meeting with the worker representatives before the PICC meeting in order to prepare for the discussions. Hence, in 70% of cases, worker representatives appear to have gone into the PICC meeting without time to discuss or prepare for the meeting with other worker representatives. The union has its own office space in 22% of the factories. Often, union leaders are situated in human resource management offices, which reflects the finding that most union representatives are from management.

Enterprise Advisors report that 89% of PICC worker representatives are elected and 63% of PICC worker representatives received training from Better Work on how to participate in PICC meetings. In the majority of factories, PICCs do not have sufficient capacity to meet without the presence of Better Work Vietnam advisors.

The survey also included several questions on a five-point scale. Enterprise Advisors were asked what was the attitude of upper management toward PICCs, from very poor (1) to extremely good (5). The average score on this scale was 3.27. Enterprise Advisors were also asked how often worker representatives speak up in PICC meetings, and if they believed these worker representatives felt protected from management retaliation should they say something management did not like. Here the average scores were 3.41 and 3.51 respectively. It was also reported that each factory, on average, resolved 15 non-compliance issues and had 11 non-compliance issues unresolved. Finally, the survey indicates that there were 23 strikes reported among the 141 factories covered by the survey, which suggests a significant strike rate.

The survey data give some indication of which factors are most likely to contribute to

strikes, especially repeat strikes. Management attitude, effective and protected worker participation, and the number of non-compliance issues pending all appear to influence strike likelihood. For example, while in 24% of the factories that did not report strikes, management attitudes towards PICCs was of little to no support, whereas, 42% of factories with repeat strikes experienced poor management support for PICCs.

Similarly, workers in factories with paid time off to prepare for PICC meetings and paid time off to communicate the results of PICCs meetings to workers were less likely to experience strikes. In 12% of factories without strikes did workers always participate (speak up) in PICC meetings, whereas full worker participation was only registered in 7% of repeat strike factories.

This suggests that active worker participation in PICC meetings may reduce strikes, but it is also noticeable that in the majority of all cases, workers did not actively participate in all PICC meetings. It is also noticeable that even in factories where there were no strikes, 19% of worker representatives did not feel safe participating in meetings because they feared management reprisals. This rate was significantly higher, at 53% in factories with repeat strikes. This is perhaps the strongest finding of the survey:

Where workers did not feel safe expressing their views in a PICC meeting, workers were much more likely to express their views through repeat strike action. What this seems to suggest is that, in these cases, workers feel safer expressing their discontent through strike actions – where a large group of workers act in unison – rather than in a small group speaking to management in a PICC meeting.

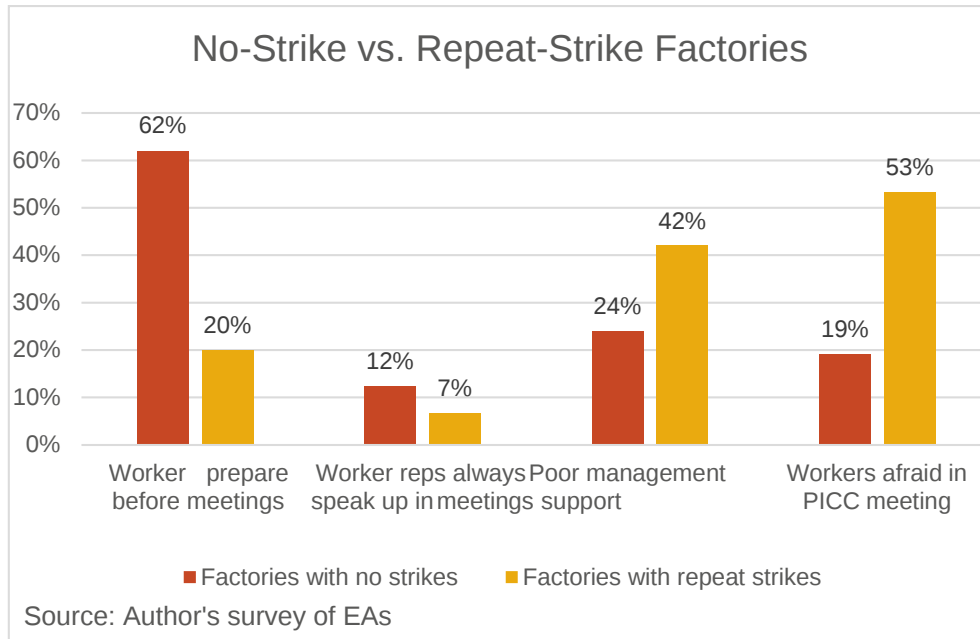


Figure 11: No-Strike vs. Repeat Strike Factories (EA Survey)

The survey results give us some indication of what PICC characteristics might reduce strike likelihood. These include:

1. Good management attitude;
2. Paid time to prepare for PICC meetings and report on results; and
3. PICC atmospheres where workers feel safe to participate and speak up frequently.

What then, is the share of PICCs that are doing well in these areas? In 11% of factories Enterprise Advisors rate management attitude as excellent. Some 36% were ranked as having a good attitude. What this means is that a slight majority of managers have a mediocre to poor attitude toward PICCs.

In terms of worker participation, in 11% of the factories Enterprise Advisors note that workers always participate (speak up) in PICC meetings. In 33% of the cases workers

participate in most but not all PICC meetings. In 56% of the cases, workers participate half of the time or less. In terms of feeling protected from management reprisals, in 19% of the factories workers felt safe to speak up all of the time. According to Better Work Enterprise Advisors, workers felt afraid that their participation could result in dismissal or other disciplinary action sometimes (34% of cases) or most of the time (47% of cases). This finding helps to explain why workers in most factories do not speak up most of the time in PICC meetings and indicates an area in need of attention. In sum, what these findings suggest is that certain PICC characteristics may be associated with lower strike rates, especially lower repeat strike rates. However, the majority of Better Work factories do not meet all the criteria for well-functioning PICCs, most importantly in the area of worker participation and protection. These shortcomings should be addressed in order to avoid the risk of greater worker unrest. A counterintuitive finding is the impact of electing workers to PICCs on strike dynamics. What the data show is that factories with strikes are more likely to elect worker representatives to PICCs (93-94% of the cases). And PICCs in which fewer worker representatives were elected were less likely to experience strikes. This curious finding on worker elections is explored in the section below, as is the importance of representation, protection and empowerment.

6. Recommendations: Elect, Represent, Protect and Empower

Elect

In the literature on employment relations, the elections of worker representatives to worker-management committees are considered a foundation of well-functioning

committees (Rogers and Streeck 1994). The election process ensures that workers have the ability to select the best person among their peers to represent their interests on such committees. As well, an elected worker representative has a greater sense of legitimacy, protection and strength knowing that she or he is serving on a committee with the backing of the majority of their peers. As a result, the requirement that worker representatives on PICCs should be elected is an important step in ensuring that worker-management committees function properly.

In 2012, Better Work Vietnam began requiring worker/trade union representatives on PICCs to be elected. The survey data indicates that the vast majority of worker representatives (89%) indeed are elected to serve on PICCs. Yet the survey data also shows that PICCs with elected worker representatives appeared more likely to experience strikes. Our assumption would have been the PICCs with elected representatives would have had more effective worker participation than PICCs with worker representatives designated by management, and would have been less likely to experience strikes. This counterintuitive finding motivated a closer look at the election process. This was done through lengthy interviews with Enterprise Advisors who have first-hand experience on how elections are run.

The interviews revealed that, in some cases, workers do not trust the election process. Indeed, sometimes there are no workers who volunteer or nominate someone as the candidate to be the worker representative. In these cases, management may suggest someone in order to fulfil their obligations to have elected PICC representatives.

Workers will then vote for the worker representatives, but, as one interviewee noted,

“once they vote for the PICC member, they don't care” (author's interview, Ho Chi Minh City, March-April 2014).

This attitude may exist because workers are voting as an obligation, not because they have a strong identification with or trust in the process. In such cases, the “elected” worker representative would not feel the strong backing of her or his co-workers and thus might not feel particularly empowered to speak up at meetings. Thus, the weakness in the election process may partly explain why having a greater share of PICCs with “elected” representatives does not appear to reduce strike likelihood. Moreover, interviews suggest that not only is management present during the election process, but it may be management who suggests workers to be nominated for the election.

Recommendation: Elections must be free from management interference of any form, including management presence during the election process and management suggestions for worker representatives. The election process must be secret and the selection process must involve active worker participation and trust in the process.

Represent

The proper election of workers is only the first step in a process. The elected workers must then be able to carry out their representation function. For workers, that representation should be expressed as a collective, where representatives meet as a group and present their concerns as a group (Freeman and Medoff 1984).

Individualized forms of representation are less effective because worker representatives are more vulnerable to management retaliation.

The survey results indicate that workers who are elected often do not have a lot of time to prepare for the worker-management committee meetings. Once they are in the meeting, some workers may feel reluctant to speak up, or may not speak up with

conviction, because they sense weak support from the workforce, feel less than fully prepared, and are concerned about management reprisals should they say something unfavorable. It is important to note that this preparation is not a simple matter of receiving Better Work training on the PICCs and how they function, although that is important. The preparation referred to here is about having the time to read, understand and discuss the assessment report with fellow workers prior to the start of the meeting. It is also about having time as workers to decide on which issues they would like to discuss at the meeting and what their positions on those issues would be.

A report back to the workforce by the collective of worker representatives following a meeting should be an important part in the process. If fellow workers do not see the impact that the worker representatives have during the PICC meetings, they will not see the merits of having worker representatives on the PICCs. They will thus once again not be fully enthusiastic about participating in future worker election processes and the cycle will repeat itself. The goal is thus transforming this process so that adequate preparation time contributes to active participation in PICC meetings, followed by effective report-back sessions and good election processes.

Recommendation: Worker representatives must be allotted time to meet as a collective to prepare for PICC meetings and worker representatives must be allotted time to report back to the workforce after PICC meetings. Worker representatives may also find it appropriate to conduct surveys of workers or pursue other forms of worker consultations so that they may best represent the workers' interests.

1.1. Protect

Employment relations literature indicates that effectiveness of worker voice mechanisms is closely tied to protection from retaliation. David Weil's seminal study on enforcement

puts protection from reprisals as a top requirement for a well-functioning system of labour standards enforcement. He writes, “the largest costs facing workers arise from potential employer reprisals. Reprisals may be subtle, such as losing desired shifts or work assignments; more substantial, such as being [passed] over for a promotion; or very high in the case of losing one’s job” (Weil 2014: 246). Hence, any well-functioning worker-management committee presupposes mechanisms that ensure worker protection from employer retaliation for speaking out about non-compliance concerns. This principle is also enshrined in ILO Convention 135, which states that worker members on such committees must enjoy effective protection against any act prejudicial to them and must be afforded facilities to enable them to carry out their functions. Worker-management committees must also not undermine the position of the trade unions where present. In sum, a potential issue facing non-state sanctioned worker voice mechanisms is their limited ability to protect workers from employer retaliation. However, as mentioned above, in only 19% of the factories covered by the survey did workers feel safe to speak up all of the time. The majority of workers, according to Better Work Enterprise Advisors, were afraid that their participation could result in dismissal or other disciplinary action. Interviews with EAs also indicated cases in which worker representatives who spoke up at PICC meetings were later removed from their jobs. One EA noted that there were no consequences for managers when they retaliate because “violation of social dialogue practices is not a critical issue for buyers, and because the state never imposes fines should it find such violations” (author’s interview, Ho Chi Minh City, March-April 2014).

Recommendation: There must be full and timely protection for worker participation in PICCs. No worker should be afraid to speak up during meetings, much less fear for

losing their job should they say something with which management disagrees. One additional option would be to include a protection from dismissal clause for PICC worker members for the duration of their duties plus one year following the termination of their duties.

Empower

The final finding from this study is on worker empowerment. If the goal is not only for workers to feel safe enough to speak up but also for management to listen, some degree of worker leverage or empowerment is necessary. Indeed, at the most basic level, we can observe that workers strike because striking gives workers the power to achieve goals they are otherwise unable to achieve. And, as we saw earlier in this report, PICCs with prior strikes function better than PICCs where there were no prior strikes, suggesting that strikes provided leverage to improve committee functions. The literature on worker-management committees indicates that, without leverage, committees will only be able to address minor, non-cost sensitive issues (Lund-Thomsen and Lindgreen 2014; Terry 1999). The challenge is finding mechanisms of empowerment that do not require workers to strike every time they have a serious concern that needs to be addressed.

One way to determine if workers have leverage on the PICC process is to explore outcomes. Findings from the progress reports suggest on average each factory has over 10 non-compliance issues pending. It is worth emphasizing that we are not talking about issues that go above and beyond the law, such as a wage increase above the minimum wage level. Rather, we are talking about issues that are in violation of the law. Personal observation of PICC meetings suggested limited worker leverage on cost-sensitive issues. The one case in which a worker suggested something that had cost

implications – the purchase of a replacement safety mask when one had been lost or misplaced – was immediately rejected by management. Workers had no ability to respond. Once management said the suggestion was too costly, the topic was terminated.

This finding was also confirmed through interviews with EAs. As one EA noted, “managers understand the compliance problems well, but they just think about production. They don’t allocate resources for compliance” (author’s interview, Ho Chi Minh City, March-April 2014). What this suggests is that, when real worker leverage is absent, management will be disinclined to address cost-sensitive concerns. A look at non-compliance findings over time in Vietnam indicates that, while compliance has improved in many areas, in some of the most cost sensitive areas, non-compliance has in fact increased. For example, non-compliance in the area of minimum wages went from 7% in 2014 to 27% in 2015; non-compliance in social security and benefits went from 16% in 2012 to 33% in 2015; and non-compliance in overtime wages went from 9% in 2010 to 56% in 2015.¹⁰

Recommendation: Addressing the three areas outlined earlier – elect, represent and protect – can contribute to ensuring some degree of empowerment. But more leverage will also be needed to fully empower worker representatives. Worker representatives need to know that Better Work stands with them when they are attempting to address non-compliance issues, whether or not they are cost-sensitive. Indeed, the mandate of the Better Work program and the weight of the labour law and international standards should be a form of leverage on the side of any party seeking to address a violation of their rights.

¹⁰ It is important to keep in mind that aggregate non-compliance rates reported by year do not account for factories which enroll for the first time in Better Work during a given time period. An increase in non-compliance may therefore reflect an increased proportion within the sample of factories receiving their first, and often poorest performing, compliance assessment. At the same time, it is important to remember that many compliance improvements over time are the result of pressure by brands on suppliers after the brands receive non-compliance reports, and not the result of PICC interventions. Improvements also may be the result of direct interventions by Better Work with suppliers that do not go through PICCs.

Most importantly, the greatest degree of empowerment will emerge from strong, democratic and representative unions and encompassing collective bargaining, which are rights Better Work must continue to promote.

7. Conclusions

Vietnam has recently witnessed the most dramatic strike wave in its contemporary history. Prior research has indicated that these strikes are the result of market liberalization and weak employment relations institutions. The research presented in this report adds to this literature by exploring why workers strike and what are the outcomes of these strikes. This research shows most strikes are over interest-based demands, and most strikes are successful for workers, at least in the short term. Because strikes have not resulted in mechanisms to address future issues before they result in more strikes, workers often find they continually need to strike again in order to address their most basic needs.

Better Work requires participating factories establish worker-management committees (PICCs) to address violations noted in their assessment reports. These committees hold the promise of contributing to more stable employment relations by providing a mechanism to address issues before they result in strikes. However, the first important finding of this report is that while PICCs focus on violations of the law and international standards (i.e., rights), most workers strike in order to improve wages, benefits, treatment by supervisors and food quality (i.e., interests). As a result, PICCs do not provide a direct mechanism to address most issues causing strikes. Those issues must

be address through the collective bargaining process, which needs to be strengthened in Vietnam.

In theory, PICCs create an atmosphere of communication and problem solving that spill over into other areas, such as bargaining over interests. That is, PICCs may have an *indirect* impact on strike likelihood. The question this report explored was whether there was evidence for such an impact. Given that all Better Work factories are required to have PICCs, it was not possible to explore this question by comparing strike likelihood dynamics in factories with PICCs and factories without PICCs. Rather, the report disaggregates PICC attributes to examine which PICCs characteristics were most and least associated with strikes.

This report suggests that factories with PICCs that have properly elected worker representatives, strong and protected worker participation, and adequate time for workers to prepare for meetings and report on the results appeared less likely to experience strikes. However, the research also indicates that, at the time this research was conducted, the majority of PICCs did not meet all these favorable criteria. The analysis presented here also indicated that worker empowerment is a necessary component of successful PICCs that can address problems before they result in strikes. Addressing issues such as wages and benefits is the purview of collective bargaining processes in which union leaders play a protagonist role in defending workers' interests. In this regards, the Vietnamese system of employment relations has significant shortcomings. Indeed, survey results indicate that in Better Work factories 37% of union leaders are from upper management and 59% are from middle management. Proper collective bargaining requires two independent parties – labour and management –

representing the interests of their sectors in good faith bargaining over the terms and conditions of employment. A union that is controlled by management cannot bargain with management in order to further workers' interests. This is an issue that goes beyond the scope of this report, but it is a matter that needs to be addressed if the goal is to resolve worker concerns before they result in strikes.

Nor are the issues facing workers in Vietnam solely the result of dynamics within Vietnam. Prior research on Vietnam indicates a significantly higher strike rate in factories in export processing zones relative to other sectors in the economy (Anner and Liu 2016). The Vietnam apparel export sector is under considerable pressure to increase efficiency and quality without increasing costs. Low prices and short lead times established by buyers often produce the competitive pressures that contribute to worker abuses that then lead to strikes.

Addressing the strike wave in Vietnam will entail not only providing workers with more effective voice mechanisms through worker-management committees like PICCs, but it will also entail improving autonomous union representation, more effective collective bargaining processes, and lead firm practices that allow for stable jobs and decent working conditions. While taking into consideration these broader challenges, Better Work can contribute to more stable employment relations in Vietnam and beyond by ensuring the industrial relations practices it promotes fully enshrine the principles presented in this report of *elect, represent, protect and empower*.

Appendix 1: Better Work PICC Progress Report Findings

Better Work PICC Progress Report Findings, 2012-2013 (N=138)	
	Percentage "Yes"
General Assessment of PICCs ("Excellent")	22.50%
Factories with Under 25 Noncompliance Issues Pending	63.00%
Factories with Union Elections	42.40%
Regular Attendance in Meetings by Members	93.20%
Management Attention to PICC is Good	70.00%
Management Pays Workers to Attend Meetings	79.30%
PICCs do not need to increase number of meetings	13.50%
PICCs operating without Better Work presence	41.00%
Top Management Stays Informed of PICCs Activities	47.10%
Factories Provide Needed Resources to Address Issues	31.60%
PICCs that Address Issues Efficiently (Don't need to speed up activities)	57.10%
Members are Well Prepared to Carry Out Tasks	59.20%
Two Sides of PICCs Are Assigned to Work Together to Solve Issues	53.90%
Some Progress in Improving Workplace Cooperation	51.10%
Workers Have Developed Added Skills	82.30%
Management Has Developed Added Skills	64.60%
Additional Channels of Communication Are Used	37.20%
Management-Union Collaboration is Good	42.70%
Union and Worker Representatives have Good Communication Skills	14.90%
PICC Guidelines Are Posted in the Factory	58.90%
PICC Improvement Plans are Posted in the Factory	49.60%
PICC Member Names are Posted in the Factory	63.30%

Source: Author's coding of Progress Reports

Appendix 2: PICC Performance and Strike Rates (2012-2013)

Progress Report Findings on PICC Performance (2012-2013)

	No Strike (N=84)	Strike, Pre-PICC assessment (n=45)	Strike, Post-PICC assessment (N=18)
PICCs with an overall 'good' assessment	23.80%	17.50%	22.20%
PICCs with over 25 pending non-compliance issues	38.60%	28.90%	50.00%
Factories with Union Elections	63.30%	43.20%	61.10%
PICCs where workers regularly attend meetings	89.90%	100.00%	94.40%
Factories in which top management needs to increase its support for PICCs	34.00%	19.00%	27.30%
Factories where workers are not paid salary when attending PICC meetings	24.50%	4.80%	20.00%
PICCs where members need to take over running meeting from Enterprise Adviser	56.00%	64.40%	50.00%
Factories where Management is not well-informed of PICC activities.	57.30%	42.20%	44.40%
Factories that need more resources to address non-compliance issues	64.60%	71.10%	72.20%
Factories that Need to Speed Up Implementation of PICC Recommendations	45.60%	37.80%	50.00%
PICC Members Need to Prepare more to Carry Out Tasks	44.20%	40.00%	11.10%
PICCs Need to Work More Together	51.00%	30.00%	50.00%
Workers Have Developed New Skills	75.90%	95.00%	90.00%
Management Has Developed New Skills	61.10%	75.00%	60.00%
PICC Guidelines are Posted	53.80%	68.30%	68.80%

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