

TRADE UNIONS IN VIETNAM: IMPLICATIONS OF ECONOMIC LIBERALIZATION

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The shift since 1986 towards an economy based on free markets, driven by so-called Doi Moi (or economic renovation) policy of the communist-controlled State of Vietnam, has had major implications for the nation's workforce. Whilst economic growth has benefitted many citizens, low-income workers, especially those employed in the booming manufacturing sector, many still endure inadequate wages, poor working conditions, and poor access to social goods. Vietnam's trade union system led by the Vietnam General Confederation of Labor (VGCL) is mandated by government to protect workers' rights.

This paper addresses (1) challenges faced by trade unions resulting from the shift from a centrally planned economy to a market economy, (2) resulting changes in the relationship between the VGCL and the Government, (3) changes to laws framing the role of trade unions, and (4) changing roles and ways of operating of unions. The paper is based on a literature review, government and union policy documents and laws and 20 interviews conducted with trade union officials at all levels of government and in different types of business enterprises. The latter provide insider views of the changing nature and effectiveness of union power.

1. Introduction

Trade unions in Vietnam, in the period of economic liberalization (Doi Moi) beginning in 1986, have been under pressure to change their roles and ways of operating by the Communist Party of Vietnam (CPV), by the need to comply with international standards and by society at large. As a consequence, some have suggested that unions have gained substantial autonomy (Clarke, Lee and Chi, 2007). They may even have moved beyond being mere ‘transmission belts’, to union members, of Party-State policies and supporting management, into institutions of ‘semi-civil society’ supported by reform-oriented leaders who see that democratic reforms are needed (Saxonberg, 2012). This paper examines the changing relationship between Vietnamese State and the Vietnam General Confederation of Labor (VGCL), specifically evidence that unions can now act more independently of the State than was the case pre-1986. The following specific questions are addressed: What factors have driven the VGCL towards being more autonomous from the State? What indicates autonomy? How do the State and the CPV currently set the VGCL’s mandate, policy and programs? How does the VGCL use its increased autonomy to negotiate and make changes in law and policies? Are there barriers to changes in the role of the VGCL? The paper is based on a literature review, government and union policy documents and laws. Twenty interviews trade union officials at all levels of government and in different types of enterprises provide insider views of the changing nature of union power.

It is essential to note that there is only one trade union organization in Vietnam, the VGCL, and that it is a socio-political organization which is an arm of the CPV. The VGCL does, however, have many affiliated branches under its direct control at Provincial and District level and in ministries and public bodies. There is also a myriad of unions at enterprise-level across the country. Whilst able to operate independently to some extent under devolved powers these unions are affiliates of the VGCL.

The paper is set in four parts. First, challenges faced by trade unions resulting from the shift from a centrally planned economy to a market economy are outlined. Second, resulting changes in the relationship between the VGCL and the CPV are identified. Third, changes to laws framing the role of trade unions are highlighted. Fourth, the changing roles and ways of operating of unions are summarized.

2. Economic Liberalization in Vietnam: Challenges for Organized Labor

Vietnam’s economic and social life over the period 1945 to 1986 was deeply influenced by communist ideology and concomitant authoritarian political control together with centralized management of the economy. 1986 was a momentous year for the nation’s political economy. It saw the announcement of Doi Moi and in so doing demonstrated that socialism in Vietnam was not purely ideologically driven but was capable of adapting to changing global economic conditions. Major reforms were mandated in state agencies and in state owned enterprises (SOEs). These required new policies and regulations,

as well as processes of restructuring and equitizing (i.e. privatization of SOEs). These effectively, and intentionally, undermined the existing central planning system. By the early in the 1990s, shortly after the collapse of communism in the Soviet Union, Vietnam and China remained the only countries with a socialist orientation yet following the path to ‘market socialism’.

The first quarter century of Doi Moi saw marked changes in the numbers of and ideas about the so-called ‘working class.’ Workers have moved away from their historical role of ‘protecting the nation’ to one of supporting the nation by means of market-oriented production. The economic liberalization process itself is creating a new class structure, notably the growth of a middle class and a huge expansion in numbers of factory workers.

On the economic and production side under Doi Moi, equitization commenced on a pilot basis in 1992. Changes due to privatization have been radical in terms of the position and status of workers. Most significant perhaps is the fact that in the early period of the modern Vietnamese State (pre-1986), the State and workers held 80-100 percent of shares in SOEs. This situation enabled workers to feel that they were the ‘real owners’ of enterprises’ and ‘masters of production’. As Doi Moi unfolded, however, the proportion of shares owned by workers dropped sharply. By 2001 the figure was down to 35 percent (CIEM 2002).

As a result, the power of management and new shareholders increased. Legislation in 2002 finally eliminated the fiction of ‘workers as masters of production’. In the process, the VGCL requested a policy on selling shares to workers in order to make them feel more secure participants in the economic structure. The Chairperson of the VGCL, Dang Ngoc Tung supported this approach: “The union is appealing to the government to resolve this issue. We need to let workers hold more shares in enterprises, so they have stronger attachment to enterprises”. This measure also helps unions and workers have their representatives on boards of directors, which will further protect workers’ rights in the long term and avoid multiple disadvantages for workers after privatization.

Some SOEs have, however, become entirely privatized because their stocks have been purchased by small numbers of individuals. Since board memberships are determined by percentage of shares owned, VGCL-affiliated unions are not members. This is a big disadvantage for workers since unions do not have the same power of negotiation with managements as they had beforehand. The cumulative effects of this process have been loss of union power at enterprise level and the undermining of the concept of a workers’ state (Evans, 2004).

The consequences of economic liberalization have had both positive and negative impacts on workers in terms of ensuring their rights and interests and more generally access to social justice. Economic relations in the market economy have, however, caught unions ‘between a rock and a hard place’. They operate under conflicting and sometimes irreconcilable pressures from the State, from workers, and from enterprises.

In some SOEs, during the process of equitization, there is evidence that managements exploited workers in ways typical of capitalism (Greenfield 1994, pp. 207-8). Economic liberalization also engendered changes in economic relationships under the market economy and industrialization as private capital emerged alongside foreign investment. Labor relationships consequently changed within enterprises with the distinction between workers and capitalists emerging. The working class now sells its labor for compensation but there are increasing income gaps in society (The World Bank, 2014).

Doi Moi has brought about changes in workers positions in former (and current) SOEs and in the new types of companies that have affected their participation in decision-making processes. The old system of distribution of wages and other welfare benefits in SOEs was replaced by wages and bonuses based on pieces of work and extra hours in equitized or transformed joint stock companies. Government Decree 217/1987 gave directors greater autonomy to set wages. The wage system controlled by directors introduced elements of inequality and potential sources of conflict. Many workers did not agree with these shifts as they were not consulted. A large numbers of strikes, peaking between 2004 and 2008, were mainly on wage issues. Policy on minimum wages and mechanisms to negotiate wages with businesses were vague and gave less power to unions to negotiate on behalf of workers. The VGCL had, therefore, to refer to Party Resolution 20/2008, which gave guidance on the minimum wage, to persuade Government to take responsibility for the Law on Minimum Wage. Under economic liberalization, the private sector naturally increases its power and bargaining position in the economy. The State has however been ineffective in supporting workers' rights under the new regime. The role of the VGCL has therefore not been strong in terms of bargaining on behalf of its members.

Economic liberalization has created emerging labor markets and labor forces that bring about large challenges for trade unions. A corporatist system is formed and increasingly influenced by the new wealth of entrepreneurs and business owners. Yet the authoritarian structure of the State cannot fully accommodate stresses arising from economic development. In the market economy, labor markets are deregulated in ways that give more space for businesses to negotiate labor contracts with individual employees. Actors such as trade unions have a limited role and lack the independence from government to effectively represent workers.

Economic liberalization impacts negatively on low-income workers in terms of their rights and interests. Under capitalist-worker relations, wages are maintained at a low level compared with the cost of living, especially in foreign invested factories. For many years, under the market economy system, in terms of wages, workers related directly to employers whom they expected to meet their demands on wages but without any real power and instrumental means for wage negotiation. The State had not imposed policy on wages, instead regarding wages as a matter to be determined in the economic sphere, until enactment of the new Labor Law in 2012.

Continued low wages, below reasonable living costs for most workers, became a common source of labor discontent. There was accordingly, increased unrest amongst rural and urban workers as indexed by large numbers of strikes for higher wages and better working conditions (Paul, 2010, p.124). Because of the lack of a legal framework for wage negotiation, which was traditionally the role of the VGCL, unions could not actively deal with such unrest or confront enterprise managements.

During Vietnam's integration with the global economy there have been several economic shocks that rendered workers especially vulnerable, notably the Asian Financial Crisis of 1997 and Global Financial Crisis of 2008. Job lay-offs in many privately financed (including FDI-invested) firms led to flows of workers back to their places of origin. This in turn meant for a great burden on households and governments in the typically rural regions. At the same time new dimensions of urban poverty emerged, signified by: low incomes, lack of coverage by health insurance and social security, poor housing quality, poor access to local services (clean water and sanitation, electricity), weak social inclusion, and poor physical safety. The burden of identifying and arguing for the interests and rights of workers was laid on the shoulders of unions. At the same time the State was delegating attention to these matters to unions that lacked sufficient power and resources to meet the needs.

Overall, too, workers lack the political sensitivities needed to empower them to challenge legal institutions charged with protecting them. The market economy entails qualities of individualism and opportunism that complicate the relationship between employers and workers and increases the potential for conflict between them (Nguyen, Bui and Tran, 2000). As a result, ever more workers have joined together to claim economic entitlements from an individual rights perspective (Duong, 2001). Since workers lack awareness of how to proceed and, in particular, what unions can do for them, they choose means such as strikes, even if illegal. Since these so-called 'wild cat' strikes have occurred, indeed continue to occur and radically increase in some year without being organized by trade unions, they may imply nascent workers movements claiming rights on a 'grassroots' on collective manner. Although wild-cat strikes were often organized by workers themselves on an unofficial basis as a form of claiming their rights and negotiating method against the employers for their rights and entitlement, and it is notable that unions cannot function in collective bargaining, failed to negotiate with management, thus strikes occur. Also government has not acted strongly to repress strikes. As the movement grows stronger not only in factory but also in strikes outside of factories, the movement involves workers from different factories or in a larger industrial area. Both state and unions could not fully prevent it from happening, and there were indication of workers' direct involvement. It would be claiming too much to imply that strikes represent green shoots of political change but the way strikes are led by workers in a non-union based and organized manner without state ability to control indicates that the movement is moving up to take political space and leading to democratization.

3. Trade unions vis-a-vis the CPV

Both the VGCL and the Party are concerned about workforce instability and resulting diminished attractiveness of Vietnam to investors. The Party requires unions to become more innovative and responsive in meeting members' needs, and society's more generally. The 'statist' VGCL is moving away from being wholly dependent on the State to being more responsive to the demands of workers by providing more legal advice, and by joining collective bargaining processes that may presage stronger political representation in a peaceful democratization process. The VGCL is expected to not only represent employees but also to play an important role in facilitating the participation of workers in economic and social life so they can own their lives on behalf of the State.

At the peak of Doi Moi's initial impact, in 1988, at the Congress of the Vietnam Workers' Union, the name of that organization was changed to Vietnam General Confederation of Labor (VGCL). The change of name signified that the organization was not only for factory employees but rather for all kinds of people working for wages in all sectors of the economy (as per the 2012 Constitution). It was accordingly declared that trade unions should be established in all relevant organizations, entities, and business enterprises. Since the CPV wanted unions to support its economic policies it restricted their capacity to act independently.

On the other hand, in production workshops, union voices were not strong so the Party urged reform and capacity building.

Despite these urgings it seems, however, that Party policies did not match real needs. In assessing Decree 20-NQ/TW, in response to the Party, the VGCL drew the conclusion that: "the Party only delegates to the VGCL care for the lives and work of workers, without proper Party policy". In other words, the control space of the Party did not fully bear on every aspect of the work of the VGCL and there is more space for it to act. Unions still feel bound by the general direction of Party policy but at the same time they lobby the Party and State continuously for changes and reforms in policies that concern employees.

Vietnamese trade unions face conflicting demands from the Party-State. They face pressure to establish more unions, recruit more members, and support their members' interests more strongly, whilst still being loyal to Party policy. Considered from another perspective, the Party faces a paradox in needing to recruit more party members into trade unions whilst at the same time allowing unions to develop their organization autonomously so as to be able to attract members and thus ensure survival. In a speech by Nguyen Van Linh, the Secretary General of the CPV, he stated that leading union cadres do not have to be Party members and he urged trade unions to act more forcefully and independently of the Party and of management. However, this view of its leader was not fully reflected in the Party's resolution pressing trade unions to recruit party members in all economic enterprises.

Moreover, in order to be able to recruit members, the Party openly pressures the VGCL to act more independently and to more clearly defend workers' interests. Similarly to more orthodox regimes, the union is required to be loyal to the Party and its main goals. But in contrast to orthodox regimes, union leaders do not need to be Party members. Instead, the Party only pressures local unions to recruit some new members for the Party so that at least one person from each local union will eventually join the Party. Vietnam has moved far from the totalitarian model, in which everyone must be a member of a union. Whatsoever, trade unions face the problem of set-up unions at more enterprises and needing to recruit more members as according to the law, membership in unions is voluntary and no evidence has been found in the present study or in any of the literature reviewed of unofficial pressure for people to join unions. On the other hand, trade unions actually face open pressure from Party and state leaders to become active and dynamic to support worker's interests and protect workers' rights more directly and effectively. Since unions—in contrast to other mass organizations—are officially socio-political organizations, they also have the right and obligation to present their views on many proposed laws and this gives them some influence over policy-making. Mass organizations such as Trade Union do in fact tend to act as mere 'transmission belts' for Party-state policies. In Vietnam context, even no change in regime but there is gradual change from within the society state relationships with non-state actors.

By the same token, interviewees acknowledged that it is easier to establish unions in SOEs since the Party has greater influence and it is Party policy and part of the law on labor unions that all enterprises must have unions. Moreover, unions in SOEs are less likely to be neglected by management, as is the case in some foreign-owned enterprises, since SOEs need to follow more closely laws requiring consultation with the union on labor issues. It is much easier in a state-run economy for this requirement to be met, but in a market economy enterprises do not automatically encourage the establishment of unions. Interviewees also pointed out that the Party has much more influence in SOEs than in privately owned companies (e.g. same interviewee; chair of the Long Bien district union organization; representative of the union organization at the Ministry of Trade and Industry). In newly established joint-stock companies, unions are weaker. As a union representative at the Ministry of Trade and Industry puts it: "The roles of unions in joint-venture and state owned enterprises are limited, not very effective. Most of the time unions know about problems but ignore them. They also depend too much on other organizations and leaders [i.e. Party leaders and management]." So the VGCL must try to organize people at the grassroots level. Consequently, for example, in 2011 the VGCL held a conference; one of the main themes was the need to recruit new members (Saxonberg, 2013).

The Party faces challenge from society, especially from workers, through labour conflicts in enterprises that lie beyond the public sphere and thus beyond the direct control of the State. Conflicts between members of the working class and entrepreneurs, notably manifest in strikes, are intensified when unjust practices cannot be resolved by union-

based collective mechanisms. These phenomena pose challenges to the State to revisit the way justice is achieved and its obligations to respond to rights-based claims of workers. The dynamic of workers demanding economic and social justice could lead to a proposition of political change in a larger society than just the workplace. The State may consider solutions that work out a smooth transition to accommodate the interests of the new working class by more democratic processes such as enhancing legitimate democracy at work as well as empowering unions to act independently in support of workers.

The views of these matters by the CPV and the VGCL may not be the same. The Party assumes that labor conflicts resulting in ‘wild cat’ strikes, especially if union cadres allow strikes occur, would be “harmful to public security” and “harmful to the economy and investment.” The Party and the Government therefore push the VGCL to maintain harmony in labor relations. In another sense, the less that strikes happen the better. So whilst the law permits unions at enterprise level to organize strikes, the rules make it difficult for unions to do so. Interviews with trade union leaders confirm that they sometimes, despite the urgent needs of workers, “ignore calls for workers to go on wild cat strikes.”

The Party demands that unions play a more representative role on behalf of members. Resolution No. 22 (2008) stated: “trade unions must be better represent and protect the legitimate rights and interests of employees.”

In 2013, the General Secretary of the CPV, Nguyen Phu Trong, stated that the VGCL needs to act better to “represent and protect the rights of laborers.”

At present, one of the key tasks of trade unions is to protect rights and interests of members as agreed to by the CPV.

The Party has continued to stress the need for trade unions to develop mechanisms to achieve ‘harmonious’ labor relations, in which labor, capital and the State work in together. However, given the requirement to maintain Marxist-Leninist ideology as the guiding political principle of Vietnam’s governance, the use of the term ‘harmony’ seems to be mostly pragmatic, as a way to improve economic performance, rather than an attempt to replace Marxist-Leninism with a Confucian ideal of a ‘harmonious society’ (as Chinese Communist leaders have done). These themes emerged strongly in the interviews. Union leaders should ‘harmonize’ the interests of the workers with those of management and the Party (interview with a local union official from the Dong Nai province). Unions should cooperate with the Party in educating workers on Party policies and goals, whilst at the same time defending workers’ rights and interests. As a manager in the Department of Policy and Law for the Hanoi Union put it: “unions should support the Party in political teaching and tasks and also protect workers’ rights and interests by (a) participating in the adjustment of the labor law (insurance policy, wage), (b) providing legal consultation

to workers and (c) running labor newspapers to give workers a voice.” The chair of the union at a joint stock company in the Hai Duong province stated: “we communicate and educate workers concerning the guidelines and policies of Vietnam Communist Party.” Nevertheless, as argued above, the mandate for unions to protect workers’ rights is not an easy one to implement, given increasing challenges from workers and managements whilst at the same time supporting the State’s legal and institutional mechanisms.

4. Legal Changes Affecting the Role of Trade Unions

This section of the paper reviews the legal framework that defines the role and mandate of Vietnam’s trade unions. A landmark of Doi Moi, 1986-1987, was reform of labor legislation and the role of trade unions. The VGCL and its predecessors had been seen as a “school of socialism for laborers” (Trade Union Law, 1990). The Trade Union Law of 1990 removed much of the State control over unions which thenceforth needed only to inform the appropriate government body that an organization (i.e. enterprise-level union) had been formed.

Vietnam’s Constitution has been amended on a number of occasions to reflect changes needed in the face of economic liberalization. The most recent of these was the 2013 Constitution. In relation to the Vietnam Trade Union (VGCL) it says:

“Vietnam Trade Union is the socio-political organization of the working class and laborers established on the basis of voluntary membership for laborers to take care of and protect the legitimate rights and interests of laborers; participate in state management, socio-economic management; participate in supervision, inspection, assessment of state organs, units, organisations and enterprises on the issues related to rights and duties of laborers; disseminate and mobilize laborers to study, improve capacity, profession and comply with the laws and nation building and national protection.”

The 1992 Constitution referred to the Trade Union in Article 10. It stated that the role of Vietnam Trade Union as a state organ and a socio-political organization, having a mandate on state and social management, included supervision and inspection of the activities of state bodies and other economic organizations, education of public cadres and working people with the aim “for and protect” their interests.

The two key bodies of law bearing on the role of unions are the Labor Law and the Trade Union Law. Amendments of these two laws have been made in the similar steps of labor legislation reform. Legal changes are analyzed together with the views and perspectives of informants on law in practices from the interviews.

The Labor Code of Vietnam, approved in the ninth term of the National Assembly on 23 June 1994, came into effect on 1st January 1995. The code institutionalized the CPV’s new direction after 1986 regarding labor relations and management. It covered issues

such as: employment, apprenticeships, labor contracts, collective bargaining agreements (CBA), wages, working time, rest time, labor discipline and material responsibility, occupational health and safety (OHS), specific provisions on women labor, child/adolescent and other types of labor, social insurance, Trade Union, settlement of labor disputes, state management of labor and inspections, and the handling of the violations of labor legislation. The Code regulates labor relations between workers and employers and directly related social relations. It applies to all workers, organizations and individuals using contracted labor in all economic sectors and all forms of ownership, as well as to apprentices, domestic workers, and a number of other jobs, with the exception of workers doing outwork (Articles 1-2 and 137). Until recently, however, the code was still mainly practiced in SOEs rather than in the private sector. Only with Decree 233/1995 was labor in foreign owned companies covered in an expanded system of wage setting. Disputes over changes to the wage system have occurred in many equitized SOEs and reflect the role of factory-level trade unions in mediating and explaining the new rules.

The 1995 Labor Code set the optimistic goal of establishing trade unions, or interim unions, or preliminary workers' councils, within six months and the implementation of a trade union in management board. Unions were also required to be funded from a 2 percent levy on enterprise wage bills of which 1 percent was to be contributed by workers. This financial base of unions allowed them to become more independent. The 2001 Labor Code further formalized the role of unions in declaring that if any employer has more than 10 employees s/he must register a 'labor regulation' with the Provincial Labor Office and must contact local trade union executives about its activities.

The Labor Code, 2006, comprehensively amended Chapter 14 of the 1995 Code on labor dispute resolution. This reflected the fact that, with the yearly increase of foreign investment and flourishing domestic private enterprises, violations of labor laws had resulted in an increasing the number of strikes, especially in 2005 and 2006, and the law regulating labor disputes had proved inadequate. The 2006 amendments to the Labor Code required businesses to take responsibility in providing safeguards for workers' rights and working conditions as well as non-discrimination, collective bargaining and the like.

The Labor Code, 2007 focused on two aspects, which are arrangements for social security and mechanisms for enforcement. The first included how to ensure good working conditions, a decent income, and effective social protection. The Code tried to ensure this with detailed regulations on OHS, working time, minimum wage, and social insurance. The second aspect refers to institutions dealing with Labor Code violations and labor disputes, the legal framework for collective action and LU work. The Labor Code 2012 was designed to define a clearer role for trade unions in protecting labor and union rights, including collective agreement mechanisms and organization of strikes. It stated that "collective negotiation of the scope of sector is the representative of the sector Executive Committee of the Trade union" (Art. 69), Role of Trade union in labor

dispute (Art. 195) and grassroots trade union can organize strikes (Articles 209, 210).¹ In all versions of the Labor Code, labor regulations and labor rights are well articulated but none provided for freedom of association and the formation of unions.

The Law on Trade Unions currently imposes a 2 percent trade union levy based on the total payroll of the employer.² When the rule on trade union fees was first introduced, there was a difference between foreign invested companies and Vietnamese private companies and organizations. Still as trade-union membership is voluntary, it is difficult to collect sufficient fees from workers who are also union members. Companies also found reasons not to establish unions or to delay unionization so as to avoid paying fees. The law now requires employers to pay union fees whatever there are trade union units in enterprises. It requires duty of trade union members to pay the fee. This view appears that the new trade union law 2012 was stronger reinforces applicable to involved stakeholders and activities of trade unions.

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- 1 Ref. Labor Code 2012: Chapter V Section 2. COLLECTIVE NEGOTIATION and Chapter XIV-Section 2 AUTHORITY AND ORDER OF PERSONAL LABOR DISPUTE SETTLEMENT
Article 69. Representative of collective negotiation
1. Representative of collective negotiation is defined as follows:
a) For the labor collective in collective negotiation, the scope of enterprise is the representative organization of the labor collective at the grassroots level; the collective negotiation of the scope of sector is the representative of the sector Executive Committee of the Trade union;
Article 72. Responsibilities of the trade unions, representative organizations of the employers and the state management agencies on labor in collective negotiation.
1. Organizing the training of the collective negotiation skills for the persons participating in the collective negotiation.
2. Participating in the meeting of collective negotiation upon the request from either collective negotiation party.
3. Providing and exchanging information relating to the collective negotiation
Articles 195 – role of TU in labor dispute
1. The State management agencies on labor shall be responsible for coordinating with the trade union organization, the representative organization of the employer to make guidance and support and assist the parties in the settlement of labor disputes.
Art 199: Trade union is the member of Labor Arbitration Council.
- 2 Ref.258/HD-TLD- Regulations regarding trade union roles in alignment with the amended laws; 1803/HD-TLD- all members of trade unions, laborers shall contribute 1 percent of salary. 200/2013/ND-CP- Members of trade unions shall contribute trade union fees equal to 1 percent of salary ; 200/2013/ND-CP - Regarding rights and responsibilities of trade union in state management, social-economic management; 191/2013/ND-CP - New regulations on deducting for paying the trade union fee; 43/2013/ND-CP - The rights and obligations of the trade union in the enterprises. Before 2012 Trade Union Law: Although the former Law contained no such levy, a 2 percent fee was introduced for local Vietnamese companies under Joint- Circular 119/2004 dated 8 December 2004 of the Ministry of Finance (MOF) and the VCGL and Circular 17/2009 of the MOF dated 22 January 2009 (Circular 17). Circular 17 introduced a 1 percent fee for foreign invested enterprises.

5. Changing Role of Vietnam's Trade Unions

The VGCL has dual roles that play an important positions in Vietnamese society and as part of state structure as state's arms to deliver state's and party's policies. However, this dual function restricts its capacity to advocate for members' interests in the way that is possible in democratic states whereas unions act as members of civil society. For the Vietnamese unions, protecting workers' rights is only one among many objectives, which notably include to: "stabilize production and business, see to the rights and the benefits of both sides in labor relations and of the State".³

Vietnam trade unions originally, according to 1990 Law on Trade Union, had four basic functions:

- Protecting the interests of workers in their working environment. This included such activities as supervising the allocation of welfare benefits, visiting the sick, and arranging parties for children;
- Participating in managing the assets and property assigned by the government to the SOE;
- Encouraging and motivating workers to raise productivity;
- Educating its members in socialist ideology and awareness by such measures as organizing artistic and sporting competitions.

Along with changes to legal frameworks, the VGCL's constitution has gradually shifted to embody the changing role of unions. The role of unions is now more clearly identified as being to act in the interests of workers and to play a strong role in settling workplace agreements. Unions have established themselves independently from government activities and approval, and are permitted to join international trade union organizations.

The structure and role of trade unions changes over time in practice. The role of trade unions in Vietnam is not clear. The VGCL has made its own role, to some degree, to cope up with the changing economic, workforce and social structures, changing of social that require better defense of labor rights and interests. The structure of the VGCL has moreover changed greatly since Doi Moi, with more establishments in professional branches, such as the district and industrial zones trade unions. On balance, however, it could be argued that there was no real change in the regulated mandates of the VGCL at the Congress of Labor Unions in 1988.

3 Decision 5A/NQ-BCH 7/7/2005.

The changes in labor force structure and organization demanded changes in the role and practices of unions. In the current period, priorities and strategies of the VGCL⁴ are as follows.

- To raise awareness among the workers and the union staff about the legal mechanisms and policies directly related to their rights;
- To improve the protection of rights through law dissemination and legal aid support, so as to make the workers aware of their own rights and help them defend them,
- To develop modeling in grassroots unions and professional unions, so that they can organize themselves and operate in an appropriate way within enterprises, especially in the private sector, but also for informal workers;
- To monitor the implementation of the policies related to the workers, in particular in matters of salary, CBA, labor contract, policies related to workers in excess during the restructuring of SOEs, social insurance, medical insurance and the policies for female workers.

The structure of grass roots trade unions (i.e., at enterprise level) units changed significantly from what was allowed for under the 1978 Charter to provisions of the 1989 Trade Union's Constitution Charter. The latter promoted two models of trade unions.

The first dealt with unions located within SOEs. Operating under the control of local government and the Party cell within the enterprises, unions are regarded as one of four interests: party, government (management), trade union and youth union. Unions in SOEs work under the leadership of the management board. The union president is appointed by the management board and ratified by higher government authorities. Union fees are deducted from SOE profits, decided upon by the management board. Unions are led directly by a union committee and indirectly guided by the local authorities because SOEs come under management of local authorities. The second model covers unions in sectoral SOEs under ministries or central government. Their funds are provided by government but they have the autonomy to use them without going through the SOE's management board. Union membership fees are established and SOEs must deduct one percent of total profits to pay to the unions. Members pay two percent of total wages. So that, by law, the union representative's salary can be funded by union fees.

To conclude, it is interesting to note indications of democratization of trade union within the one party state in Vietnam. The situation under Doi Moi and the resultant flourishing and diversification of the economy and concomitant changing demand for labor has created new challenges for trade unions. The communist-ruled regimes have

4 Ref. Decision 5A/NQ-BCH dated 7/7/2005 about strengthening law related tasks of the LU in the new situation, Decision 04/NQ-DCT 3/4/2006 about strengthening the dissemination and education work of LU in the new situation, and action program of Viet Nam LU to implement decisions of the 10th Congress of the Communist Party (Paper 1245/TLĐ dated 1/8/2006).

become more complicated to define in the era of economic liberalization. Since the Labor Union, VGCL, is an element of the political structure, even though it has its own charter, structure and resources, it is hardly fully independent from the Party and the State. However, trade unions at grass root (enterprises or sector) level do seem to be becoming more independent of the Party and there are changes in the role of trade union towards democratization.

Trade unions also face the increasing demand from workers to represent and to protect thus they need to be flexible and innovative and harmonious between state, the enterprises management and the workers. The fact is that many workers are not interested in unions because they feel that unions have not been protecting their legitimate right when these are violated by employers. Nor have unions been effective in securing fair shares of firm profits. Grassroots trade unions, in particular, are seen to have been unable to supervise enterprises still under the supervision of the state and the party. Trade unions are seen as passive and unresponsive to changes, especially to strikes and labor disputes.

This paper argues that Vietnam's unions have become more autonomous from the state and as such face different dynamics to organizations, in between the society and the Party-state. This means trade unions could hardly be considered to be fully independent from the state but they could be in transmission between state and society. Rather than being mainly transmission belts from the top-down from the Party to the workers, the Vietnam's unions have become more like mediators, who mediate between workers, the Party and management.

References

- Clarke, S., Lee, C-H. and Chi, D.Q., 2007. From rights to interests: the challenge of industrial relations in Vietnam, *Journal of Industrial Relations*, 49(4), 545-568.
- Duong, V.S, 2001. *Những thách thức đối với xu hướng biến đổi giai cấp công nhân Việt Nam trong những năm đầu thế kỷ 21*. Hanoi: Institute of Workers and Unions.
- Evans, M., 2004. Embedding market reform through statecraft: the case of equitization in Vietnam. Paper. presented at Workshop on Equitization in Vietnam. Ho Chi Minh City: Southern Institute of Social Sciences.
- Greenfield, H., 1994. The development of capitalism in Vietnam, *Socialist Register*, 30, 203-234.
- Nguyen, X.H., 2001. *Những nhân tố tác động tới sự biến đổi của giai cấp công nhân Việt Nam những năm đầu thế kỷ 21*. Hanoi: Institute of Workers and Unions.
- Nguyễn, C. T, Bùi, T.M, Trần D.D., 2000. Vai trò của tổ chức công đoàn cơ sở trong việc giải quyết tranh chấp lao động và hạn chế đình công chưa đúng pháp luật [Title Eng: The role of grassroots trade unions in resolving labor conflicts and reducing numbers of illegal strikes] Nhà xuất bản Lao Động Xã Hội Hà Nội. Hanoi: Labor Society Publishing House.
- Paul, E., 2010. *Obstacles to democratization in South East Asia*. London: Palgrave Macmillan.
- Saxonberg, S., 2013. *Transitions and non-transitions from communism: regime survival in China, North Korea and Vietnam*. Cambridge: Cambridge UP.
- Saxonberg, S. and Ngo, H., 2014. *Workers unite? Semi-civil society and the dilemmas facing Vietnamese trade unions (in preparation)*. Contact: nmhuongvn@gmail.com.
- S.T. 2011. *Toađàmnângcao chất lượng công đoàn cơ sở*. Lao Động, Aug 24, retrieved from: <http://laodong.com.vn/Tin-Tuc/Toa-dam-nang-cao-chat-luong-cong-doan-co-so/55758>.
- The World Bank, 2014. *The taking stock report*. Hanoi, July. (Inequality in Vietnam).