

PREVENTING AND ELIMINATING CHILD LABOR IN VIETNAM'S BUSINESSES IN THE CONTEXT OF COVID 19 EPIDEMIC

Đỗ Thị Quỳnh Trang¹

Nguyễn Thị Lan Anh²

1. Overview

The Covid-19 pandemic affects all countries around the world. In Vietnam, it has seriously affected all socio-economic fields, especially labor and employment. The global supply chain is disrupted, the global circulation of goods, services and labor is no longer the same as before, making all economic, trade and investment activities unable to be smooth and efficient. Therefore, international economic and trade could not function normally, attacking the growth index.

In Vietnam, during the social distancing period due to the pandemic in April 2020, between 4.6 million and 10.3 million laborers could be affected by the pandemic, as estimated by ILO. Where the pandemic hits family incomes, poverty emerges, and child labor is at risk of rising again. Due to poverty, many children are forced to leave their homeland to look for work and fall into labor abuse. More ominously, a large number of business owners have used many underage employees with low wages to reduce the production cost.

Preventing child labor in Vietnam today is not a simple issue because the causes are intertwined, affecting each other. Therefore, it is very difficult to find an effective independent solution. Vietnam needs to make step-by-step efforts and implement many solutions at the same time with specific actions to create a synergy to achieve high efficiency.

2. Content

2.1. Vietnamese law on child workers

Currently, according to Law on Children 2016, a child is a person under 16 years of age. Meanwhile, the Labor Code 2019 defines an employee as a person who works for

¹ Lecturer at Faculty of Economic Law, The University of Law, Hue University

² Lecturer at Faculty of Criminal Law, The University of Law, Hue University

an employer under an agreement, is paid a salary and is subject to the management and supervision of the employer. Accordingly, a child worker is a person under 16 years of age who works for an employer under an agreement. The minimum working age is 15 years old, except for some special cases where employees under 15 years old may be employed with some certain requirements.

(1) Regulations on works using child employees

First, jobs that can hire child workers: Article 143 of the Labor Code 2019 stipulates: “A person aged 13 to under 15 may only do the light works on the list promulgated by the Minister of Labor, War Invalids and Social Affairs”.³ “Employers must not hire people under 13 to do works other than sports and arts, provided they do not affect their development of their physical health, mental health and personality, and the employment is accepted by the provincial labor authority”.⁴

Second, jobs and workplaces that are not allowed to hire child workers. Article 147 of the Labor Code 2019 prescribes: A person aged 15 to under 18 must not be assigned to the following works: Carrying and lifting of heavy things which are beyond his/her the physical capacity; Production, sale of alcohol, tobacco and neuro-stimulants and other narcotic substances; Production, use or transport of chemicals, gas or explosives; Maintaining equipment or machinery; Demolition; Melting, blowing, casting, rolling, pressing, welding metals; Marine diving, offshore fishing; Other works that are harmful to the development of his/her physical health, mental health or personality.

(2) Regulations on workplace for child workers.

A person aged 15 to under 18 must not be assigned to the following locations: Underwater, underground, in caves, in tunnels; Construction sites; Slaughter houses; Casinos, bars, discotheques, karaoke rooms, hotels, hostels, saunas, massage rooms; lottery agents, gaming centers; Any other workplace that is harmful to the development of his/her physical health, mental health or personality.

(3) Regulations on child labour contract. To conclude a child labour contract, the employer must sign with the employee aged 15 to under 18 with a written consensus by

³ Art.143.3, Labour Code 2019

⁴ Art.145.3, Labour Code 2019

his/her legal representative; or with The employee aged under 15 and his/her legal representative.

2.2. The current situation of child labor in Vietnam's businesses in the context of Covid 19

According to the Vietnam Report of the second National Survey on Child Labor published by the Ministry of Labour, Invalids and Social Affairs and the International Labor Organization, about 5.3 % of Vietnamese children and minors between the ages of 5 and 17 are child laborers. This number is equivalent to more than one million children, of which more than half of them has to work in heavy, hazardous and dangerous conditions. Compared with the results of the first National Survey in 2012, recent data shows that the percentage of children participating in work decreased significantly, from 15.5% 2012 down to 9.1% in 2018.

According to the report, there are more than 1.7 million children participating in economic activities in Vietnam, of which more than one million children are child laborers, accounting for about 58.8%. They must do work that is illegal for their age, or overload conditions, or unsuitable work. Child labor includes work that harms children physically and mentally, interferes with their education, and has a negative impact on a child's development.

This is also a common global trend, when 84% of child laborers in Vietnam are concentrated in rural areas and more than half of them work in agriculture, forestry and fishery. Other areas with high levels of child labor include services, industry and construction. About 40.5% of child labor is unpaid household labor. Child labor often exists in individual, informal household business, belonging to supply chains, so it is difficult to detect. Vietnam's deepening participation in global trade requires Vietnamese businesses to ensure that their supply chains do not use child labor to integrate into the global market.

The survey also shows that there are nearly 520,000 child laborers in Vietnam doing heavy, hazardous and dangerous jobs, which pose risks to the health, safety and morals of children. Child laborers working in hazardous jobs are often found in the industrial

and construction sectors, while the percentage of child laborers working in hazardous jobs is lower in the agricultural sector. The number of hours worked by child laborers in hazardous and heavy jobs tends to be high, with 40.6% of children in this group working more than 40 hours a week.

In addition to the risks to children's health and safety, the survey highlighted the negative effects of economic participation on children's school attendance. As children's participation in economic activities increases, the percentage of children attending school decreases. Compared with the national average school attendance rate of 94.4%, only half of child laborers attend school. This figure is even lower in the group of child laborers who do hazardous and dangerous jobs with 38.6%. However, survey data show that there is a positive trend in the total number of children participating in economic activities who attend school at 63%, compared with this figure in 2012 only 43.6%.

Although the results of the survey showed positive signs of progress from 2012 to 2018, child workers still have the potential to increase again due to the impacts of the Covid-19 pandemic on the economy - society. Currently, in Vietnam and around the world, many families must use child labor as a means to cope with the decline in income and livelihoods caused by disruptions to global supply chains and social distancing measures.

2.3. Solutions to prevent and mitigate child labor in Vietnam's businesses in the Covid-19 pandemic

2.3.1. Enhancing the role of businesses in preventing and mitigating child labor

Enterprises play a key role in preventing and mitigating child labor in business activities. Enterprises fulfill that role by implementing effective measures to detect, mitigate and remediate violations of child labor and prevent this risk from arising. This must be systematically developed and implemented, as a stand-alone system or integrated into one of the existing systems.

First of all, businesses need to comply with national laws. If national legislation falls below international child labor standards, international standards should be preferred.

This is an important requirement if the enterprise is a prominent national and international brand, foreign-invested enterprise, export processing enterprise, and other trade engaged in supply and investment with foreign partners. This is also very important for small and medium enterprises, cooperatives, household business if they want to take advantage of business opportunities with foreign partners and expand to regional and international scale.

For that purpose, enterprises need to solve the problem of child labor and develop an action plan.

First, in order to solve the problem of child labor, it is necessary to review and evaluate potential violations of child labor in enterprises and supply chains. It is very likely that the owner and manager of the business, or of the supplier know if there are employees under 18 years of age.

Second, businesses should develop and make an official commitment to child labor. It could be a statement, commitment, policy or code of conduct. Regardless of the form, its content should be consistent with national laws and international conventions, and clearly state the requirements and standards for employees in the enterprise and its partners. To build the commitment content, enterprises need to review the policies, procedures and guidelines that are being applied and adjust the shortcoming points with the new commitments on child labor. From this point on, it must be determined who is responsible for implementing the commitment. Some multinational businesses may commit to higher standards than national law. Many businesses directly reference international standards, such as the retail brand IKEA for furniture and home appliances. Some businesses could even apply much higher standards. To ensure strictness, businesses can make mandatory requirements that suppliers must comply.

Third, implement internal measures if the enterprise determines there may be child labor in the enterprise or supply chain. The nature of the enterprise's involvement to the offence will determine the appropriate action to be taken.

Fourth, it is necessary to monitor the supply chain. With a well-governed enterprise, the risk of using child labor in the enterprise will not be large. However, child labor

violations, especially the worst conditions of child labor, often occur in the supply chain, through the activities of suppliers, traders, and subcontractors or in the local community where the business hosts several satellite facilities. Business relationships can be a major source of child labor. Therefore, controlling the supply chain is an extremely important action, even for small and medium businesses that need to comply with customer and partner standards. It is especially difficult to control child labor when the number of suppliers and subcontractors is large or the supply chain is complicated.

Fifth, it is not only the responsibility of enterprises to prevent and mitigate child labor. To ensure the effectiveness of the business, it is necessary to mobilize the participation of children, families, schools, authorities, NGO programs and projects or charities, and experts if needed. Businesses also need the support of employees, customers, trade unions and employers' organizations.

2.3.2. The State responsibility and social cooperation in the prevention and mitigation of child labor in enterprises

In the context of globalization, the supply chain is becoming increasingly complex, including workers, small manufacturers, and businesses. The use of child labor at any stage in the supply chain is against the law, which will lead to negative effects on product consumption. Therefore, in the coming period, Vietnam will continue to strengthen and develop a system of child protection, preventing and mitigating child labor so that children have the opportunity to develop comprehensively and fully enjoy their rights.

Firstly, it is necessary to improve laws and policies, amend and supplement legal provisions on child protection: Penal Code, Criminal Procedure Code, Law on Handling of Administrative Violations, Law on Judicial Assessment, Decree on sanctioning of administrative violations relating to children... to harmonize with international standards.

Secondly, it is necessary to strengthen the child protection system, the network of child protection services to prevent, early detect and timely support child labor to ensure the rights of children.

Third, strengthen the inspection and examination of the implementation of child protection responsibilities by agencies, organizations and local authorities. Guiding and mobilizing budget allocation for child protection. Organize inspection teams under the National Committee on Children in State agencies to ensure the implementation of children's rights, especially in the informal economy, industrial parks, and export processing zones.

Fourth, strengthen the communication on child labor. Mobilizing the participation of social organizations, businesses and individuals. Detect, speak up and immediately notify the authorities about acts of violence and abuse against children. Strengthen the propaganda and legal education on the prevention of child labor to improve the community's knowledge on child labor. At the same time, supporting families in difficult circumstances to prevent children from having to work for a living.

Fifth, strengthen international cooperation for resources and experiences with other countries and international organizations to raise the awareness about children rights; create a child-friendly environment to enable children and families to access education, vocational training, health care, and other support services.

2.3.2. Promote the communication about the prevention and mitigation of child labor.

It must be acknowledged that some families, in some localities, still have the need to use child labor. The problem is how to make them legally use child labor. Vietnam is Agenda 2030, which includes the prevention and reduction of child labor. It is a very active commitment of the Government, but the responsibility for implementation also falls under local authorities. The awareness of local authorities and People's Committees at all levels is extremely important, especially in the context that Vietnam participates in the most progressive trade agreements.

3. Conclusion

In the context of the ongoing integration and epidemic, the implementation of international commitments on labor, including child labor, in enterprises and supply chains would attract more and more attention. Therefore, the reduction and progress

towards ending child labor must be changed from the perception of children, families, communities and employers.

Vietnam already has a system and has implemented many solutions to prevent child labor, striving to achieve the committed Sustainable Development Goals among which Goal 8.7 is take immediate and effective measures to eradicate forced labor and eliminate the worst forms of child labor. More importantly, it is essential to address child labor, especially reducing child labor in businesses and supply chains. There should be active participation and coordination of all partners in society: state agencies, businesses, trade unions, social organizations, families and communities.

REFERENCES

1. Labour Code 2019 of Vietnam
2. <https://nhandan.com.vn/tin-tuc-xa-hoi/ty-le-lao-dong-tre-em-cua-viet-nam-thap-hon-2-so-voi-trung-binh-cua-khu-vuc-628562/>
3. Vietnam Report of the second National Survey on Child Labor published by the Ministry of Labour, Invalids and Social Affairs and the International Labor Organization