

Vietnam country study

Labour Standards in the Garment Supply Chain

Strategic Partnership for Garment
Supply Chain Transformation



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Labour Standards in the Garment Supply Chain

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Introduction

The present country study on Vietnam, has been carried out in June 2016 for CNV Internationaal in the context of the Partnership for Supply Chain Transformation. It is based on desk and original research on the current status of the industry structure, social dialogue, gender-based violence and living wage debates in the apparel industry in Vietnam for use in the first phase of this project.

The Fair Wear Foundation with its alliance partners CNV Internationaal and FNV Mondiaal has been selected by the Dutch Ministry of Foreign Affairs for a five year Strategic partnership for Garment Supply Chain Transformation starting 2016 as part of its “Dialogue and Dissent” policy framework. The primary goal of this initiative is to improve the lobbying and advocacy capacity of Trade Unions and labour related NGOs by enhancing their understanding of international RMG supply chains, access to critical information and know-how. Opportunities will be identified to develop pilot experiences in the supply chain resulting in good practices related to living wages, gender-based violence and freedom of association and collective bargaining, which will facilitate more effective social dialogue and monitoring of human rights compliance at the factory level and reinforce the value of NGOs and trade unions to all supply chain stakeholders.

This country study provides the following information:

- 1) A context analysis for Vietnam for the garment and textile sector, in which the political, economic and social situation (including the issues of living wage, gender based violence and freedom of association) are outlined;
- 2) A comprehensive overview of the (international/ national) trade union movement and related (international/ national) social organizations active in the garment and textile sector and or active on the 3 key topics gender, living wage and freedom of association;
- 3) A short analysis of the situation with regard to compliance with key labour standards in garment factories;
- 4) Identification of areas to develop pilot experiences in the supply chain resulting in good practices related to living wages, gender-based violence and freedom of association and collective bargaining;
- 5) An analysis of the possibilities of cooperation between the Strategic Partnership, local trade unions and other (international) labour organisations of textile and garment in Vietnam with special reference to social dialogue, gender-based violence and living wage;
- 6) Suggested approaches, based on the above findings, that the Strategic Partnership can consider for pilot initiatives with trade union and other labour organisations in Vietnam.

1. Executive summary

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1. Executive summary

Garment and textile is the second biggest exporting industry in Vietnam, after electronics, accounting for 15 percent of the country's GDP¹ and 14 percent of its total exports in 2015². The United States is the biggest market for garments from Vietnam while Japan and the European Union EU come second and third respectively³.

With the Party-controlled VGCL remaining the only recognised union organisation, freedom of association has been the most challenging area in terms of labour rights for Vietnam. The enterprise unions are mostly dependent on management and incapable of independently representing workers in negotiations with employers. Social dialogue at the workplace is encouraged by the law but due to the unions' weakness, has not been effectively practised.

The Labour Code of Vietnam provides that the minimum wage should cover the basic living expenses of a worker and his/her family, but the current minimum wage is still lagging behind the minimum living needs. However, the National Wage Council, a tripartite institute, has become more active in MW negotiations, taking into account minimum living needs as well as economic and productivity growth.

Gender-based violence at the workplace has rarely been reported and grievances are few. However, related research shows that gender-based violence is an extensive problem in a society like Vietnam.

Consultations with the stakeholders reveal potential areas for pilot initiatives of the Strategic Partnership. First, the fact that Vietnam has made extensive labour rights commitments under the TPP and EVFTA, opens up the opportunities for a major revision of the labour legislation, especially in terms of freedom of association and collective bargaining. Second, TPP and EVFTA will attract more foreign investment into Vietnam, especially the garment industry that will benefit significantly from tariff reduction. Third, the network of labour NGOs is growing with the prospects of more legal reform after TPP and EVFTA come into effect.

Good practices in sectoral bargaining and multi-employer bargaining in garment industry, living wage initiatives and Better Work's approach to sexual harassment at workplace have been identified. These good practices show the potentials and directions for the Strategic Partnership's engagement in improving labour standards in the garment supply chain in Vietnam. In particular, a multi-level collaboration with both governmental, non-governmental agencies and employers' associations will be needed to create a concerted influence to upgrade labour standards in the garment sector of Vietnam.

¹ Link: <http://vietnam.vnanet.vn/vietnamese/tpp-va-co-hoi-cua-det-may-viet-nam/59116.html>

² Link: http://conghuong.hochiminhcity.gov.vn/ttsk/-/asset_publisher/Jeo2E7hZA4Gm/content/id/379885

³ Vietnam Customs Authority 2014

(see link: <http://cafef.vn/vi-mo-dau-tu/hang-det-may-vn-dang-lam-mua-lam-gio-tren-nhung-thi-truong-nao-201412111226179301.chn>)

2. General country information

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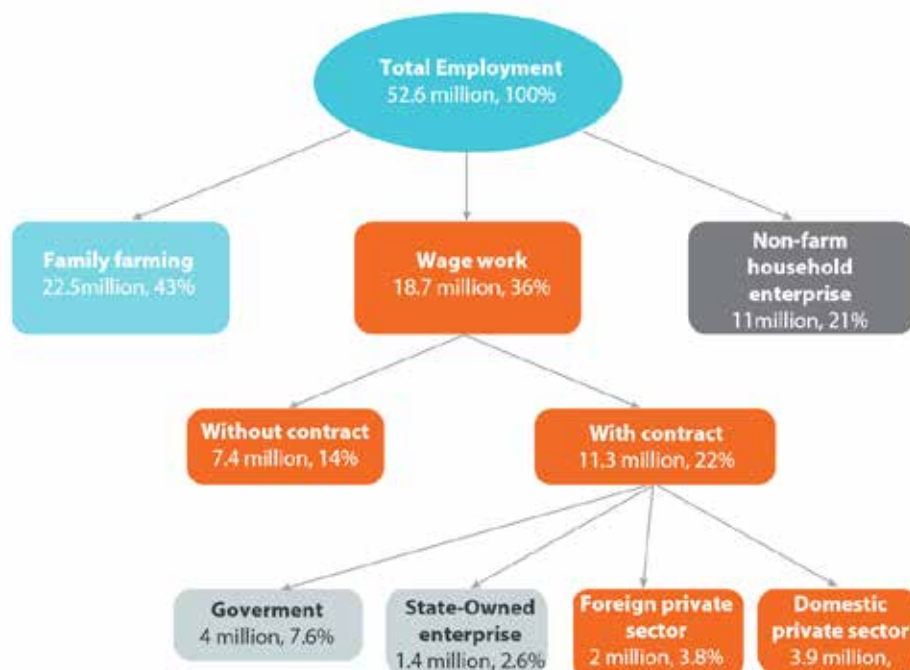
2. General country information

The Socialist Republic of Vietnam is the eastern-most country on the Indochina Peninsula in Southeast Asia. With a population of 94.1 million, as of March 2016⁴, it is the world's 14th most populous country, and the eighth most populous Asian country. The country is bordered by China to the north, Laos to the northwest, Cambodia to the southwest, and the South China Sea – referred to in Vietnam as the East Sea (*Bien Dong*) – to the east.

Vietnam's GDP growth rate has averaged 6.4% per year for the last decade, slightly slowed down to 6% in 2014⁵ and recovered in 2015 with 6.68%⁶. The export sector continues to be an important engine of growth. In the last 5 years, Vietnam's exports have doubled as competitive minimum wage and low costs of utilities boosted foreign direct investment in the manufacturing sector. Export value in US dollar terms is estimated to have grown by 11.6% in 2014, out-performing other countries in the region. Vietnam main exports are: telephone and spare parts (19 percent of the total shipments), textile and garment (14 percent), footwear (7 percent), electronics, computers and components (10 percent), and other machinery, equipment, tools and spare parts (5 percent). Main export partners are: the United States (20.7 percent of the total exports), China (10.6 percent) Japan (8.7 percent)⁷.

Vietnam has a large labour force of 52.6 million people. However only 36% of them are employed in the formal sector (wage work) and the rest engaged in agriculture and informal sector (Graph 1). The workers employed by registered garment companies are included in the 'wage work' category but it should be noted that a number of workers are also employed in unregistered garment workshops (informal sector), which is categorised as non-farm household enterprise here.

Figure 1: Share of Employment of Vietnam, 2014



Source: World Bank Vietnam, *Taking Stock: An Update on Vietnam Recent Economic Development*, June 2015

⁴ Link: <http://www.worldometers.info/world-population/vietnam-population>

⁵ Link: <http://data.worldbank.org/country/vietnam>

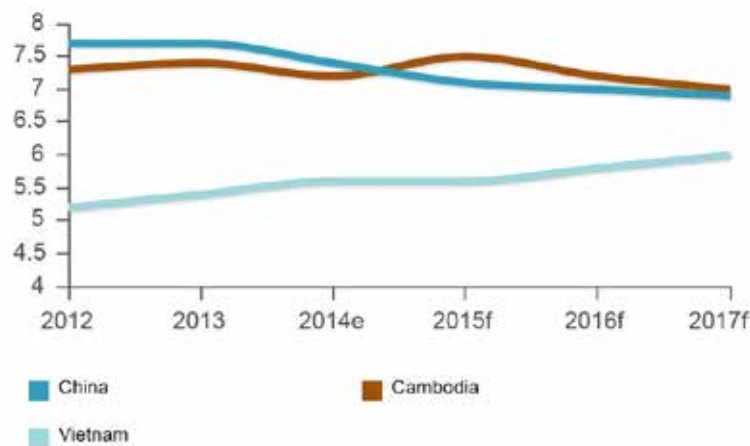
⁶ Link: <http://www.tradingeconomics.com/vietnam/gdp-growth-annual>

⁷ Link: <http://www.tradingeconomics.com/vietnam/exports>

2.1. Economic indicators

After a few decades of high GDP growth rate of over 7%, the Vietnam economy slowed down in 2009 to 5.4%⁸. In 2015, the economy slightly recovered with the GDP growth rate of 6.68%. Compared to China and Cambodia, Vietnam's GDP growth rate was significantly lower but it is projected to catch up in the next few years. Vietnam has also managed to improve macroeconomic stability, with headline inflation falling from a peak of 23% in August 2011 to about 4.1% for 2014.

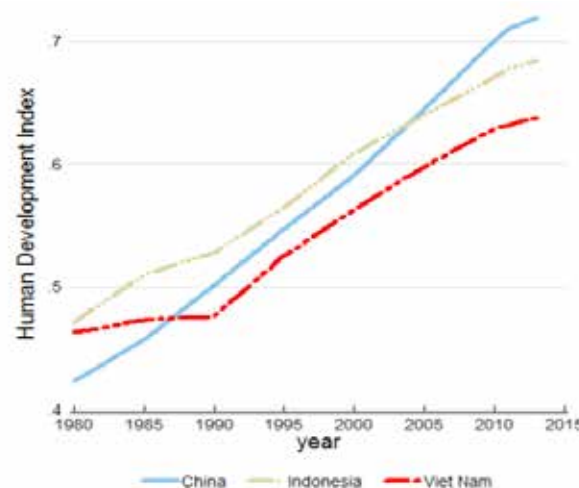
Figure 2: Vietnam GDP Growth compared with China and Cambodia



Source: World Bank⁹

According to the UNDP Human Development Report, Viet Nam's Human Development Index value for 2013 is 0.638 which is in the medium human development category positioning the country at 121 out of 187 countries and territories. Compared with regional countries, Vietnam's HDI remains lower than China and Indonesia (Figure 2)

Figure 3: Trends in Vietnam, Indonesia and China's HDI 1980-2013



Source: UNDP Human Development Report 2014

⁸ Link: <http://data.worldbank.org/country/vietnam>

⁹ Link: <http://data.worldbank.org/country/vietnam>

2.2. Social, political & governance indicators

Vietnam scores low in terms of democracy. According to the Economic Intelligence Unit, Vietnam is one of the two 'authoritarian regimes' in Southeast Asia with the democracy index in 2014 was 2.89 (over a bandscore of 8.0), ranking 144th after Cambodia (100th) and Indonesia (53rd). In terms of rule of law, Vietnam ranked 82 in 2013 as the country faces challenges in accountability, inefficient regulatory agencies and prevalent corruption (World Justice Project 2012-2013). According to Millenium Challenge Corporation (MCC), Vietnam's control of corruption index is much more positive than many regional countries, with the score being 0.32 (Percentile: 83%) in FY 2015. In the meantime, Cambodia gets -0.16 (42%) and Indonesia: -0.04 (39%). Vietnam's Government Effectiveness Index (by Worldwide Governance Indicators-WGI) slightly decreased from the peak of 48.8% (Percentile rank) in 2006 to 44% in 2013. China's score in 2013 was 54.1% and Cambodia was 18.7%.

Table 1: Social, political and governance indicators, 2013

	Bangladesh	China	India	Romania	Vietnam
Rule of law¹	22,75	39,81	52,61	56,4	39,34
Control of Corruption²	20,57	46,89	35,89	52,63	36,84
Government effectiveness³	22,49	54,07	47,37	52,63	44,02
Political Stability & Absence of Violence/Terrorism⁴	7,58	27,01	12,32	52,61	55,92

2.3. Income and poverty

Table 2: Gini Index – Bangladesh, China, India, Romania and Vietnam, 2014

Country	Bangladesh	China	India	Romania	Vietnam
Gini index	32,1	42,1	33,9	27,4	35,6

Source: Human Development Report, 2014

Political and economic reforms (DoiMoi) launched in 1986 have transformed Vietnam from one of the poorest countries in the world, with per capita income below US \$100, to a lower middle-income country within a quarter of a century with per capita income of over US \$2,000 by the end of 2014. Over the last few decades, Vietnam has made remarkable progress in reducing poverty and has become a lower-middle income country. The percentage of people living in poverty dropped from almost 60 percent in the 1990s to 13.5 percent in 2014¹⁰.

The Multidimensional Poverty Index (MPI), which identifies multiple deprivations in the same households in the areas of education, health and living standards, calculates the share of the population that is multi-dimensionally poor, adjusted by the intensity of the deprivations. The MPI gave Vietnam a score of 6.4 in 2014. According to the Index, 6.4 percent of the population is multidimensionally poor, while an additional 8.7 percent is near multidimensional poverty.

According to the income poverty (percentage of the population living below PPP US\$1.25 per day) estimates, 16.9 percent of the population lives below the poverty line. The multidimensional poverty headcount is 10.5 percentage points lower than income poverty, which implies that individuals living below the income poverty line may have access to non-income resources. The poverty head count ratio at US \$2 a day is 12.5 percent.

¹⁰ World Bank, Vietnam Country Data (Link: <http://data.worldbank.org/country/vietnam>)

2.4. General human rights situation

As an authoritarian one-party regime, there remains significant restrictions of basic human rights in Vietnam. According to Amnesty International (Vietnam Country Report 2014/2015)¹¹, severe restrictions on freedoms of expression, association and peaceful assembly continued. The state continued to control the media and the judiciary, as well as political and religious institutions. The new Constitution, adopted in November 2013, came into force after an unprecedented but heavily controlled consultation process lasting around nine months. The Constitution provides a general protection of the rights to freedom of expression, association and peaceful assembly but limits them by vague and broad provisions in national legislation. Only a limited guarantee of fair trial rights is included.

Table 3: Vietnam's Ratifications of ILO Core Conventions (updated by March 2016)¹²

Ratified	Not ratified
C29 – Forced Labour Convention C100 – Equal Remuneration Convention C111 – Discrimination (Employment and Occupation) Convention C138 – Minimum Age Convention C182 – Worst Forms of Child Labour	C87 – Freedom of Association and Protection of the Right to Organise Convention C98 – Right to Organise and Collective Bargaining Convention C105 – Abolition of Forced Labour

In terms of labour rights, Vietnam ratified 5 out of 8 core labour conventions except for Conventions 87, 98 and 105 (see Table 3). Vietnam is considering ratifying C87 and C98 as part of the agreements under the Trans Pacific Partnership (TPP) Agreement. Freedom of association and the right to organise of Vietnamese workers are severely limited as all unions must be affiliated to the Vietnam General Confederation of Labour (VGCL) which is controlled by the Vietnam Communist Party¹³. Enterprise unions are set up in a top-down approach with the upper-level unions (i.e. district or industrial zone unions) persuading the employers to establish unions rather than by organising the rank-and-file workers¹⁴. Such an organising approach usually results in 'yellow unions'. A VGCL survey in 2011 found that 99% of enterprise unions were established by the upper-level unions and 60-70% leaders of enterprise unions hold managerial positions¹⁵.

While the enterprise unions are mostly dominated by the management, the Labour Code grants some of the key labour rights to the unions. In particular, the right to collective bargaining and the right to strike are granted to enterprise unions and upper-level unions in case of unorganised workplaces. Consequently, 56% of the collective bargaining agreements concluded are mere copies of the labour law and only 15% of these agreements showed any sign of workers' participation¹⁶. The only way that workers can claim for higher wages and better working conditions has been through wildcat strikes. There have been over 5,000 strikes since 1995 but none followed the legal procedures such as being organised by the official unions and following the compulsory mediation and arbitration process.

A possible breakthrough to the labour regime in Vietnam is about to come when in 2015, Vietnam signed two important free trade agreements: the **Trans-Pacific Partnership (TPP)** and **EU-Vietnam FTA**. Both of these agreements require Vietnam to make extensive commitments in terms of respecting and improving the core labour rights. In particular, Vietnam and the United States signed a Consistency Plan along with the TPP in which Vietnam is committed to far-reach and significant changes in terms of labour rights¹⁷. By the time of writing it remains uncertain whether the TPP will be ratified by the member countries' congresses but in case it does, Vietnam has 5 years to revise its legislation and enforcement mechanism in compliance with the TPP commitments. Freedom of Association and the right to Collective Bargaining will be most affected by the implementation.

¹¹ Link: <https://www.amnesty.org/en/countries/asia-and-the-pacific/vietnam/>

¹² Source: http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103004

¹³ For information about violations in law and in practice of Vietnam with regards to trade union rights see <http://tur.la.psu.edu/country/704>

¹⁴ For detailed discussion of union organising, please refer to Trinh, K. Ly (2014) Trade Union Organizing Free from Employers' Interference, *Southeast Asian Studies* 3(3): 589-609

¹⁵ Ibid.

¹⁶ VGCL-FES Survey of 1000 collective bargaining agreements in 2015

¹⁷ US-Vietnam Plan for Enhancement of Trade and Labour Relations

(Link: <https://ustr.gov/sites/default/files/TPP-Final-Text-Labour-US-VN-Plan-for-Enhancement-of-Trade-and-Labor-Relations.pdf>)

3. The Garment Industry

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3. The Garment Industry

Organisation of the garment industry

Vietnam is becoming an increasingly important garment exporting country. The textile and garment sector of Vietnam is one of the country's largest industries and a key contributor to its economic growth. In 2015, Vietnam's textile and garment exports increased 9.1 percent year over year (YOY) to total approximately US\$22.81 billion, accounting for 15 percent of the country's gross domestic product and 18 percent of its total exports¹⁸.

Table 4: Overview of Vietnam's Textile and Garment Industry (updated by 2015)

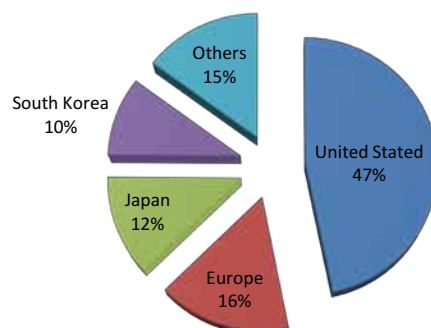
Total number of enterprises	6,000
Average enterprise size	SMEs (200-500 workers)
Enterprises by ownership	Private domestic companies (84%) Foreign-owned companies (15%) State-owned companies (1%)
Enterprises by stages of garment production	Garment (70%); Yarn (8%); Textile (17%); Dye (4%); Supporting (3%)
Total employment	2.5 million people
Average age	28 years old
Total export value (2014)	USD 24.5 billion
Total import value (2014)	USD 15.8 billion (50% from China)
Key Export Products	Jackets, t-shirts, trousers, shirts
Enterprises by processes	CMT (70%); FOB (20%); ODM (9%); OBM (1%)

Source: FPT Securities Overview of Garment Industry, April 2014/19, updated by the author

As the fifth largest garment exporting country in the world, Vietnam's textile and garment industry has grown at the average rate of 22%/year in the period of 2010-2014. The biggest export markets for Vietnam's textile and garment industry include the United States (47% of total export value) and Europe (16%).

If the TPP comes into effect, Vietnam's garment industry is supposed to gain huge benefits due to the reduction of tariffs and duties, especially for garment exports to the United States and Japan as well as the increase of foreign direct investments into textile and garment industry of the country.

Figure 4: Vietnam's Apparel Export Markets, 2014



Source: Vietnam Customs Authority Statistics, 2014

¹⁸ Link: <http://www.customs.gov.vn/Lists/TinHoatDong/ViewDetails.aspx?ID=23337&Category=Th%E1%BB%91ng%20k%C3%AA%20H%E1%BA%A3i%20quan>
¹⁹ Link: http://images1.cafef.vn/Images/Uploaded/DuLieuDownload/PhanTichBaoCao/DetMay_180414_FPTS.pdf

Main areas for garment production

Around 57% of the enterprises are located around Ho Chi Minh city, whereabout 2,500 garment export-oriented factories are operating²⁰. 70% of the companies in the industry are garment companies; only 17% are textile and 6% are yarn producers. Among the garment companies, 70% are producing on Cut-Make-Trim (CMT) process while those with FOB (Freight on Board) production account for only 20%.

The garment industry of Vietnam is heavily reliant on the import of materials including cotton, yarn, and cloth. Every year, Vietnam imports around 6.8 billion meters of cloth or 80% of its total need, mostly from China, Taiwan and South Korea. This will become a major obstacle to Vietnamese manufacturers to enjoy TPP's tariff reductions as the import of yarn-forward materials from TPP countries accounts for only 5.3% of its total garment import²¹.

Social composition of the garment workforce

2.5 million workers are employed by Vietnamese textile and garment companies and 2 million employed in supporting industries (logistics, packaging, transportation)²². The garment workforce is dominated by women, with 81.6% female and 18.4% male.. The labour force is also young, with 75% workers under 30 years old. The average age of garment workers is low, 28 years old, compared to 36 years old in China. The garment labour force is also dominated by migrants from the rural areas with 83.7% workers grown up in the rural areas (BWV Baseline Survey, 2012)²³.

²⁰ Link: <https://www.betterwork.com/global/?cat=35>

²¹ Link: <http://www.trungtamwto.vn/tpp/det-may-viet-nam-ai-thuc-su-huong-loi>

²² Link: <https://www.betterwork.com/global/?cat=35>

²³ Link: <https://www.betterwork.com/global/?cat=35>

4. Industrial Relations, Living Wage and Gender-based Violence

Strategic Partnership for Garment Supply Chain Transformation



4. Industrial Relations, Living Wage and Gender-based Violence

4.1. Industrial Relations

The Vietnam General Confederation of Labour (VGCL) is the only union organisation legally recognised in Vietnam. All enterprise unions must be established by and affiliated to the VGCL. The VGCL has regional and sectoral branches all over the country.

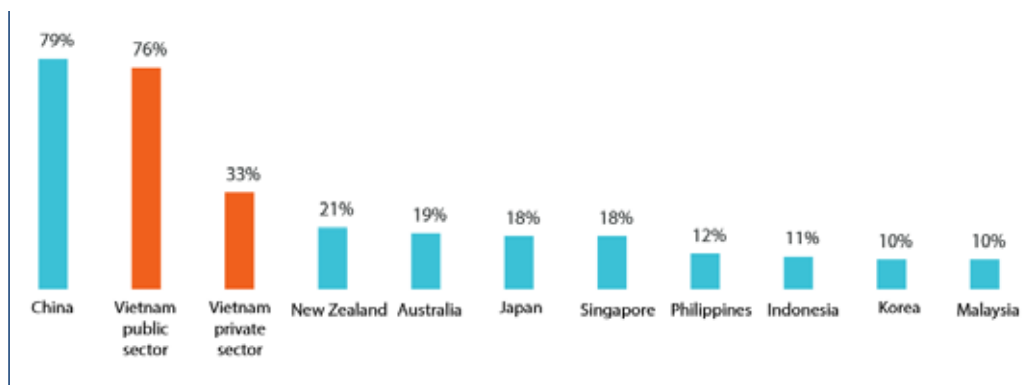
The law grants the key labour rights including the right to organise strikes and the right to collective bargaining to the VGCL-affiliated enterprise unions and in case of an ununionised workplace, the upper-level union branches (district union or industrial zone union) have the authority to represent the unorganised workers.

Union density in country

Union membership of VGCL in 2014 is 8.558.063²⁴. By 2015, the union density in the private sector was 33% while that among the public sector was 76% (See Figure 6). Recruiting members, especially in the private sector has been the primary goal of the VGCL over the last decade. The VGCL set the target of recruiting around 600,000 new members every year between 2013 and 2018.

There are 346 unionised garment companies by the end of 2013 (Vietnam Garment and Textile Union, National Congress, 2013) or 5,78% of the garment-textile companies.

Figure 6: Union membership as percent of wage employment by country, 2015



Source: World Bank 2015

Collective Bargaining Agreement coverage in country

The CBA coverage in Vietnam is high, 67% of unionised establishments having CBAs. However, the general quality of the CBAs registered has been low. According to a survey of the VGCL in 2015, 56% of the CBAs copied from the law and only 15% showed any sign of workers' participation in the collective bargaining²⁵.

Collective Bargaining Agreement coverage in garment industry

MOLISA estimated the CBA coverage in the garment industry was 50% in 2012²⁶. However, there is no official statistics on the CBA coverage in garment industry. VITAS and the national garment union signed a sectoral CBA in 2014 which covered 70 VITAS member companies and over 100,000 workers²⁷.

²⁴ VGCL National Review Conference, 2015

²⁵ VGCL-FES Survey of 1000 collective bargaining agreements, 2015

²⁶ MOLISA Employment and Labour Survey, 2012

²⁷ Link: <http://bxh.laodong.com.vn:2014/thoa-uoc-lao-dong-tap-the-nganh-det-may-viet-nam-co-loi-hon-cho-nguoi-lao-dong>

Grievance mechanisms for workers

Workers can raise their grievances either via the regional union branches or the local labour inspectorate. The district and provincial unions have legal advice services which also receive grievances from workers through direct visits, post and hotlines. The district and provincial union officials are supposed to investigate the grievances before transferring them to the local labour administration and labour inspectorate. According to the VGCL statistics, in the period of 2009-2014, the legal advice services of the trade union system dealt with 74,628 grievances involving 330,852 workers and claimed compensation of VND15.5 billion for the complainants. The union's legal advice services or registered labour lawyers also represented workers at the court in 688 cases²⁸.

The labour inspectorate receives grievances through post, direct submission and hotlines. In the period of 2005-2014, the labour inspectorate dealt with over 4,000 grievances²⁹.

State role in industrial relations

The 2012 Labour Code provides that a labour dispute should be mediated by the district labour mediators who are registered at the local district labour administration. If the labour mediator fails to mediate the dispute, the case will be referred to the People's committee (in case of a rights-based dispute) or the provincial labour arbitration council (in case of an interest-based dispute)³⁰.

However very few labour disputes have been handled through the formal mediation and arbitration mechanisms. Among over 3,000 strikes that happened between 1995 and 2015, none followed the dispute resolution procedures; in other words, they were wildcat strikes. In fact, (wildcat) strikes have usually been mediated/settled by the provincial *ad hoc* strike taskforces which mainly comprise of district labour and union officials³¹.

Mechanisms for social dialogue (national/sectoral)

Social dialogue is widely regarded by the local stakeholders as the key to peaceful labour relations. Chapter 5 of the 2012 Labour Code makes labour-management dialogue at least once every quarter compulsory for all companies. Every three months, workers are allowed to elect their team representatives who join with the enterprise union leadership to dialogue with the top management on all relevant issues.

Social dialogue at the sectoral level is not common, except for a few industries such as garment and rubber. Sectoral unions are weak and have low membership. In the garment industry, VITAS also have monthly meetings with the national garment federation of labour to discuss labour issues (Interview with Mr. Truong Van Cam, VITAS). However, as both VITAS and the national garment federation of labour (FOL) represent only a small number of state-owned garment companies (around 100 companies employing 130,000 workers), their meetings are far from representative of the whole industry.

At the national level, there are 2 social dialogue mechanisms: one is the National Labour Relations Committee; the other is the National Wage Council. The National Wage Council meets once per year to discuss the new minimum wage rate as well as evaluating the impacts of minimum wage on various policy areas such as economic development, employment, social equity, among others. The National Labour Relations Committee meets every quarter or when an emergency issue arises. The focus of the NLRC is labor relations policy and legislation, labour relations at workplace and strikes. Both mechanisms are tripartite with representatives from MOLISA, VCCI/VCA, and the VGCL.

4.2. Living Wage

Minimum wage as living wage?

Vietnam is one of the few countries that tie minimum wage to living wage. The minimum wage of Vietnam is defined as '*the lowest rate that is paid to the employee who performs the simplest work in the normal working conditions and that must ensure the minimal living needs of the employees and their families*' (Article 91.1 of the Labor Code). However, the current minimum wages are lagging far behind the minimum living needs. According to the VGCL, the current minimum wage covers up

28 Report on the Union's Legal advice services (<http://www.congdoanvn.org.vn/details.asp?l=1&c=264&m=9285>)

29 Link: <http://laodong.com.vn/viec-lam/thanh-tra-bo-ld-tbxx-don-nhan-huan-chuong-lao-dong-hang-nhat-399688.bld>

30 The Labour Code of Vietnam categorises labour disputes into rights-based and interest-based. Labour disputes can be categorized as Interests disputes (regarding work conditions within the negotiation of collective agreements) and Rights disputes (regarding the rights and obligations provided by normative acts, collective or individual employment agreements).

31 For details about how wildcat strikes are settled see Chi, D.Q. and Di. B (2013) Wildcat strikes and the Catalyst for Union reform, JIR Oct. 25, 2013

to 78% of the minimum living needs³². The average wage in the garment industry is around 4.7 million (In urban areas) approximately USD 211, composed of basic wage, cash allowances, bonus, in-kind benefits.

However, economists, employers' organisations and recently the World Bank have argued that the minimum wages in Vietnam are set too high. First, Vietnam's minimum wage (in the non-government sector) accounts for approx. 58% of median wage which is high compared to other countries³³. Second, minimum wage is increasing at a much higher rate than labour productivity (Figure 8). In particular, according to the General Statistics Office (GSO), the minimum wage has increased 12.6% per year since 2010 while the labour productivity has increased 3.9%/year during the same period³⁴. When the MW increases at the rate 3 times higher than the labour productivity, the MW will become a burden on enterprises in Vietnam.

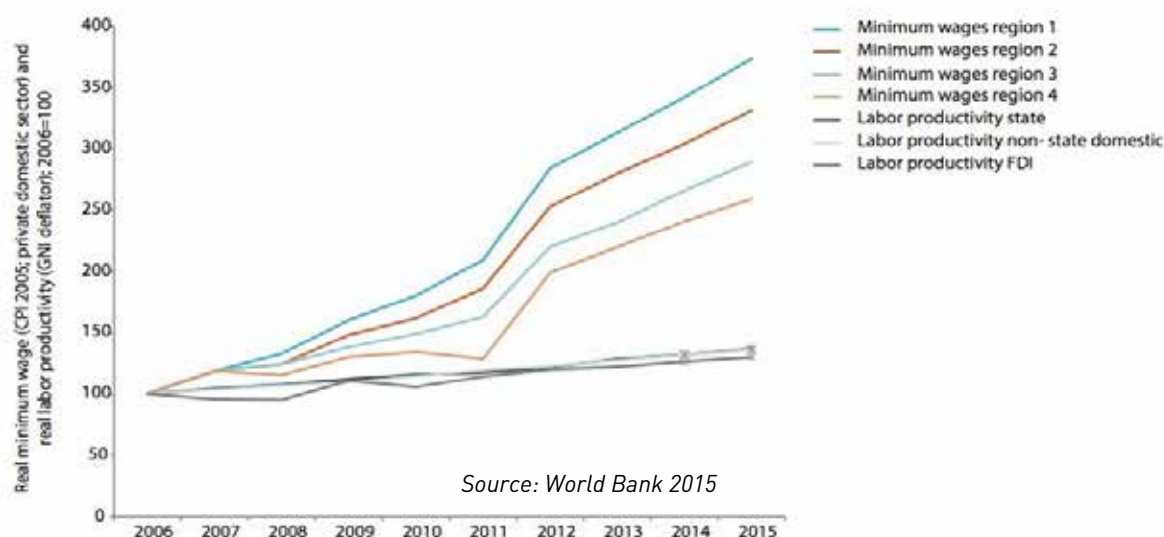
While the World Bank is suggesting to the Vietnam government to link MW increase to labour productivity growth, the VGCL and social agencies such as MOLISA and NGOs are proposing to increase the MW to the minimum living needs level by 2018 (see Table 6)

Table 5: Projected minimum living expenses, 2013-2020 (Unit: 1.000VND)

	2013	2014	2015	2016	2017	2018	2019	2020
Region 1	3.350	3.580	3.830	4.100	4.390	4.700	5.030	5.380
Region 2	2.960	3.160	3.380	3.620	3.870	4.150	4.440	4.750
Region 3	2.680	2.870	3.070	3.280	3.500	3.760	4.020	4.300
Region 4	2.300	2.470	2.640	2.830	3.030	3.240	3.460	3.700

Source: ILSSA, 2014

Figure 6: Minimum wages and labour productivity



Source: World Bank 2015

³² VGCL Survey of Minimum living needs of 2015

³³ World Bank. 2015. Taking stock: update of Vietnam economic development. July 2015

³⁴ Link: <http://english.vietnamnet.vn/fms/society/149471/vietnam-s-labor-productivity-increases-nearly-24--in-five-years.html>

Wage-setting in the garment industry

The Labour Code encourages companies and unions to negotiate for wages that are higher than the minimum wage through collective bargaining at the enterprise and sectoral levels. However, due to the enterprise unions' weakness in representing the workers and their dependence on management as discussed in the above section, the minimum wage has become the actual wage paid to the workers. Managers must be excluded from union leadership before any opening can be created in workers negotiating their wage.

Hourly pay is the most common method of payment in the garment sector, according to Better Work Vietnam. In fact, over 70% of garment factories are paying by hour. However, 20% of garment companies are still applying the piece-rate system.

Table 6: Basis of Pay in Garment Companies, Better Work Vietnam, 2014

Basis of Payment	Percent
Hourly Pay	70.6
Piece rate Pay	20.0
Hourly and piece-rate pay	10.3

Source: Better Work Compliance Report, July 2014³⁵

4.3. Gender-based Violence

Gender-based violence (GBV) is recognized as a serious problem in Vietnam. The 2010 National Study on Prevalence of Violence against Women in Vietnam found that 58% of women reported having experienced at least one of three types of violence: physical, sexual and emotional, with 27% of women having experienced violence in the past 12 months³⁶.

With regards to GBV among internal migrant women, there are limited statistics and official figures. It has been found that rural to urban migration exposes women to high-risk situations, such as violence and unprotected sex³⁷. Research by ActionAid Vietnam (2015) found that female migrant workers are one of the most vulnerable groups to violence in public as they live far away from family, in unfamiliar and unsafe places. It reported that 47.9% of female factory workers ever experienced sexual harassment from 2 to 5 times. Women also experience victim-blaming, and are seen to 'deserve' sexual harassment or abuse if their style of dress does not conform with traditional gender norms (ActionAid Vietnam 2015). In addition, migrants are often looked down upon by local residents³⁸.

According to the information from the Vietnam Women's Union, there are more than 2 million workers in industrial and export processing zones in Vietnam, of which more than 70% are women (Vietnam Women Union 2014). There is no comprehensive data about the prevalence of GBV among this large population of migrant factory workers. A 2006 ethnographic study on migrant women employed in the garment sector found that these women are often subjected to discriminatory treatment by their employers who impose a stricter disciplinary regime on female workers, compared with their male colleagues (Nghiem 2006). In 2010, the Population Council in Vietnam in cooperation with Hanoi Health Department conducted a survey on living experience and health issues among 1120 female factory workers in Hanoi (Nguyen 2010). The study found that with regards to intimate partner violence, prevalence of ever-experience of physical, sexual and emotional violence were 5%, 1.2% and 8.7% respectively which were much lower than those of the National Study on Domestic Violence (32%, 10% and 54% respectively). About 4.9% of the female factory workers who responded to the survey questionnaire reported having experienced any type of economic violence. Only 2.32% respondents said that they had experienced any type of violence at the workplace. The study provided no information on reporting of workplace violence; risk and protective factors; or knowledge, attitude and practice of relevant duty bearers in response to violence among female factory workers.

³⁵ Link: <http://betterwork.org/global/?p=4305>

³⁶ General Statistics Office (GSO) (2010) *National Study on Prevalence of violence against women in Vietnam*

³⁷ Rushing, B. (2006). *Domestic violence: Facts, Figures and What we can do*. London: Routledge

³⁸ Le et al. (2011). *An Analysis of interprovincial migration in Vietnam from 1989 to 2009*. *Global Health Action* 5(10).

It is likely that under-reporting partly accounts for the low prevalence of reported violence among female factory workers in the above-mentioned study. Survivors of violence are often embarrassed and afraid of losing their jobs, and thus less willing to share their experiences³⁹. Other barriers to reporting violence are a lack of accountability of employers for providing legal and financial compensation to victims and lack of processes to respond to workplace GBV. A high tolerance of violence can contribute to high acceptance (and therefore low reporting) of workplace violence. A regional survey about migrant urban women's rights and gender equality in four countries (including Vietnam) reported that participants had little understanding of violence as a human rights violation and typically blamed the use of alcohol or drugs instead of the perpetrator of the violent act⁴⁰.

Gender-based violence including sexual harassment at work has many negative impacts on the victims and their employers. Victims suffer health, economic, social and psychological impacts and their career development is likely to be impaired. The direct and indirect consequences for enterprises and organizations where sexual harassment occurs are also negative, including reductions in productivity and profits, damage to their institutional reputation and business relationships, and loss of qualified human resources⁴¹. A research estimating the economic costs of domestic violence in Vietnam was conducted with a total of 1053 women, 541 in rural areas and 512 in urban areas. The research suggested that both out of pocket expenditures and lost earnings represented nearly 1.41% of the GDP in Viet Nam that stood at 2,536,000 billion VND in 2010. More importantly, regression results for estimating productivity loss due to violence indicated that women experiencing violence earned 35% less than those not abused, representing another significant drain on the national economy. An estimate of overall productivity loss came to 1.78% of GDP⁴².

39 MOLISA and ILO (2013) *National Survey of Sexual Harrassment*. Hanoi: ILO

40 Care International (2014) *Regional Survey of domestic violence among migrants*. Bangkok: Care International

41 MOLISA and ILO (2013) *National Survey of Sexual Harrassment*. Hanoi: ILO

42 UN Women Vietnam (2012) *Estimating the cost of domestic violence against women in Viet Nam* (Link: <http://www.unwomen.org/en/digital-library/publications/2013/2/estimating-the-cost-of-domestic-violence-against-women-in-viet-nam#sthash.uVD3oso1.dpuf>)

5. Local and international Stakeholders

Strategic Partnership for Garment Supply Chain Transformation



5. Local and international Stakeholders

5.1 Governmental institutions

Ministry of Labour, Invalids and Social Affairs (MOLISA): the Ministry is in charge of regulating and enforcing labour standards, labour inspections, labour market policies, labour migration policies, vocational training, and social security policies.

> Website: www.molisa.gov.vn

Labour Inspectorate: the MOLISA Inspectorate is the central authority of the labour inspection system in the country. It has six functional divisions: Labour Policy Inspections, OSH Inspections, Child and Social Affairs Policy Inspection, Inspections of "Policy for Meritorious People", General Services and Administrative Inspections, Citizen Reception and Complaint and Denunciation Handling.

There are 63 DOLISAs at the provincial level. These DOLISA offices further support and monitor 697 district divisions.

By the end of 2015, there were only 500 labour inspectors in Vietnam. The number of inspectors is too small compared to the number of enterprises. Under Vietnam's commitments to the Trans-Pacific Partnership (TPP), the country has to increase the number of labour inspectors to 800 by the end of 2016 and 1200 by 2020. By the time of writing, the TPP has not been effective.

> Website: <http://thanhtralaodong.gov.vn>

Department for Gender Equality: the Department for Gender Equality under MOLISA is in charge of making laws and policies on gender issues and monitoring the compliance with the 2013 Gender Law. The Department is also the secretariat for the National Committee for the Development of Women.

> Website: <http://www.molisa.gov.vn/vi/Pages/ChiTietToChuc.aspx?tochucID=1461>

5.2 Employers organisations

Vietnam Chamber of Commerce and Industry (VCCI): The VCCI is one of two national employers' organisations (together with the Vietnam Collaborative Alliances which mainly represents agricultural enterprises and cooperatives). VCCI has around 2,000 enterprise members and 7 branches in the most industrialized provinces and cities.

> Website: <http://www.vcci.com.vn/>

Bureau of Employers' Affairs (BEA): The VCCI's Bureau of Employer Affairs (BEA) is in charge of representing the employers' opinions with regards to national policy and legislation to the state and vice versa. The BEA also represents the VCCI in the advisory board of Better Work Vietnam and other ILO projects in Vietnam.

> Website: <http://enternews.vn/category/hoat-dong-vcci/van-phong-gioi-su-dung-lao-dong-vpgc>

American Chamber of Commerce (AmCham) in Ho Chi Minh city: AmCham Vietnam was established in 1998 as a branch of the Chamber of Commerce of America. AmCham Vietnam represents American companies licensed and legally engaged in business in Vietnam. By 2015, AmCham Vietnam has 350 member companies. AmCham has been active in raising employers' voice in labour law and policy. Within AmCham, the Manufacturing Committee represents major manufacturing brands such as Nike, Walmart, Target, Hanesbrand among others, in communication with the local authority on labour issues such as lobbying for new minimum wages, raising overtime hours, reducing limitations on work permits for foreign workers.

> Website: <http://www.amchamvietnam.com/>

The Vietnam Textile and Apparel Association (VITAS): VITAS is a non governmental umbrella association working in the field of textile and garment industry in Vietnam with 15 branches in Vietnam. A total of 635 member companies, account for 70% of the total capacity of the industry. VITAS promotes business and investment cooperation as well as exchanges information among members, between members, and the outside. Furthermore, VITAS represents its members and

consults relevant the State and Government bodies in policy campaign and mechanisms relating to the development of the Textile and Garment industry in Vietnam. The VITAS represents Vietnamese textile and garment industry in international organizations and tries to be a bridge of cooperation between the domestic industry and the outside world. The VITAS also supports foreign companies in looking for Vietnamese textile and garment producers.

> Website: <http://www.vietnamtextile.org.vn/>

The Vietnam Textile and Garment Group (VINATEX) is the biggest state-owned group of companies in the field of textile and garment in Vietnam. VINATEX is also a member of VITAS. It has over 90 member companies in Vietnam which together cover activities from spinning, knitting, weaving, and dyeing to finishing. The total labor force of the VINATEX is nearly 100,000 employees and another 35,000 employees working in joint ventures with foreign and local partners.

> Website: <http://www.vinatex.com/Portal/Default.aspx>

5.3 Trade unions

Vietnam General Confederation of Labour (VGCL): According to figures provided by the VGCL⁴³ the total membership increased from 7.3 million to 7.9 million between 2011 and 2013 and the number of enterprise unions rose from 108.302 to 113.000 in the same period with 70.1% in public agencies and state-owned enterprises (see Table 1). As the total number of wage earners in Vietnam is 18.7 million⁴⁴, the national union density is 42.2%. However, the union density in the private and foreign-owned sector is only 33% in 2014, much lower than the union density of 76% in the SOEs. Since the Vietnamese government is gradually 'equitizing' state-owned enterprises and this will be reinforced by the upcoming Free Trade Agreements that will create a level playing field between state-owned, private Vietnamese and foreign enterprises, pressure on VGCL is growing to learn how to organise in non-state enterprises.

Table 7: Union Membership by Sector

Total Union membership (2011)	7,331,000
State sector	3,821,431
Public agencies	2,606,332
State-own enterprises	1,215,099
Non-state sector	3,510,401
Non-public agencies	79,734
FDI enterprises	1,473,286
Domestic enterprises	1,957,381
Non public enterprise union density (2014) ⁵	33%
National Union Density (2014)	42.2%
Enterprise Unions by Sector (2011)	
Total No. of Enterprise Unions	108,302
State sector	76,016
Public agencies	72,009
State-own enterprises	4,007
Non-state sector	32,286
Non-public agencies	3,338
FDI enterprises	4,060
Domestic enterprises	24,888

Source: Author's calculations based on VGCL's unpublished statistics, 2011

⁴³ Report by VGCL to foreign guests of the 11th VGCL Congress, Hanoi, 28th July 2013

⁴⁴ World Bank. Taking stock: An update on Vietnam's economic development. Working Paper. July 2015

(Link: <https://openknowledge.worldbank.org/bitstream/handle/10986/22342/Taking0stock000conomic0developments.pdf?sequence=1&isAllowed=y>)

Vietnam National Union of Textile and Garment Workers (VNUTG): The centralised structure of the VGCL is rather complicated, with branches in all 63 provinces and sectoral trade unions in 22 sectors. Vietnam National Union of Textile and Garment Workers (VNUTG) was only established in 2007 since it was part of a larger general union before. Its membership comprises of about 136.000 members. However, about 80% of its memberships comes from the state-owned VINATEX conglomerate and only the remaining 20% are in private Vietnamese companies, nearly none in FDIs⁴⁵.

However there are hundreds of other textile and garment enterprise unions that are not in the constituency of the VNUTG but affiliated directly through district or provincial chapters to the VGCL. Trade union representation in the textile and garment sector, therefore, is fragmented and divided among various provincial federations of labour and the VNUTG without any coordination among these branches. This makes trade union representation in the textile and garment sector, one of the most important industries in Vietnam, quite ineffective.

5.4 Labour NGOs

All non-governmental organisations in Vietnam must affiliate with a governmental agency. In terms of labour, the government strictly scrutinises the NGOs' engagement in labour issues. Therefore, there are only a few NGOs working on labour in Vietnam and recently they jointly formed an informal labour NGO forum. The Forum is an initiative by the Friederich Elbert Stiftung (FES) and the M-net, a network of Vietnamese labour NGOs, managed by Oxfam GB to facilitate the ratification and implementation of Vietnam's labour commitments in TPP and EU-Vietnam Free Trade Agreement (EVFTA).

The labour NGO forum had their first meeting with the leaders of VGCL in April 2016 to establish a regular dialogue mechanism. The members of the labour NGO forum include:

Table 8: Members of the NGO forum

Name/Location	Areas of Interest	Labour-related Projects
GFCD: Research Center for Gender-Family and Community development, <i>Hanoi</i> > Website: http://gfcd.org.vn/	<ul style="list-style-type: none"> - Gender equality; Maternity health; Fight against domestic violence - Poverty reduction - Climate change - Protection of rights of domestic and informal workers 	<ul style="list-style-type: none"> - 2013-2014: Protection of the rights of domestic workers in Hanoi and HCMC (Rosa Luxemburg Stiftung) - 2012-2015: Protection of the rights of domestic workers in Khanh Hoa, Vinh Long, Nam Dinh (Oxfam Novib)
LIGHT: Institute for Development and Community Health, <i>Hanoi</i> > Website: http://www.light.org.vn/anh-sang	<ul style="list-style-type: none"> - Maternity health; Sexual health; prevention of HIV/AIDS - Protection of rights of disadvantaged groups (drug addicts, HIV/AIDs, street children, prostitutes, migrant workers) 	<ul style="list-style-type: none"> - Empowerment for migrant female workers to prevent violence (EU and IOM) - Public house for migrant workers in Hanoi
SDRC: Research Center-Counselling: Social Work for Community Development, <i>Ho Chi Minh city</i> > Website: http://sdrc.thietkewebsite.vn/vn	<ul style="list-style-type: none"> - Legal advice for migrant workers - Capacity building for social workers 	<ul style="list-style-type: none"> - Legal advice for migrant workers
CDI: Center for Development and Integration, <i>Hanoi</i> > Website: http://cdi.com.vn	<ul style="list-style-type: none"> - Local governance - Labour rights - Children's rights, women's rights - CSR - Development and trade 	<ul style="list-style-type: none"> - 2011-2014: Promotion and protection of rights of migrant workers in Northern provinces (Oxfam) - 2009: Promotion of migrant female workers' capacity to dialogue and bargain with employers in Hai Phong/Is (Oxfam OSB) - 2015: Regional network for OSH - 2007-2008: Building social capital through social dialogue and collective bargaining in Hanoi IZs

Name/Location	Areas of Interest	Labour-related Projects
Care International > Website: http://www.care.org/country/vietnam	Support most vulnerable groups including ethnic minorities, poor women and girls, and people vulnerable to climate change.	- Gender-based violence in supermarkets
FES Vietnam, Germany > Website: http://www.fesvietnam.org/en/fes-vietnam	- Political Dialogue and Social Reforms - Regional and International Integration - Social Policy and Labour Rights	- The 1,000 CBA project - Coordinator of the Labour NGO Forum
Oxfam Vietnam Website: https://www.oxfam.org/en/countries/vietnam	- Poverty reduction - Climate change - Worker Rights - Disadvantaged people	- Establish and manage the network of labour-related NGOs - Oxfam labour rights program - Oxfam-Unilever Project on Labour rights in Unilever supply chain in Vietnam
Apheda, Australia Website: http://apheda.org.au	- Trade union development, - Occupational health and safety - Vocational training - Gender equality.	Training of union skills for VGCL officers

5.5 Brands and factories

Better Work Vietnam: Started in Vietnam in 2010, Better Work Vietnam has grown fast now with 42 buyers and 336 participating enterprises (including 260 companies in the South). In the second phase of the Project as of 2015, BWV extends to the North provinces and to incorporate footwear factories as well. The main services provided to participating enterprises include assessment, advisory and training. The most well-known initiative of the BWV is the PICC model (*Performance Improvement Consultative Committee*) in which representatives of workers, union officials and employers meet to discuss solutions to improve working conditions.

Race to the Top: 'Race to the Top Vietnam' (RTTT) was initiated in 2015 by a group of multi-stakeholder initiatives, funders, development experts, international institutional efforts, and apparel and footwear companies to explore and coordinate efforts around creating a sustainable system of apparel and footwear in one country, Vietnam, to demonstrate the industry can become a positive catalyst for sustainable development. The secretariat for RTTT is IDH (Sustainable Trade Initiative), a Dutch NGO. IDH now has an office in Hanoi.

Participants include:

- Nike, Levi Strauss & Co, GAP, PUMA, Li & Fung (tbc) and possibly others
- SAITEX (an apparel manufacturer based in Vietnam)
- Global Green Growth Forum - 3GF (convenes governments, businesses, investors and international organisations to act together for inclusive green growth, 3GF was initiated by the Danish Government in 2011)
- Better Work (collaboration between International Finance Corporation and the International Labour Organization)
- International Finance Corporation (finances and provides advice for private sector ventures and projects in developing countries)
- Sustainable Apparel Coalition (a collection of brands, retailers, manufacturers, and apparel and footwear stakeholders improving the apparel and footwear value chain through measurement)
- IDH, the Sustainable Trade Initiative (a non-profit organization that accelerates and up-scales sustainable trade by building impact oriented multi-stakeholder coalitions)

> Website of IDH: <http://www.idhsustainabletrade.com/>

5.6 Others

IndustriALL Union: The IndustriALL Union does not have office in Vietnam but affiliates with Vietnam National Union of Coal and Mining, Vietnam National Union of Oil and gas, and Vietnam National Union of Workers in Industry and Trade. IndustriALL signed a global framework agreement with Inditex, the world's largest fashion retailer, is designed to promote decent work across the group's vast supply chain, covering over a million workers in more than 6,000 supplier factories worldwide. The ground-breaking agreement between IndustriALL Global Union and Inditex, which was renewed in 2014, is the first of its kind to cover a retail supply chain. It underlines that freedom of association and the right to bargain collectively play a central role in a sustainable supply chain because they provide workers with the mechanisms to monitor and enforce their rights at work. Inditex's Code of Conduct for External Manufacturers and Suppliers underpins the agreement which outlaws forced labour, child labour, discrimination and harsh and inhumane treatment throughout the Inditex supply chain. It provides for the payment of a living wage for a standard workweek, limitations on working hours, healthy and safe workplaces, regular employment and environmental awareness. The terms of the agreement apply equally to direct suppliers, contractors and sub-contractors including homeworkers. No subcontracting is allowed without the prior written consent of Inditex and suppliers allowed to subcontract will be responsible for subcontractor compliance.

In Vietnam, IndustriALL has been working with Inditex Vietnam and the VGCL to provide training for union officials of Inditex supplying plants in the country since 2015. The long-term goal of this project is to negotiate and conclude a bargaining agreement of Inditex suppliers in Vietnam with the MNC⁴⁶.

> Website: <http://www.industriall-union.org/affiliates/vietnam>

Solidarity Center: Solidarity Center is program of the AFL-CIO. It has a regional office in Bangkok. Solidarity Center has worked with the VGCL in the first project since 2013 on collective bargaining training for VGCL officials.

> Website: <http://www.solidaritycenter.org/where-we-work/asia/thailand/>

ILO Vietnam: ILO set up its office in Hanoi in 2002 and since then has been active in working with tripartite partners (MOLISA, VGCL and VCCI). Among the key issues that the country has been cooperating with the ILO are green jobs, skills development, labour statistics, industrial relations development, occupational safety and health and social security. International labour standards and gender equality are viewed as cross-cutting issues being mainstreamed in all the above key issues under the framework of cooperation between the ILO and our tripartite constituents.

> Website: <http://www.ilo.org/hanoi/lang--vi/index.htm>

Some notable projects of ILO in Vietnam:

More and Better Jobs Through Socially Responsible Labour Practices in Viet Nam (2015-2017): The project will help to encourage multinational enterprises to contribute positively to economic and social development through socially responsible labour practices in Viet Nam, with a special focus on the electronic sector.

Sustaining Competitive and Responsible Enterprises (SCORE) 2011-2016: SCORE is a practical training and workplace improvement programme to increase the productivity of small and medium-sized enterprises while promoting respect for workers' rights.

Support to Development in Industrial Relations, Wage Fixing, and Labour Law Implementation Institutions and Capacity in Viet Nam (2012-2016): The project aims to put into practice the new Labour Code and Trade Union to ensure that, by 2016, Viet Nam's minimum wage system is reformed and industrial relations institutions and mechanisms for collective bargaining and social dialogue have been improved and capacity of all stakeholders are strengthened to bring the regulations and practices into closer compliance with international labour standards.

Once the TPP comes into effect, ILO will start a Technical Assistance Project (TAP) funded by US Department of Labour (USDOL) to provide support to Vietnam in complying with the 'consistency plan' signed between Vietnam and US Governments aside the TPP. The TAP will also make regular review of Vietnam's compliance and performance in terms of labour rights and report to the Vietnam-US Senior Labour Official Committee (SOC).

⁴⁶ Interview with Kevin Bui, CSR manager, Inditex Vietnam, 19 April 2016

6. Implementation of the core labour standards

Strategic Partnership for Garment Supply Chain Transformation



6. Implementation of the core labour standards

The most challenging issues for garment companies in Vietnam have been freedom of association and reasonable hours of work. With the industrial relations system in which the VGCL is the only recognised trade union, the unions are reliant on the Vietnam Communist Party at the political level and vulnerable to management manipulation at the enterprise level. According to a VGCL survey in 2014, around 60% of enterprise unions in Vietnam are led by people with managerial positions. Excessive overtime is also a common violation of garment companies in Vietnam. The legal limit is 200 hours per year and can be extended to 300 hours per year. But it is estimated by the informant from Better Work Vietnam that over 90% of garment companies have violated this overtime limit⁴⁷.



6.1. Employment is freely chosen



“There shall be no use of forced, including bonded or prison, labour” (ILO Conventions 29 and 105)”

The Government of Vietnam does not publish any official statistics or reports on forced labour and there has not been a public report on forced labour in textile-garment industry of Vietnam.

The stakeholders consulted expressed concerns over the issues of involuntary overtime and toilet access restriction in the garment industry. The research team also found cases in which the team leaders swiped identity cards of workers at the end of the shift, but keeping the workers for overtime. By so doing, the team leaders faked the recording of working hours while forcing workers to do overtime out of their consent (ERC-VCCI Survey of Garment Industry, 2009). The ILO Better Work Vietnam, in its latest Compliance Report (July 2014), found three findings related to forced labor in this report. In one instance, the dormitory was located within the factory site and workers were requested to return to the dormitory before a pre-determined time in the evening. In two other factories, the assessors found that workers felt it was difficult for them to leave the workplace even if they had not signed up to work overtime.

⁴⁷ Interview with Mr. Nguyen Dung Tien, Enterprise Advisor, BWV

6.2. There is no discrimination in employment



"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps" (ILO Conventions 100 and 111)

Gender-based Discrimination

Vietnam has made progress in closing the gender gap in employment in recent years. In fact, Vietnam was ranked higher than other garment-producing countries such as China, India, Bangladesh or Cambodia in terms of gender equality in employment (see table).

Table 9: Gender Equality Indicators of Vietnam, China and Bangladesh, 2014

Indicators	Vietnam	China	Bangladesh
Global Gender Gap Index, 2014 ⁶	76	87	68
Wage equality for similar work rank, 2014 ⁷	79	77	105
Gender Inequality Index (Rank)	58	37	115

The 2012 Labour Code has one chapter (Chapter 10) on female employees. Female employees have equal working rights and it is the responsibility of an employer to create favourable working conditions for female employees (Art. 153&154). However, employment of women in 79 occupations is prohibited, 45 of which are applicable to all female employees while the remaining 34 occupations/activities are applicable to pregnant and breastfeeding workers (mostly in the mining and construction industry).

Discrimination against Domestic Migrant Workers

The Household Registration (ho khau) system of Vietnam which was revised by the 2007 Law on Residence provides for two types of residence categories - temporary and permanent. The temporary residents have limited access to basic social services include education for children at public schools, access to public hospitals at the places of temporary residence, eligibility to purchase houses and vehicles. Such system has obstacles for the migrant workers from accessing to the basic social and health services at their destinations; resulting in their resorting to high-cost private alternatives.

6.3. No exploitation of child labour



"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138) "There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182)

Official statistics on compliance

Table 10: Indicators of child labour, 2014 – Vietnam, China and Bangladesh⁴⁸

	Bangladesh	China	Vietnam
Child labour (%) ⁸	13	N.A	7
Global Slavery Index (rank) ⁹	59	109	89

⁴⁸ Percentage of child labour: Percentage of children 5–14 years old involved in child labour at the moment of the survey. A child is considered to be involved in child labour under the following conditions: (a) children 5–11 years old who, during the reference week, did at least one hour of economic activity or at least 28 hours of household chores, or (b) children 12–14 years old who, during the reference week, did at least 14 hours of economic activity or at least 28 hours of household chores. Source: UNICEF, *The State of the World's Children 2015*

Although according to BetterWork Vietnam and MOLISA, child labour has not been found in registered export-oriented garment factories, the 2014 ILO-MOLISA Survey on Child Labour found that there were 47,343 workers under 18 years old employed in garment workshops. Most of these workshops are unregistered and manufacture low-cost apparel products for the local markets. In particular, 1.2% of child workers employed in garment production fell into a small age group of 5-11 years old.

6.4. Freedom of association and the right to collective bargaining



"The right of all workers to form and join trade unions and bargain collectively shall be recognised." (ILO Conventions 87 and 98) "Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions." (ILO Convention 135 and Recommendation 143)

Vietnamese workers have the right to join the union but the enterprise unions must be affiliated with the VGCL. However, apart from the fact that workers do not have the right to establish the union of their choice, this is also an area of most pervasive violations by employers in Vietnam.

Better Work Vietnam found a significant number of its member companies manipulated union activities (see Table 5). It is common for high-ranking managers such as HR managers or deputy directors, to serve as union leaders, even union chairpeople not only in garment sector but also in other industries in Vietnam. According to the informants from MOLISA and VGCL, the management sometimes kept union funds and required the enterprise union officials to secure the executives' signatures in order to withdraw from the union fund (Interviews with Nguyen Van Binh and Nguyen Minh Tien). Also, the auditors of FWF in Vietnam reported that they found workers automatically registered as union members upon signing the labour contracts, sometimes without even knowing.

Table 11: Interference and Discrimination against Union Activities and Officials, ILO BetterWork Vietnam, 2014

Question	# factories out of compliance
Are workers free to meet without management present?	60
Has the employer tried to interfere with, manipulate, or control the union(s)?	46
Is senior management serving on the union executive committee?	45
Is the employer involved in union decision making, the formation of the constitution and rules, in union activities, administration, finances or elections?	66

Source: Better Work Compliance Report, July 2014⁴⁹

Collective bargaining is widely regarded as a formality rather than the outcome of real negotiations between workers and employers. Better Work Vietnam also found that collective bargaining is an area of high level of non-compliance among their member companies. The most common non-compliance issues are employers failed to inform workers about the CBA and the CBAs not approved by more than 50% of workers covered (see Table).

Table 12: Non-compliance with the Right to Collective Bargaining, BetterWork Vietnam, 2014

Question	# factories out of compliance
Does the employer consult with unions where legally required?	16
Has the collective agreement in force been approved by more than 50% of workers covered?	10
Has the employer implemented all provision of the collective agreement(s) in force?	2
Has the employer informed workers about the collective bargaining agreement?	18
If there is a collective bargaining agreement, does it provide more favourable terms and conditions for workers than the law?	3

Source: Better Work Compliance Report, July 2014⁵⁰

⁴⁹ Link: <http://www.betterwork.org/global/?p=4305>

⁵⁰ Link: <http://www.betterwork.org/global/?p=4305>

6.5. Payment of a living wage



“Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income” (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). “Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period.”

Official statistics on compliance

Table 13: Minimum wages, by year, ownership type and region

Nominal Minimum Wage								
	Domestic				Foreign			
Year	Region 1	Region 2	Region 3	Region 4	Region 1	Region 2	Region 3	Region 4
2001	210	210	210	210	495	440	385	385
2002	210	210	210	210	495	440	385	385
2003	290	290	290	290	495	440	385	385
2004	290	290	290	290	495	440	385	385
2005	290	290	290	290	495	440	385	385
2006	350	350	350	350	870	790	710	710
2007	450	450	450	450	870	790	710	710
2008	620	580	540	540	1000	900	800	800
2009	800	740	690	650	1200	1080	950	920
2010	980	880	810	730	1340	1190	1040	1000
2011	1350	1200	1050	830	1550	1350	1170	1100
2012	2000	1780	1550	1400	2000	1780	1550	1400
2013	2350	2100	1800	1650	2350	2100	1800	1650

Note: Numbers are in 1,000 VND. Real wages have been deflated using the GDP deflator (base year= 2000). Source: Chi and Torm, 2015, *Wage Fixing Institutions and their Impacts in Major Garment Producing Countries: the case of Viet Nam*, Working Paper (upcoming), ILO Geneva

Real Minimum Wage							
Domestic				Foreign			
Region 1	Region 2	Region 3	Region 4	Region 1	Region 2	Region 3	Region 4
218	218	218	218	515	457	400	400
204	204	204	204	482	428	375	375
272	272	272	272	464	412	361	361
250	250	250	250	427	380	332	332
236	236	236	236	403	359	314	314
275	275	275	275	684	621	558	558
310	310	310	310	600	544	489	489
306	286	267	267	494	444	395	395
378	350	326	307	567	510	449	435
405	364	335	302	554	492	430	413
424	377	330	261	487	424	367	345
642	571	497	449	642	571	497	449
750	670	574	526	750	670	574	526

Table 14: The share of workers paid below the minimum wage 2011-13, by gender (%)

	2011	2012	2013	Average
Female	6.5	13.7	15.5	11.0
Male	3.7	8.2	10.0	6.6

Source: Chi and Torm, 2015, *Wage Fixing Institutions and their Impacts in Major Garment Producing Countries: the case of Viet Nam*, Working Paper (upcoming), ILO Geneva

Laws and regulations

Wages may be determined by agreement between the workers and the employer (employment contract) and through collective bargaining agreement however these can't be lower than those specified by law. The minimum wage rate of a trained worker and for hazardous working condition must at least be 7% and 5% (7% for special hazardous conditions) higher than the region based minimum wage rate, respectively.

Payment of wages is made by an employer on the basis of time (hourly, daily, or on monthly basis), piecework or completion of a task, provided that the chosen form of payment is maintained for a certain period. Employer must notify worker(s) at least 10 days prior to any change in the form of payment.

Stakeholders' opinion and analysis on implementation

Before 2013, the minimum wage was set by the government with consultations with trade unions and employers' organisations. However, since 2013, the new minimum wage is set by the National Wage Council (NWC) at the end of the year. The National Wage Council is a tripartite body with equal representation of MOLISA, VGCL and VCCI/VCA. Each party will consult their own members and develop their own proposal for the new minimum wage. Then, at the annual meeting of the NWC, each party defends their proposal while negotiating for the new minimum wage which takes effect at the beginning of the next year. The debate on minimum wages at the NWC has become increasingly heated over the year, especially when the issue of whether or not the MW should equal the minimum living needs was taken into account.

Debate on Minimum Wages and Living Wage at the National Tripartite Wage Council, 2015

The Vietnam General Confederation of Labour (VGCL) proposed an increase of 16.8% for minimum wage adjustment in 2016, based on: (i) benchmarks of minimum living needs of workers and enterprises' financial capacity; (ii) economic growth and increase of productivity; and (iii) the roadmap of minimum wage increase for 2012-2020.

The Vietnam Chamber of Commerce and Industry (VCCI) proposed an increase of 10% based on (i) VCCI calculation on minimum living needs; (ii) CPI; (iii) increase in productivity; and (iv) business associations' proposals. VCCI argued that 'if minimum wages are unreasonably increased it will narrow down production, reduce production capacity and cannot create new employment'.

However, VGCL claimed that: 'minimum wage should be aimed at supporting the workers to stabilize their life. Employers should not expect workers to have high productivity while they as the most precious resource of enterprises have been living under the human minimum living level.'

In the final meeting on 3rd September 2015, the Council voted and agreed on a proposed increase of 12.4% for 2016. According to the committee president (MOLISA Vice Minister) with this increased level, the new minimum wage will cover 80% of the minimum living needs, meaning that the minimum wage should be 4,375,000VND for Region 1.

Living Wage benchmarks

The MW of Region 1 (urban), which is also the most industrialised area, is significantly higher than the national urban poverty line (see Figure xx). However, the (net) MW of Vietnam lags far behind all living wage benchmarks including the Asia Floor Wage, Fair Wage Network, the estimate of the VGCL of minimum living needs of workers.

Figure 7: MW of Region 1 vs. Living Wage benchmarks, 2015

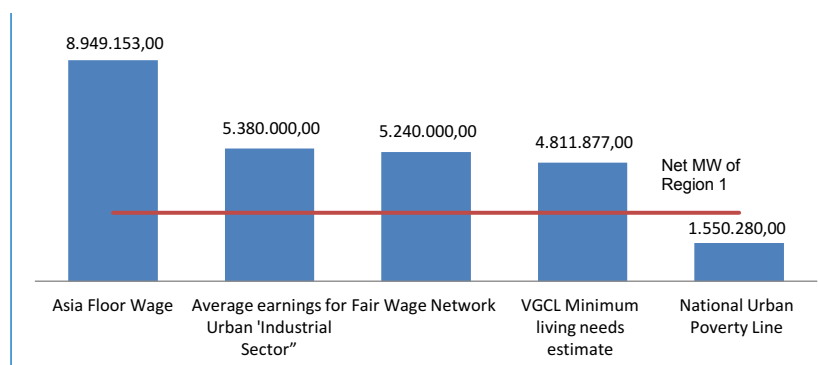


Table 15: Wage benchmarks

Wage Benchmarks	VND/month	
Asia Floor Wage (2015, net¹⁰)	8,949,153	A standard Purchasing Power Parity \$ based estimate for East and Southeast Asian countries applicable to manufacturing industries (based on a 3000 kcal diet for a 3 adult-equivalent household with a single earner). It is based on PPP\$ 1021 in 2015.
Average earnings for Urban 'Industrial Sector' Q2 2015 (net)	5,380,000	A better comparator for wages in a manufacturing context than urban average income.
Fair Wage Network (2015, net, unpublished)	5,240,000	Calculated by the Fair Wage Network as the adjusted mean of living wage benchmarks for Region 1 (assumes a wage supports a household of 4: 2 adults and 2 children)
VGCL Minimum living needs estimate (2015, net)	4,811,877	Estimate for Region 1 (includes Cu Chi district ¹¹)
National minimum wage, Region 1, trained worker (2015, net)	2,968,715	
National minimum wage, Region 1, unskilled (2015, net)	2,774,500	
National Urban Poverty Line (household/1.88 earners)	1,550,280	Poverty benchmarks have been adjusted to take into account typical Vietnam household size (3.8 or 2.95 adult-equivalent consumption units) and average number of earners (1.88) based on the Population and Housing Census 2009, 2012 household survey and 2014 Labour Force Survey. The poverty line of Ho Chi Minh city (both urban and rural areas) in 2015 was 16 million VND/year/earner. Therefore this has been multiplied by the average number of consumption units (2.95) and divided by the average number of earners (1.88).

Source: Calculated by the author using wage statistics from MOLISA, VGCL, Asia Floor Wage and Fair Wage Network

6.6. No excessive working hours



“Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate.” (ILO Convention 1)

Excessive overtime remains the major violation of this standard in Vietnam. According to the 2013 national survey on Labour and Employment of General Statistics Office, 36.1% of workers were working more than 48 hours per week⁵¹. The latest Better Work Vietnam assessments⁵² showed that there is a 93% non-compliance rate with regard to overtime regulations, in particular exceeding the national legal limit of 300 overtime hours per year. In addition, in 45 factories, the working time records did not accurately reflect the number of hours actually worked (Better Work Vietnam 2012).

Double booking on overtime is also frequently found among garment workers. According to Nguyen Quoc Thuan, Better Work Vietnam explained: 45% of BWV companies were found not reflecting the hours actually worked. This reflects an industry wide problem of “double books” (i.e. keeping two sets of working time records) to conceal true working hours. It is known however that some factories conceal working time out of fear of reprisals from buyers, as well as to cover up the time taken to rectify errors and mistakes made on the production line.

Excessive overtime is one of the biggest problems found during FWF audits. Particularly during peak seasons working hours are found structurally between 65 and 75 hours per week, with occasionally work on Sunday's in case of tight deliveries. Some factories work 1 to 3 Sundays a month and pay 200% without the legally required compensation day off. Double book system sometimes is used to hide excessive overtime and Sunday work. Auditors also found in some cases factories fail to provide and pay 30 minutes dinner break in case of working more than 2 overtime hours a day.

6.7. Safe and healthy working conditions



“A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155). “Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited.”

In 2014, there were 6,709 work-related accidents in Vietnam with 630 dead. The garment and footwear industries accounted for 4.9% of the cases and 4.5% of the death toll⁵³.

According to Nguyen Quoc Thuan, Better Work Vietnam, the biggest area of non-compliance in OSH relates to the provision of changing rooms for female workers, showers, lockers for employees' personal belongings, and other similar types of facilities. Many factories have none of these additional legally required facilities, while others have some but not all or not sufficient numbers. 16 garment companies in the BW Project failed to provide adequate accessible toilets, especially for female workers. Female workers account for over 80% of the labor force but the number of toilets for men and women are the same, leaving many female workers unable to access toilets during working hours.

Verbal abuse (such as shouting, using vulgar language) was occasionally found among garment factories. 9.6% of workers in the BW Project were concerned about verbal abuse.

⁵¹ Link to the survey report: <http://www.gso.gov.vn/default.aspx?tabid=512&idmid=5&ItemID=12540>

⁵² Link: <http://www.betterwork.org/global/?p=4305>

⁵³ Bureau for Work Safety, MOLISA. 2014. Report on Work-related Accidents in 2014 (Link: <http://antoanlaodong.gov.vn/catId/Pages/chitiettin.aspx?IDNews=1712>)

6.8. Legally-binding employment relationship



“Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected.”

Table 16: Employment in the informal economy in non-agricultural activities by component, both sexes⁵⁴

Country/Year	Persons in informal employment		Persons employed in the informal sector		Persons in informal employment outside the informal sector	
	Thousands	% of non-agricultural employment	Thousands	% of non-agricultural employment	Thousands	% of non-agricultural employment
China (2010)	36.030	32,6	24.220	21,9	13.850	12,5
India (2009/2010)	185.876	83,6	150.113	67,5	37.409	16,8
Vietnam (2009)	17.172	68,2	10.948	43,5	6.303	25

In terms of labour contracts, there are two problems in terms of compliance in Vietnam. First, employers may refuse to sign labour contracts with temporary, low-skilled workers or making only oral agreements with them. According to the Better Work Vietnam, 5.2% of workers employed by the 300 garment companies that are members of the Project do not have proper labour contracts with their employers.

Second, some employers may sign series of definite term contracts (1-3 years) instead of signing an indefinite term contract after 2 short-term contracts as defined by the Labour Code. Consequently, workers have to work for a long time on many short-term contracts. Evasion of social security contribution is pervasive in Vietnam. According to MOLISA, as many as 5 million employees or 31.25% of the labour force eligible for compulsory social security did not participate in the social security system in 2014⁵⁵. By August 2014, there were over 47,000 companies employing 630,000 workers were owing social security contributions to the authority (Vietnam Social Security, 2014)⁵⁶.

⁵⁴ Source: Statistical update on employment in the informal economy, ILO 2012

⁵⁵ Link: <http://vov.vn/xa-hoi/co-toi-50-so-doanh-nghiep-tron-dong-bao-hiem-xa-hoi-358124.vov>

⁵⁶ Link: <http://bhxhgiang.gov.vn/index.php/vi/news/Phap-luat/Dai-dich-tron-dong-bao-hiem-xa-hoi-Can-tang-cuong-che-tai-199/>

7. Good practices and / or innovative practices

Strategic Partnership for Garment
Supply Chain Transformation



7. Good practices and / or innovative practices



7.1 Living Wage

1. Oxfam GB and Unilever

In 2011, Oxfam GB initiated a research project on labour practices of Unilever and its supply chain in Vietnam⁵⁷. The study focused on 4 key labour issues: Freedom of Association and Collective bargaining, Hours of Work, Contract labour and Living wage. The 2011 research showed that Unilever Vietnam is not paying the low-skilled workers the wage level that allow them to meet the minimum living expenses. In the Unilever's supply chain, low wages and excessive overtime were found in a number of suppliers and Unilever's procurement policy was attributed to these problems.

The problems found in the 2011 research of Oxfam GB urged Unilever headquarters to adjust their approach to labour rights in general and to living wage in particular. Unilever's approach to living wage is summarised by the President of Unilever ASEAN/ANZ in an interview with Oxfam GB within the follow-up review in 2015:

'The wage floor is too low' [in some markets in the ASEAN region] and that [the economy] 'needs lots of people who can make a decent living, get a reward and use parts of their reward to buy goods and services such as those offered by Unilever.'

On the other hand a business case must be made: *'We cannot just pay more...we are not in the subsidy business. We need to make system interventions, not charity interventions.'*

What has changed since 2011? In 2013, Unilever introduced a factory reward strategy which stated that the fixed pay elements of a worker's income should always be 'fair, decent, market based and competitive' that enables employees to meet 'more than basic needs'. In 2014 the Responsible Sourcing Policy included as a mandatory requirement that 'All workers are paid fair wages'⁵⁸This represents progress from the Supplier Code wording on legal minimum wage. Unilever went further in outlining 'good practice' standards, which require 'There is a living wage approach to fair compensation which encompasses a system to periodically assess that wages are sufficient to meet the basic needs of the worker and to provide some discretionary income.' Oxfam welcomes this additional commitment relating to suppliers.

⁵⁷ Link to the 2011 Report: https://www.unilever.com/Images/rr-unilever-supply-chain-labour-rights-vietnam-310113-en_tcm244-409769_en.pdf

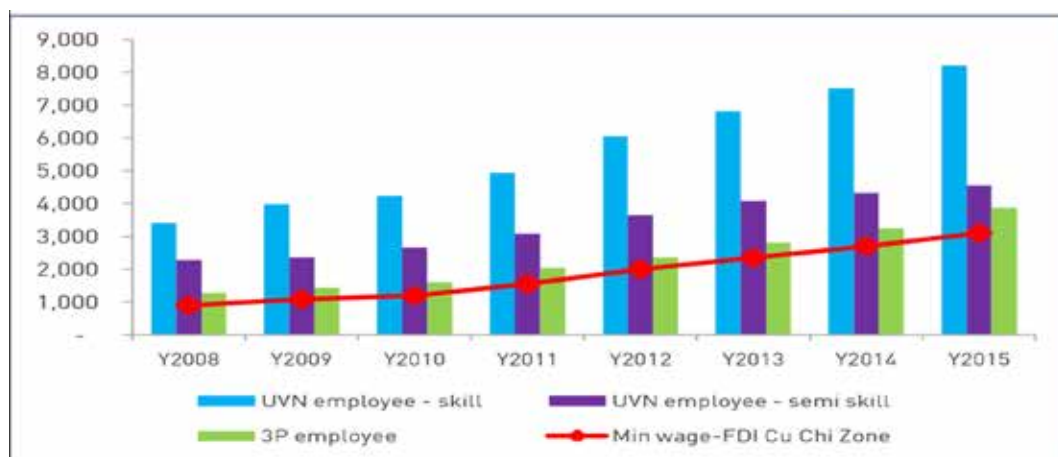
⁵⁸ workers are provided with a total compensation package that includes wages, overtime pay, benefits and paid leave which meets or exceeds the legal minimum standards or appropriate prevailing industry standards, whichever is higher, and compensation terms established by legally binding collective bargaining agreements are implemented and adhered to.'

In 2014 Unilever agreed to partner with Fair Wage Network (FWN), and commissioned a survey in 38 countries, including Vietnam.⁵⁹ It compared the lowest fixed cash amounts paid in its factories against available living wage benchmarks, and worked to resolve the issues found in 4-5 in Africa, India and Dubai. Available living wage benchmarks were found to vary widely from sector to sector, hindering development of a global approach. FWN therefore calculated the average of the available benchmarks for a standard family unit based on a household of 4 persons, equivalised (ie assuming two adults and two children each requiring half the consumption of an adult), and adjusted for price increases to June 2015.

A Unilever Framework for Fair Compensation was approved in late 2015 to provide a structured way to deliver fair compensation across all operations, not just factories; at the time of writing this is being cascaded to country HR teams. Unilever has set a target of achieving full compliance by 2020 and each country team will report their progress annually. In the supply chain, Unilever's 180 Partner to Win suppliers are expected to reach 'good practice standards' by the end of 2016. Wages must therefore meet an average of credible living wage benchmarks across 1,000+ sites globally, a significant undertaking.

Wages of all UVN workers have increased since the 2011 study, based on UVN data. At July 2015, wages of skilled (1B) workers at Cu Chi factory were approx 2.3 times the level at July 2011 while those of semi-skilled (1A) workers were approximately 2 times higher.

Figure 8: Wages trend at UVN factory compared with the Minimum Wage



Source: UVN HR Department

Oxfam identified several factors for the increases. One is that the Government of Vietnam raised the minimum wage ahead of inflation as a matter of national policy. In fact, the degree by which wages have increased for semi-skilled workers over the period (211.5%) is slightly less than the degree by which the minimum wage has increased over the period (220.9%).⁶⁰

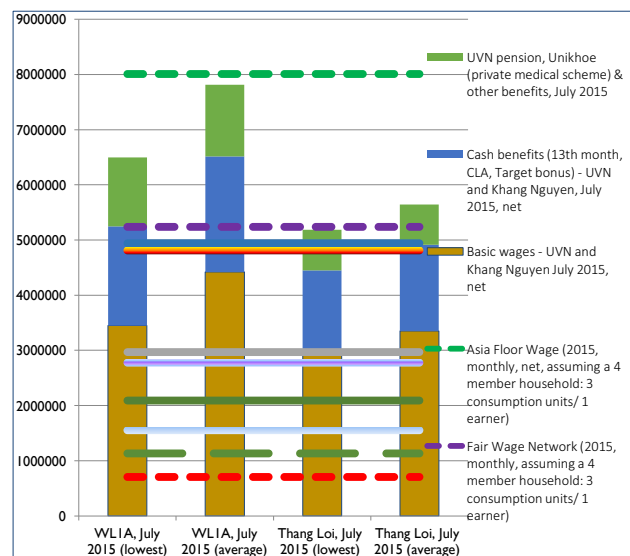
Another major factor for the increase in wages is Unilever's own actions. The company has introduced a new skills-based grading and reward system for its factories and UVN management have, in their budget allocation, given priority to the remuneration of blue collar workers (1A and 1B) over white collar workers: 'Every year when we reviewed wages for all employees, we always put top priority to the workers, especially the 1A workers.'⁶¹

⁵⁹ FWN has identified the median of various wage benchmarks (removing outliers), ensuring these only include guaranteed, wage-related income earned in normal working hours, so excluding eg overtime, performance bonuses, social security and pension contributions.

⁶⁰ All workers who have received skill training (either by the training institutions or by employers) are entitled to an additional 7% on top of the national Minimum Wage so the MW for a qualified worker is MW+7%.

⁶¹ Interview with Ms. Nguyen Tam Trang, UVN Vice President of HRM, JUnilever 2015

Figure 9: Wage ladder - wages and benefits at Unilever factory in HCM City with wage and poverty benchmarks
(VND monthly, July 2015)



Source: UVN (wage data), Oxfam and Ergon Associates (benchmarks)

The case of Oxfam GB-Unilever showcases the importance of partnership between brands/employers-civil society-workers towards living wage for lowest-paid workers. The civil society representatives impartially study the problems both from the brands/employers' angle and from workers' perspective then present them in a neutral way.

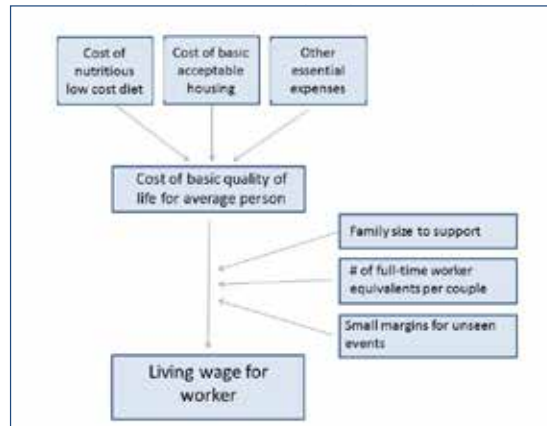
The civil society also influences the brands/employers through their media campaign and dialogues. For the brands/employers, the engagement of the civil society, though painful in the first stage, helps them overcome the limitations of social auditing (CSR) to have a better understanding of the labour practices in their extended supply chain. Collaboration with the civil society also enables the brands/employers to minimize the risks of serious violations of labour rights in their supply chain, which may result in serious damage to their public image.

2. ISEAL Alliance and Ankers Living Wage Benchmarks

ISEAL Alliance is a network of 6 social compliance organisations including Fairtrade International, Forest Stewardship Council, GoodWeave, Sustainable Agriculture Network/Rainforest Alliance, Social Accountability International and UTZ Certified (Website: <http://www.isealliance.org>). These organisations are working together on the methodology, promotion and implementation of a living wage for the workers that are protected by their respective labour standards. The organisations have agreed to a common definition of living wage and will use the same methodology which is created by Richard Anker and Martha Anker (Anker living wage methodology) for estimating living wage⁶².

⁶² A summary of Anker Living Wage Methodology can be seen here:
<https://www.isealliance.org/sites/default/files/Description%20of%20Living%20Wage%20Methodology%2020131124.pdf>

Flowchart of Anker Living Wage Methodology



Source: www.iseal.org

Several aspects of this methodology are new and path breaking. First, the methodology emphasizes participation of local people and organizations in order to increase its credibility and acceptance by stakeholders. Second, housing costs are estimated using international and national standards for decent housing. By estimating the cost of decent housing, the methodology enables different living wages estimates within countries and helps ensure that workers can afford decent housing. Third, the methodology requires transparency and detailed documentation and analysis to ensure that the living wage estimate is solid and credible. This includes critical appraisal of available secondary data and adjustments to these data when required. Fourth, a judicious combination of new local data collection and available secondary data is used to make the methodology simultaneously practical and credible. Thus, local food prices and housing costs are collected as are education, health care and transport costs to make sure that workers are paid enough to afford these. Finally, the estimation of living wage is explicitly separated from determination of whether particular workers receive a living wage or particular employers pay a living wage. The evaluation of wage levels by certification bodies requires considering not only gross cash payment but also deductions from pay, overtime pay, bonuses, and in-kind benefits.

The ISEAL Alliance has initiated the living wage benchmark studies in 17 countries in Asia and South America. In Vietnam, a national research team is working under the supervision of the Ankers to conduct living wage benchmark study in Ho Chi Minh city (for urban living wage), Soc Trang and Thai Binh (for rural living wage). Once complete, the living wage benchmarks will be used by the ISEAL organisations in urging their member brands to adopt the living wage in their CSR approach to the local suppliers.

7.2 Freedom of Association and Collective Bargaining



1. TPP and Freedom of Associations

TPP is a multilateral, US-led trade pact involving 12 Pacific Rim countries including the US and Vietnam, but not China. It is part of President Obama's so-called "Pivot to Asia", countering China's rising economic and diplomatic clout in Asia-Pacific. For Vietnam, it offers a shift of entering strong, promising markets and building up new supply chains. In textile and apparel industries alone, Vietnam's world market share could rise from its current 4% to 11% in 2024. Vietnam would thus rank second behind China.⁶³ But for the government and a fraction of the party leadership, joining TPP would have two more important strategic objectives,

- it would step up pressure on further modernization in order to comply with TPP regulations, reforming Vietnam's institutional and legal system and creating a level playing field for state owned, private Vietnamese and foreign enterprises,
- and it will include Vietnam in a political and economic alliance that could deter China, the more and more assertive neighbour in the North.

The negotiations of the TPP and US-Vietnam Consistency Plan on labour were wrapped up in November 2015. The changes that the Government of Vietnam has committed to under the Consistency Plan with the US are far-reaching and significant. The most important changes include the allowance of independent unions to be established at enterprise, industry and regional level that do not have to affiliate to the VGCL but can register with a "competent government body" (probably Ministry of Labour). These unions will receive their share of the union dues and union tax as regulated by law. Managers must be prohibited from leading enterprise unions. These commitments will be implemented immediately when the TPP comes into effect (most likely in 2018 if the congresses of enough member countries ratify the TPP). Five years after TPP comes into effect, the independent unions can associate with one another to form regional and sectoral union organisations (but not a national union).

Vietnam's compliance with the commitments in the TPP will be monitored by a Labour Expert Committee comprising of an independent expert appointed by the US, another expert appointed by Vietnam and an ILO expert. The ILO will be sponsored by the US Department of Labour to set up a Technical Assistance Program (TAP) which support Vietnam to revise its legislation to comply with the TPP and consistency plan while also reviewing periodically Vietnam's compliance and report to the Vietnam-US Senior Official Committee on Labour (SOC). Violations of the compliance may result in postponement of tariff reductions on Vietnam exports to the US⁶⁴.

⁶³ *Trans-Pacific Partnership (TPP): Winners and losers, Standard Chartered Bank 2015.*

⁶⁴ *US-Vietnam Plan for Enhancement of Trade and Labour Relations*
 (Link: <https://ustr.gov/sites/default/files/TPP-Final-Text-Labour-US-VN-Plan-for-Enhancement-of-Trade-and-Labor-Relations.pdf>)

In case the TPP is ratified by the member countries' congresses, Vietnam has 5 years to revise its legislation and enforcement mechanism in compliance with the TPP commitments. Although at the time of writing, it remains uncertain if the US congress will ratify the TPP, the VGCL has taken the first step of submitting an official request to the Politburo to grant the national union the autonomy in personnel appointment and separation from non-union tasks assigned by the Party. According to Mai DucChinh, Vice Chairman of VGCL: *'if the VGCL is not given the autonomy to decide its own personnel and free the system from non-union tasks assigned to us by the local Party committees, we will lose this battle the first day the TPP comes into effect. It is like throwing us to the sea with our hands and legs tied up'*⁶⁵. The potential competition of non-VGCL unions once the TPP comes into effect has urged the VGCL to move closer to workers while detaching (partially) from the Party's patronage and intervention.

In April 2016, in an unprecedented move, the VGCL high-ranking officials had its first meeting with the international and local labour NGOs in Hanoi to discuss the implications of TPP and the consistency plan on industrial relations in Vietnam⁶⁶. This labour NGO forum is expected to provide inputs into the reviews of Vietnam's compliance with both the TPP and the EU-Vietnam Partnership Agreement⁶⁷.

2. VGCL: Improving CBA quality, Promotion of Sectoral Collective Bargaining and Multi-employer Bargaining

An internal VGCL survey in the year 2009 showed that nearly all enterprise collective bargaining agreements did not go further than the regulations stated by the Labour Law. In other words collective bargaining agreements have been a compilation of the existing law. Many companies did not observe the existing law although it has been codified additionally in a collective bargaining agreement. Without genuine collective bargaining, workers' wages are mainly adjusted by the MW changes by the government.

In its 11th Congress in July 2013 the VGCL decided to promote collective bargaining by pushing the local branches to conclude more and better collective bargaining agreements, also beyond the single enterprise level⁶⁸. In particular, the VGCL has put more efforts into training of staff of Federations of Labour (provincial level or industrial zones) to become professional negotiators and train the honorary trade union officials on the grassroots level in basic principles and the legal framework for collective bargaining, membership involvement, negotiation strategies and techniques etc. So far, 70 experts have been trained in five modules lasting for five weeks altogether⁶⁹. The VGCL presidium has provided them with financial incentives and career perspectives. Also at the head office level, additional staff and resources have been provided to professionalize collective bargaining. Within the Department for Industrial Relations at the VGCL Head Office, a Division for Collective Bargaining with three staff was newly created.

The merely formal character of collective bargaining agreements is slowly and gradually changing. Since the end of 2014, the VGCL is systematically evaluating the quality of collective agreements in comparison to the law by means of an electronic databank in which all collective agreements will be stored as pdf-files and evaluated and graded based on criteria developed by the VGCL in comparison to the regulations in the labour law (in terms of food supply for shift workers, a 13th monthly wage, New Year bonus, allowances for transportation, accommodation, support in case of illness, birthday gifts, organised vacation and recreation for the workers, building of social facilities, additional accident insurance for workers, special care for female workers etc.). First results from 1.010 collective agreements from all over the country and various industries per November 2015 showed that about 15 percent can be graded significantly better and 29 percent better than the law⁷⁰. However the figures also show that about 56 percent are insignificantly better than the law or even just a copy of provisions in the labour code. 85 percent of the score of this grading refers to material regulations of the agreement, 15 percent reflect the involvement of workers in the bargaining process and the implementation of the agreement⁷¹.

65 Mai Duc Chinh's speech at the MOLISA-ILO Conference on "Future of Labour Relations in Vietnam" on 2nd December 2015 in Hanoi

66 Interview with Mr. Erwin Scheweilsshm, Country Director of Friedrich Elbert Stiftung Office Vietnam, 22 April 2016

67 The EU-Vietnam PAC has a labour chapter that requires Vietnam to comply with the ILO core labour standards.

The EU will consult domestic groups, including the civil society, upon Vietnam's compliance on annual basis.

68 VGCL Programme 1468/CTr-TLD dated 9/10/2013

69 Interview with Le Dinh Quang, Deputy Director, Industrial Relations Department, VGCL, April 2016.

70 Report on the outcomes of the pilot project to set up an electronic data bank for CBAs of the VGCL in the period 2014-2015, in implementing Program 1468/CTr-TLD dated 09/10/2013 of the VGCL on improving the quality and quantity of CBAs as well as their implementation, Dept. of Industrial Relations, VGCL, November 2015

71 Interview with FES Country Director, 22nd April 2016

Sectoral Bargaining

The number of companies and industries participating in sectoral bargaining has increased slowly. With regards to the collective bargaining agreement in garment industry, the first sectoral CBA in Vietnam, the amount of participating companies (first target were 130 companies producing at several places in the country) has been raised constantly, as the following figures show.

Industry Wide Collective Bargaining Agreement of Textile and Garment Industry Vietnam⁷²

1. Conclusion: on 24/6/2010 with 69/130 companies participating.
2. Conclusion: on 24/6/2011 with 89/130 companies participating.
3. Conclusion: on 24/3/2014 with 100/130 companies participating.

Further industry-wide collective bargaining agreements of the textile and garment industry have been concluded on province level like in Binh Duong province with 15 participating companies in 2014.

The third national industry wide collective bargaining agreement was concluded in March 2014 with altogether 35 companies in the rubber industry –as well a very important industry sector for Vietnam - involved. The duration of the agreement goes until the end of 2015.

More industrial trade unions currently negotiating a sectoral collective bargaining agreement are the Railway Trade Union Vietnam, Trade Union of Agricultural and Plantation Industry and the Trade Union of Construction Workers in Vietnam.

Multi-employer Bargaining

The provincial trade unions of the most industrialised regions, especially in the south of Vietnam, expressed their intention to negotiate and conclude Collective Bargaining Agreements for groups of companies with trained collective bargaining experts involved.

Binh Duong province was the pioneer in multi-employer bargaining. A group of 6 Korean garment companies located in Song Than Industrial zone including: EinsVina, Chutex, BeautexVina, HansollVina, Pung Kook Saigon II, Joon Saigon. These companies share many commonalities such as: using young and mostly female migrant workers (average age: 26; 90 percent of workers are migrants from northern and central provinces; 80 percent of the workers are female). They also apply similar wage rates and benefits. With the support of the local labour authority and the provincial union, the union leaders and employers of the 6 companies initiated wage surveys, labour-management dialogues and enterprise-level bargaining. However, a group bargaining agreement has not been concluded yet⁷³.

In Dong Nai, the provincial industrial zone union has initiated the collective bargaining process with five Korean electronics suppliers that are located in the same industrial zone and face with repeated strikes over the years. These five companies employ in total 10,000 workers. The contents for bargaining includes basic wage, annual wage increase rate, annual bonus and shift meals – the key issues that workers in these companies have been most concerned about⁷⁴. At the time of writing, the bargaining has not come to an end. According to the chairman of Dong Nai IZ union, the bargaining has faced with a lot of difficulties include the rotations of Korean managers and the lack of coordination among these companies.

The first successful mutli-employer bargaining agreement was signed among 4 tourism companies in Da Nang in January 2016. The participating companies agreed to pay 3.3% higher than the minimum wage to the lowest-paid workers⁷⁵.

The ILO has started a pilot project on “group collective bargaining”. Similar attempts are undertaken in Hai Phong and Hung Yen province.

Inditex Group is also preparing for a possible bargaining process with the workers of its supplying plants in Vietnam under its Global Agreement Framework with IndustriALL union. However, at the time of writing, Inditex is only working with VGCL to provide collective bargaining training for the union leaders of Inditex supplying firms. According to the Director of FES Vietnam, it remains too early to say if such a collective bargaining process can be initiated.

⁷² Source: Vietnam National Union of Textile and Garment Workers, 2014. However, most of these unions are under the VINATEX group.

⁷³ Interview with Philip Hazelton, CTA of ILO Industrial Relations Project, 19th April 2016.

⁷⁴ Interview with Chairman of Dong Nai Provincial Industrial zone union, 19th April 2016

⁷⁵ Interview with Philip Hazelton, CTA of ILO Industrial Relations Project, 19th April 2016.

7.3 Gender-based Violence



The research team had a lot of difficulties in studying gender-based violence in the enterprise sector in Vietnam. Few workers in Vietnam apparel industries appear to voice their concerns. According to the Better Work's 2014 Gender Report, only about 7 percent of both female and male workers report having complained in the past year.⁷⁶ Another difficulty is the lack of official data on gender-based violence in the workplace. The Gender Law of Vietnam has no clear definition of gender-based violence in organisations⁷⁷. The research team, therefore, have found two initiatives that only focus on raising the awareness of employers and workers about gender-based violence. There has not been any actual case of gender-based violence found so far.

Better Work Vietnam's Approach to Sexual Harrassment in Garment companies

Better Work Program conducted a study on the costs of sexual harassment based on their surveys in 4 developing countries including Haiti, Jordan, Nicaragua and Vietnam.⁷⁸ The study found that sexual harassment is positively correlated with time to complete a production target and concerns on the part of the factory manager with low production efficiency. Sexual harassment also increases workforce turnover and likely raises the wage necessary to retain workers. The study found strong evidence that the negative effect that sexual harassment has on productivity and worker retention manifests as reduced firm profits. In Vietnam, although the HR managers' awareness about sexual harassment has been improved, it has not been translated into their actions and organisational capacity.

Although little evidence was found about sexual harassment among member companies, Better Work Vietnam (BWV) has published a model policy on sexual harassment at the workplace and recommended to member companies to adopt and implement. The model policy provides a clear definition of sexual harassment, classification of sexual harassment in the workplace, and 3-step procedure to deal with accusations of sexual harassment⁷⁹. The model policy emphasises the non-tolerance principle:

⁷⁶ Better Work Vietnam Gender Report 2014

⁷⁷ Interview with Le Thi Bich Thuy, Director of Gender equality Center, ILSSA, 28th April 2016.

⁷⁸ Better Work (2013) Sexual Harrassment in the workplace: How does it affect firm performance and profits? Better Work discussion paper No. 16, available from: <http://betterwork.org/global/?p=7072>

⁷⁹ Link: <http://betterwork.org/in-labourguide/wp-content/uploads/2012/05/L-GUIDE-2012-BW-Model-Policy-Sexual-Harassment-ILO.p4df>

'The company will not tolerate, condone or allow sexual harassment, whether engaged in by fellow employees, supervisors, clients or other nonemployees who conduct business with this company. The company encourages reporting of all incidents of sexual harassment, regardless of who the offender may be or what their position is in the company'

Better Work also organises shared learning seminars on prevention of sexual harassment in its member countries.

Code of Conduct on Sexual Harrassment at Workplace

In May 2015, the tripartite partners in Vietnam including VCCI, VGCL and MOLISA jointly issued a national code of conduct (CoC) on sexual harassment at the workplace with ILO's technical support. The CoC covers: (i) Work related social activities, such a reception organized by the enterprise for staff or clients, etc; (ii) Conferences and training sessions; (iii) Official business travel; Business meals; (iv) Work related telephone conversations; and (v) Work related communications through electronic media⁸⁰.

The CoC requires all employers to issue a policy on sexual harassment at the workplace which should be discussed with the trade unions. The CoC also suggests two channels for handling grievances on sexual harassment: the informal ways involve the victim seeking advice and/or the supervisor observes and intervene even without a complaint from the victim; the formal ways include a procedure of complaint submitted – investigation – establishment of a committee to handle the grievance.

However, follow-up interviews with relevant stakeholders show that little has been done after the issuance of the CoC except for a few trainings jointly organised by VCCI and the ILO Vietnam for member companies of VCCI in the late 2015.

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Link: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_421220.pdf

8. Recommendations

Strategic Partnership for Garment
Supply Chain Transformation



8. Recommendations

As discussed earlier, the industrial sector of Vietnam develops by clusters. Also, among companies located in the same region (or industrial zone), informal coordination exists. According to the Director of VCCI's Bureau of Employers' Affairs, the Asian employers (Japanese, Korean, Taiwanese and Chinese) in the same industrial zone often meet to discuss, among other things, the basic wages they pay to rank-and-file workers so as not to compete with each other on wages. The workers also watch closely other factories and if wages rate of workers in neighboring companies change, they may strike to demand for similar increase. Therefore, any pilot projects should focus on a group of garment companies spatially close to each other to create a coordinating effect.

It is not totally certain whether the TPP will be ratified but with President Obama's visit to Vietnam in May 2016, the chances are high. Vietnam, then, will have one and a half year to change its legislative framework to comply with the commitments in TPP, including allowing workers to set up independent unions (at workplace level). It is recommended to the Strategic Partnership to develop the following pilot initiatives:

Recommendations for Pilot Initiatives	
Freedom of Association	Promote labour-management dialogue (including effective grievance-handling) among garment suppliers by: <ul style="list-style-type: none"> - Sharing good practices of social dialogue at workplace - Measuring the impacts of social dialogue on companies' performance - Piloting factory based dialogue structures with - Continuing with factory training programme to support grievance mechanisms
	Collaborate with the Labour NGO Forum and VGCL to develop an information center on TPP and EVFTA (focusing on labour issues) for employers and brands
	Develop trainings for labour NGOs and union officials of garment companies in the supply chain
	Regular dialogue with labour NGO forum and trade unions to exchange information about labour issues and provide technical inputs to the revision of the labour legislation
Collective bargaining	Collaborate with provincial branches of VGCL and European garment brands to explore the possibility of multi-employer dialogue and bargaining with the participation of brands
Living wage	Develop a living wage forum to discuss various methodologies and benchmarks
	Engage brands, suppliers and workers/unions into a mutual effort to improve wages for workers up to the living wage level
Gender-based Violence	Apply model policy and CoC on sexual harassment on all garment suppliers to European brands
	Conduct a survey on gender-based violence
	Raise awareness of managers and workers on GBV at workplace and build a grievance mechanism for GBV victims

9. Sources

For the purpose of this study, the research team has consulted 19 informants from different agencies and organisations in Hanoi, Ho Chi Minh city and Dong Nai province between March and April of 2016.

Governmental agencies (4)

- Center for Industrial Relations Development, MOLISA
- Legal Affairs Department, MOLISA
- Institute of Labour and Social Affairs, MOLISA
- Institute of Labour and Social Affairs, MOLISA

Employers (3)

- Bureau of Employers' Affairs, VCCI
- Vietnam Textile and Apparel Association (VITAS)
- Inditex Vietnam Department

Unions (3)

- Bien Hoa Industrial Zone Union, Dong Nai province
- Institute of Workers and Unions, VGCL
- Department of Industrial Relations, VGCL

NGOs (6)

- Center for Development and Integration (CDI)
- FWF
- Light Center audit team in Vietnam
- Oxfam Vietnam
- Care International
- Friederich Elbert Stiftung (FES) Vietnam

International Stakeholders (3)

- Better Work Vietnam – Ho Chi Minh city branch
- Industrial Relations Project , ILO Vietnam
- IDH The Sustainable Trade Initiative

List of Abbreviations

BWV	Better Work Vietnam
FDI	Foreign direct investment
FES	Friedrich Elbert Stiftung
FIE	Foreign-invested Enterprises
FWF	Fair Wear Foundation
GSO	General Statistics Office
HCMC	Ho Chi Minh city
ILO	International Labour Organisation
MW	Minimum wage
MOLISA	Ministry of Labour, Invalids and Social Affairs
POE	Privately-owned Enterprises
RMG	Ready Made Garments
SOE	State-owned Enterprises
VCCI	Vietnam Chamber of Commerce and Industry
VCP	Vietnam Communist Party
VGCL	Vietnam General Confederation of Labour
VITAS	Vietnam Association of Textile and Apparel
VNUGT	Vietnam National Union of Garment and Textile

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