



### I. SOME FACTS ABOUT LABOR RELATIONS

The labor disputes in our country shows upward tendency, particularly in the Asian economic crisis. In mid-June, 1998, the HCMC Labor Court took in account over 600 cases.

So far, 40% of the work force (20% in HCMC) has not yet signed work contracts because enterprises avoided their responsibilities and wished to simplify the employment procedures with the aim to easily lay off workers and not to implement social security and health insurance. In addition, the work contracts did not state clearly rights and obligations of both employer and worker and workers did not understand the contract contents and the firm's collective labor agreement, so they did not know their benefits besides wages.

Most non-state firms violated regulations on working conditions such as environment, time, wages (overdue payments, no bonus), social security benefits, health insurance, and work protection. Many firms producing textiles, garments and aqua-products attributed their faults to delivery time and forced laborers to work overtime (more than 14 hours per day, exceeding the limit of 12 hours per day ruled in Article 69 of the Labor Code). This had bad effects on workers' health. The overtime jobs were explained as ones to achieve the planned target, but the target was high and unreasonable. Overtime payments to workers were partly made into the cost of meal between shifts while firms enjoyed more profits.

In foreign-invested enterprises, despite high wages, workers suffered tense hours; some foreign employers did not observe fully regulations on working condition

and gave bad treatment to workers. This has worsened labor relations.

These facts led to labor disputes and strikes, besides there were other reasons: employers did not understand wholly laws on labor, extended the apprenticeship, hurted workers' feelings, delayed the foundation of labor unions in their firms.

Regarding employers' benefits, they said they could not pay higher wages and use promotional tools to keep their talented employees. Skilled workers often requested high wages, left for another firm and breached the terms on labor contract termination. They also noted workers might enjoy overtime payments but when the production was halted, firms still paid to their workers, so they incurred loss.

The Labor Code's Article 60 bans disciplining workers by paying no wages whereas cutting wages as one of disciplinary measures is easily accepted by workers.

According to Article 17 of the Government's Decrees 90 CP/95 and 198 - CP, if a worker signs an apprentice contract but he gives up his job intentionally, does not work, or does not complete his work duration as stated in the contract after he has been trained, he must compensate for the training cost not mention cases of force majeure. This regulation is logistic, fair and useful for upgrading the worker's skill - an urgent problem today.

The Government Decree 58 CP says wage payment and settlement of other benefits for workers on strike must depend on the court decision on whether the strike is legal and faults of each side in the executing of laws on labor.

As such, the labor relations become more fair. But who will deal with conflicts in the labor relations: employer, labor union or the Government?

When the worker wins in a lawsuit concerning the firm's sacking or terminating work contracts, he

## LABOR RELATIONS IN VIETNAM'S MARKET ECONOMY

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finds it hard to return to his firm as the labor relations have been broken and conflicts continue to arise. He will be given bad treatment and cannot work for the firm. Then the actual solution is to grant lay-off allowance to him so that he seek another job. However, conciliation is still the best.

The problem is how to purify labor relations for sustainable economic development.

### II. SOME GENERAL ISSUES ON LABOR RELATIONS

In our current multisectoral market economy, labor is recognized as a kind of goods workers are able to sell their labor to any employer with agreed prices and this results in the diversification of labor relations.

Labor relations are derived from the work process, including all connections between workers and their employers. The growing labor market diversifies forms of labor rela-



tions.

Labor market is a prerequisite for hiring workers, buying and selling labor. In addition, the market has effects on labor relations. In the labor market, labor relations arises in the labor trade with prices and work conditions between employers who are always concerned about profits and workers who always want to be offered a job. In general, the employer has more advantages than the worker.

Firms can hire workers directly or through employment centers, local offices, and exhibitions and so on. To ensure the product quality and output, the employer wants to hire right workers, say, those meet their requirements. The worker wishes to find a good job.

In firms, labor relations take shape in management, production, profit distribution and in connection between the labor union and the employer...

Labor relations are both typical and particular, it is affected by objective and subjective factors. Subjective factors are properties and levels of the workforce or the productive force. Well-qualified workforce is an essential condition for establishing and strengthening labor relations. Objective factors include concepts of all members in labor relations. The fierce competition in the labor market forces workers to improve their skill.

The ground for labor relations is work contract. It is used for guaranteeing benefits of both sides in compliance with the Labor Code.

The selling or hiring of labor is implemented via individual work contract (the Labor Code states no work contract with a group). Work contract shows agreement between the worker and the employer on jobs paid and certain terms. The main contents of a work contract include: job, wage, work duration, labor safety, social security benefit...The work contract is executed in the principle of freedom, willingness, and equality before law and in line with the Labor Code and the collective labor agreement.

The system of work contract is of legality, identifying and rectifying a firm's employment, stipulating rights and obligations of workers and employers (not to mention civil servants). The system requires workers to upgrade their ability, work efficiently, meanwhile employers can choose good employees, streamline the labor force, retrain workers and beef up the labor mar-

ket.

Labor relations have both uniform and divergent components.

Labor relations must target at purifying and rationalizing economic relations, contributing to the best use of a country's human resource. Labor relations are reasonable and fruitful if it ensures mutual benefits for both sides, good collaboration and speed up production.

Regarding enterprises, the sacking and hiring new workers make them incur costs, the substitutes may badly affect relations between previous workers and their production. In addition their intangible investment in raising productivity of former workers will be vanished into the air.

As a result, firms do not want to hire more or sack their workers whenever there is a drop in demand and output. Instead, they maintain their staff but reduce their weekly hours worked and accept lay-offs in which workers continue to receive 70% of wage rate; it will be better as they will incur more costs in re-training new workers. When market demand rises in the short run, firms will ask their workers to work overtime and sign temporary work contracts to increase output. If the company gets a firm foothold on the market, and foresees its growth, it will hire more persons and increase wages to keep talents. If there is a slump in business, it will make temporary lay-offs.

Regarding employee, stable jobs is better. Changing jobs steadily does not secure their life. The search for new jobs will make them lose time, energy, income as well as experience gained in the previous job.

Labor relations should not be based only on law, but also on sympathy. If both sides preserve their mutual benefits, say, the firm feel satisfied with profits and workers with incomes, the consensus will be sustainable. Giving good and friendly treatment to workers is in fact useful for the employer.

#### Conflicts in labor relations

Some employers always hunting profits and not being concerned about workers may cut wages illegally. They take advantages of employment to lower labor prices under the rule of supply and demand, of currency depreciation that leads to a drop in real wage in order to delay wage payment. In addition, there are forms of exploiting job applicants such as high cost of employ-

ment; extending the apprenticeship to pay low wages.

Some firms are successful in reducing their costs but their work force and production are not stable and they cannot operate their machinery at full capacity and maximize their profits.

The exploitation of labor, finally speaking, is an unsatisfied settlement of economic benefits and a major cause of broken labor relations. In theory, state-owned firms have no exploitation because profits are used for workers and social welfare.

In the view of social production, labor division and social welfare, the employer-worker relations must be secured even in the market economy in the socialist orientation. In this background, the employer's benefits must be taken into account. Exploitation should be understood as violation of workers' benefits. By this definition, exploitation is unacceptable.

As such, in addition to the uniform of labor relations based on mutual benefits, disputes may still arise when there is exploitation or breach of work contracts.

Whenever the workers' gain is not guaranteed, and their life not improved, they will use their labor ownership to seek for other relations. They also find it hard to do new jobs if they change so many jobs, the employer may distrust their capability and loyalty.

Conflicts in labor relations may lead to strikes. Strikes are not only measures but final ones after there are no other solutions. But they may be misused as illegal weapons to cause wastes, losses and mess to the economy. The employer does not want strikes due to loss of profits, so he is very cautious in employing workers and no workers want to take this tool once it bring losses to his life.

#### The Government's role

The Government's role is very important to the sustainability of labor relations.

The Government builds laws on labor, creates a legal framework to rectify labor relations towards sustainability, harmony and expansion. The Government should renovate the mechanism of labor management and coordinate with labor unions to deal with labor disputes.

The Government sets the criteria having compulsory features such as minimum wage, work hours, work contract...guiding ones such as collective labor agreement, encour-



aging firms to retrain workers and flexible ones such as conciliation, negotiation, agreement on mutual benefits, mutual concessions for the sake of the firm's development, social progress and national wealth.

However, the Government should take sides with workers as they are always dominated by the employer and under the pressure of unemployment.

#### The labor union's role

Regarding the labor market, the visible hands are not only the Government's role but also the labor union's one. The labor market unveils its weakness and incapability in adjusting working conditions and labor relations. The labor union is an organization representing the workers' rights. It is of the country's socio-political system. It struggles for workers' legal benefits.

The labor union's executive board signs the collective labor agreement with the firm's director and supervises the execution of work contracts, Labor Code, Trade Union Law and other labor policies of the Government. The labor union is really necessary for every business as it contributes to perfecting the firm's strategy that both boosts the production and consolidates the labor relations. The trade union also pays full attention to upgrading workers' skill and helps them improve their educational levels by its funds if the firm does not offer. The labor union will build a bridge for the labor relations: persuade the managers, help heighten the workers' knowledge, actively prevent strikes through negotiation and conciliation, and make great efforts to raise production efficiency and workers' living standard. The employer's goodwill, qualification of labor union's leadership and workers' awareness will help lessen conflicts.

The labor union can also adjust labor supply, have good effects on market wages and reduce unemployment rate.

The relations between the labor union and the Government should be taken into account. In the public sector, the relations between the labor union and the Government is a direct and equal one. However, the director's autonomy in business decisions has to be respected in compliance with law. In the private sector, this relation is indirectly implemented via regulations of the Government.

In the system of labor laws and

contracts, the labor relations become more healthy. Disputes in labor relations will reduce significantly due to mutual obligations. The Government competent agencies have legal frameworks to settle disputes and the socio-economic management will face more favorable conditions.

As a result, besides a cool relations under profitable terms in the market, there are other relations based on mutual respect, obligations, benefits and cooperation. Every worker wishes to have a sustainable and long-term job, so do firms. The employer should create conditions for their workers to perfect their qualifications and promotional opportunities for those who generate more profits to the firm.

#### III. SOME MEASURES TO PURIFY LABOR RELATIONS

- Boosting the wide execution of work contracts, legalizing rights of the employer and the worker.

- Continuing to reform the labor relations in the market mechanism under the State management with a view to achieving good results in management and employment; improving the role of labor legal system as a framework for social relations on the labor market; making labor relation into law to purify it and create favorable conditions for its sustainable development in the cooperative spirit and use it as a ground for settling labor disputes; and signing collective labor agreement in industries to limit possible disputes.

The evidence shows if firms abide by regulations on labor contract signing, then the employment there has less complicated problems.

- The Government should make proper and timely interference to protect workers because they are inferior to the employer, they have only labor and the pressure of unemployment is always put on them. The Government should rule that when restructuring its production, the firm has to retrain workers and six months later if they do not meet the requirements of the restructure, they will leave the firm. However, the Government should also guarantee legal benefits and profits of the employer with the aim to make favorable conditions for reproduction process and the long-run labor demand.

- The rights and obligations of

both sides in the labor relations must be observed strictly, fairly and rationally. The workers are requested to take careful consideration before going on strikes.

- The roles of government bodies, mass social organizations, employers and workers need be coordinated. Both sides in the labor relations have to contribute to soothing conflicts, cooperating for the unification and conciliation and for the sake of the country.

To guarantee the public order and security; limit losses and prevent disaster to the economy, strikes should comply with law, labor disputes should be settled mainly with measures of conciliation. Even when the dispute is brought to court, it continues to be conciliated with a view to securing both sides' benefits and social stability. Workers should not use strikes as weapons to fight against the employer and worsen the conciliation.

The roles of the unit's conciliation committee and the provincial arbitration council should be strengthened to hedge illegal strikes.

The labor union should publicize the Labor Code to workers; the Government's regulations and policies on labor to firms with the aim to restrict illegal strikes. When understanding law, the workers will observe law and know how to protect them. The authorized agencies should monitor and inspect the execution of law in firms and apply necessary fines to those violating law.

The social security system must be strictly implemented. To help the firms overcome their financial problems, the Government should help give social security benefits to workers in State-owned firms.

To be attached to their firm, workers should be offered favorable conditions to hold some shares of the firm. Finally, the basic measure is to raise the workers' schooling levels and skill and intensify their observation of rules with the aim to harmonize the labor relations■

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