Industrial Relations and Regulatory Environment in the Labour Market

Nguyen Manh Cuong
Center For Industrial Relations Development

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Outline of the presentation

This presentation covers 9 following issues:
1. Main features of IR in Viet Nam
2. Main challenges for IR in Viet Nam
3. Legal framework for IR in Viet Nam
4. IR institutions
5. Trade union
6. Social dialogue
7. Employers organizations
8. Labour dispute and strikes
9. Social-Economic environment for IR
1. Features of Vietnam IR

Political, economic, cultural and social factors are characterizing nature, features and formation of the IR system in Vietnam

- The whole political system led by the Communist party characterizes the nature and framework of the tripartite mechanism
- Some positive legacies inherited from IR practice in socialism, especially the activity of the trade union (VGCL)
- Vietnam is still in the mid of transition from a planned to a market economy (multiple economic relations, multiple ownership relations → multiple industrial relations);
1. Features (continue)

- Vietnam is currently in the first years of industrialization process, in which some major labour flows are seen: from rural to urban areas, from agricultural to industrial sectors, from individual-based to collective employment. Those changes will make these years become most challenging period for industrial relations.

- Labour intensive industries count for a significant proportion in national economy → causing a high density of low and semi-skill labour, which normally get moderate pay and face difficult work conditions. All these factors create pressure to industrial relations.
2. Challenges

Macro level:
- Understanding on industrial relations in market economy need to be improved;
- Industrial relations model which is suitable (workable) for Vietnam need to be developed;
- Legal framework on IR is not adequate nor suitable;
- Institutional system on IR is not adequate nor effective;
- Representative organizations of workers and employers have not yet developed nor well functioning
2. Challenges (continue)

**Micro level:**

- **Grassroots trade unions** are yet ready to function as the real workers representative organizations to deal with the employers because of the limitation of capacity, position and they lack of legal protection against unfair treatment from the employers (especially in private sector)
- **Social dialogue and negotiation** has not become the main means for industrial relations adjustment. Almost all CBA are just formality, having no significant meaning for building sound IR
- **Workers behaviors** are heavily spontaneous, especially in strike actions
- Has not been formed the effective way for prevention or settlement of spontaneous strikes
3. Legal framework

Positive:
- The current Labour Code of 1994 (and revised in 2006) has laid down the foundations for industrial relations in market economy, especially in the provisions regarding trade union (chapter 13), collective agreement (chapter 5) and labour dispute (chapter 14)

However:
- Big gaps between the laws and practice
- Laws have yet covered all fundamentals of industrial relations (common confusion of the scope of industrial relations and labour standards, that lead to the lack of provision on industrial relations in the laws)
3. Legal framework (continued)

Some points for consideration:

- **On trade union:**
  - The laws should be clear on the establishment and activity of trade union, especially at the grassroots level, in as the workers representative organization in relations to the employer. This function is different from the function of the social-political organization stipulated in the Trade Union Law.
  
  - The laws should have clear provision on the protection of the trade unionist from the unfair treatment from the employer side, so that workers would want and dare to be the trade unionist at enterprise level;

  - The laws should have clear provisions so that the trade union at enterprise level would be organization of the workers, by the workers and for the workers, not that of, by and for the employers.
3. Legal framework (continued)

- **On social dialogue and negotiation**
  - The laws should be more focused on the adjustment of the dialogue process, dialogue parties; the laws should not be focused too detailed on the dialogue issues as in the current laws.
  - The current provision on negotiations in the laws should be changed into dialogue with the expanded scope to include not only negotiation, CBA, but also information exchange and consultation activities which are not yet addressed in the current laws.
  - The laws should determine clearly the role and functions of the government in this voluntary interaction (dialogue).

- **On labour dispute and strikes:**
  - The laws should cover also procedures for settlement of spontaneous strikes which are not yet covered in the current laws.
4. IR institutions

All four IR institutions need to be improved/reorganized

- **Administrative institution**: has to be determined clearly: what model Vietnam would follow: ministry or committee will take this function; this agency will administer what and how; distinguish administration over IR and over labour standards

- **Tripartite advisory/consultancy institution**: the position of this institution has to be legalized with clear functions, mandate; distinguish the mandate to manage and mandate to advise

- **Supporting institution**: this institution also need to be legalized with clear functions and mandate to perform the “soft intervention” by the Government to IR; distinguish the soft and hard interventions

- **Jurisdiction institution**: need a new approach suitable to the nature of IR in order to have more appropriate laws on organization and activity of this institution
5. Trade union

- Vietnam General Confederation of Labour, by the laws, is the social-political organization, that has a long history of existence and inherit some positive legacies of the trade union in planned economy
- Need to determine clearly the function to represent workers in relations with the employer; it has to be clear on the organization and activity of trade union in different forms of enterprises (by ownership)
- Need to have a model and mechanism to allow upper level trade union to coordinate, oversee, protect and support trade unions at enterprise level
6. Employers’ organizations

- Two organization namely VCCI and VCA have been officially recognized by the government to be the employers organizations, but in practice the representation of these two organizations is not so widely recognized by majority of employers.

- In the same time, although no any administrative documents have been issued, some organization and associations have been actively involved in activities that represent and protect interests of the group of enterprises who are the members of those organizations.

→ The Government may need to consider to replace administrative decision on appointment of the employers organizations by giving the set of criteria by which organizations would be recognized as employers organizations for a particular situation.
7. Social dialogue

- There are no provision on social dialogue in the current labour code
- Need to make clear on the forms, purposes, ways for social dialogue to take place at different level (information exchange, consultation, negotiation, signing CBA)
- The contents of negotiation and CBA mentioned in the laws need to be interpreted clearly that CBA may include those items but not necessary have to have all these items in order to avoid the wave to sign CBA by taking (copying) provisions in the laws into CBA, that make CBA purely just the formality (not real CBA and therefore has no meaning).
7. Social dialogue (continued)

- The four “real” in CBA negotiation
  - Negotiation and CBA would be meaningful only when the four following “real” are observed:
    - Real negotiating parties
    - Real dialogue/negotiation process
    - Real content
    - Real implementation
  - In most of the current negotiations and CBA, there are lack at least one to four these “real”, therefore, almost all CBA did not serve well as an instrument to build sound industrial relations and prevent labour dispute and strike
8. Labour dispute and strikes

- All strikes are spontaneous. None of the three thousands strikes followed the procedures that stipulated by the laws
- When determining the causes of the strikes, it is common to confuse violation of the laws with dispute over the rights and over the interests
- Government solutions to labour dispute and strikes are introduced after the strikes already happened and the solutions are normally the administrative ones
- The government has not yet position themselves as the facilitator to help the two parties to solve their problems, but rather to act as the one who has the responsibility (and mandate) to work out some solutions in order to end the strikes
8. Labour dispute and strike

- The efforts to enforce the laws are important, but it should be made clear that this is not the only nor the most effective way to prevent labour dispute and strike.
- Strikes are not desirable for any party, however, the government should not put the goal to prevent the strike without having efforts to promote dialogue and negations.
- The government has to worked out clearly the procedure and formalities that the parties involved would exercise for each kind of strike (rights or interests).
8. Labour dispute and strikes

- It has to be made clear to all parties that dialogue and negotiations are always the most effective way to avoid the strike and also the best way to solve the strikes.
- A comprehensive solutions to prevent and to solve strikes are important, but in any case, the solution on trade union and negotiation need to be the top priority.
9. Social-Economic environment for IR

The IR is effected very much by a number of macro and micro factors that form the environment of industrial relations. Some most important factors are:

- Demand and supply of labour in locations, industries; structure of labour forces
- The inflation, consumer price index, economic growth, export growth,…
- Living conditions, cultural and social life of the workers, especially in industrial zones
- Influence from newspaper and public attitude to strike
- Industrial behavior culture