



BUSINESS & HUMAN RIGHTS IN THE GARMENT, FOOTWEAR AND ELECTRONIC SUPPLY CHAINS IN VIETNAM

A Baseline Study

By Do Quynh Chi

Research Center for Employment Relations

Hanoi, August 2019





ABBREVIATIONS

| | |
|-----------------|--|
| CBA | Collective Bargaining Agreement |
| CLS PLUS | Core Labour Standard Plus |
| CMT | Cut-Make-Trim |
| CoC | Code of Conduct |
| CSR | Corporate Social Responsibility |
| DOLISA | Department of Labour, Invalids and Social Affairs (provincial level) |
| EICC | Electronics Industry Code of Conduct |
| ERC | Research Center for Employment Relations |
| EVFTA | Europe-Vietnam Free Trade Agreement |
| EZ | Economic zone |
| FDI | Foreign direct investment |
| FES | Friedrich Ebert Stiftung |
| FIE | Foreign invested enterprise |
| FOB | Freight On Board (or Free on Board) |
| FOL | Federation of Labour |
| GDP | Gross Domestic Production |
| GSC | Global Supply Chain |
| GSO | General Statistics Office |
| HR | Human resource |
| ILO | International Labour Organisation |
| ITUC | International Trade Union Confederation |
| IZ | Industrial zone |
| MNC | Multi-national corporation |



| | |
|---------------|---|
| MOLISA | Ministry of Labour, Invalids and Social Affairs |
| MW | Minimum wage |
| OSH | Occupational Safety and Health |
| SME | Small and medium-sized enterprise |
| SOE | State-owned enterprise |
| TPP | Trans-Pacific Partnership |
| UNIDO | United National Industrial Development Organisation |
| USDOL | Department of Labour of the United States |
| VGCL | Vietnam General Confederation of Labour |
| VITAS | Vietnam Textile and RMG Association |
| VN | Vietnam |
| WB | World Bank |

LIST OF TABLES AND FIGURES

TABLES

Table 1: Attributes of the brands selected for synthesis review

Table 2: In-depth Interviews

Table 3: Vietnam's Ratifications of ILO Core Conventions

Table 4: Overview of Vietnam's garment industry, 2016

Table 5: Top 10 fashion brands sourcing from Vietnam

Table 6: Overview of the footwear industry of Vietnam

Table 7: Top shoe brands sourcing from Vietnam

Table 8: Outline of Vietnam electronics industry, 2005 and 2012

Table 9: Gap analysis using the Traffic Light Rating System

Table 10: Methods of Impact Assessment

Table 11: Grievance mechanisms adopted by brands and suppliers

Table 12: Number of Labour Disputes Settled at the Court

FIGURES

Figure 1: Proportion of electronics exports in total export value of Vietnam

Figure 2: Key export markets of mobile handphones and parts from Vietnam

Figure 3: Typical grievance-handling procedure by brands

Figure 4: Workers' most trusted channel for grievances

Figure 5: Complaints by rank-and-file workers

Figure 6: Strike incidence in Garment, Footwear and Electronic Industries, 2009-2015

Figure 7: Classification of strikes by causes, 2009-2015

Figure 8: Percentage of strikes in organised vs. unorganised companies, 2009-2015

Figure 9: Wages of workers in Garment, Footwear and Electronics vs. Living Wage Benchmarks, 2018

Figure 10: Average monthly compensation of electronic workers (VND)

Figure 11: Mechanisms for Remedies of Labour Abuses

Figure 12: The number of cases dealt with by provincial legal aid centers between 2013-2016

CONTENTS

| | |
|--|----|
| List of Tables and Figures | 6 |
| CHAPTER 1: INTRODUCTION | 8 |
| Research Objectives | 9 |
| Methodology | 10 |
| Research Limitations..... | 13 |
| CHAPTER 2: LOCAL CONTEXT FOR BUSINESS AND HUMAN RIGHTS | 14 |
| 2.1. Context for Business and Human Rights in Vietnam | 14 |
| 2.2. UNGP and Vietnam Legislative Framework for Labour Rights | 15 |
| CHAPTER 3: IMPLEMENTATION OF THE UNGP FRAMEWORK IN THE GLOBAL SUPPLY CHAINS OF GARMENT, FOOTWEAR AND ELECTRONICS IN VIETNAM | 18 |
| 3.1. Overview of the Garment, Footwear and Electronics Supply Chains in Vietnam..... | 18 |
| Structure of the footwear supply chain..... | 27 |
| 3.2. Lead Firms’ UNGP Policy and Implementation | 27 |
| Principle 1: Policy Commitment | 36 |
| Principle 2: Human Rights Due Diligence | 45 |
| Principle 3: Remediation | 50 |
| Issues of Context | 52 |
| 3.3. Labour Practices in the Supply Chains | 52 |
| Freedom of association and right to collective bargaining | 55 |
| Non-discrimination..... | 56 |
| Minimum wage and living wage | 59 |
| Working hours | 62 |
| CHAPTER 4: REMEDIES FOR WORKERS IN THE GLOBAL SUPPLY CHAINS | 62 |
| 4.1. Overview of the Remedies for Workers in Vietnam | 64 |
| 4.2. State-based Judicial Mechanisms | 64 |
| Labour Court | 65 |
| 4.3. State-based Non-Judicial Grievance Mechanisms..... | 65 |
| Labour inspectorates..... | 66 |
| Labour Mediation..... | 67 |
| 4.4. Non-state based Grievance Mechanisms | 67 |
| Trade Union’s Legal Aid Centers..... | 67 |
| Inconsistency of Access to Remedies for Workers in Different Regions and Firms | 69 |
| CHAPTER 5: CONCLUSION AND RECOMMENDATIONS | 70 |
| Summary of Findings | 70 |

CHAPTER I: INTRODUCTION

On June 16, 2011, the United Nations Human Rights Council unanimously endorsed the Guiding Principles for Business and Human Rights (UNGP), ending decades of divisive debate over the human rights responsibilities of businesses. The UNGP which was developed by Professor John Ruggie, provided the first global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity, and continue to provide the internationally accepted framework for enhancing standards and practice regarding business and human rights. The UNGP contains 31 principles implementing the United Nations framework of three pillars, including:

- **Pillar 1:** The state duty to **protect** human rights
- **Pillar 2:** The corporate responsibility to **respect** human rights
- **Pillar 3:** Access to **remedy** for victims of business-related abuses

The UNGPs have enjoyed widespread uptake and support from both the public and private sectors. By the end of 2017, 21 countries including the UK, Germany, the Netherlands, Ireland, the United States, among others, have produced National Action Plans for Business and Human Rights and 23 other countries are in the process of developing their own national action plans.¹ A growing number of MNCs have also incorporated the UNGP in their human rights policies and framework.

However, the UNGP remains a largely new concept in the public and political discourses in Vietnam although the UNGP principles have been integrated to certain extent into the sustainability policies of a number of MNCs sourcing from Vietnam. This creates an opportunity to use the UNGP as a tool to ensure compliance with labour and human right standards in the exporting industries of Vietnam. Upon recognition of this opportunity, the Project on Business & Human Rights in Trade Relations and Global Supply Chains in Vietnam (hereinafter referred to as the BHRTR Project) developed by the Friedrich-Ebert-Stiftung (FES) together with the Centre for Development and Integration (CDI) have authorised the research team of the Research Center for Employment Relations (ERC) to conduct a baseline study to make an assessment of the implementation of the UNGP within the global supply chains in Vietnam, focusing on the three biggest export industries of the country including garment, footwear and electronics.

It should be emphasized that this baseline study covers only Pillar 2 and 3 of the UNGP and with a specific focus on the labour rights.

¹ Update on the countries with NAPs can be found here:
<https://www.ohchr.org/en/issues/business/pages/nationalactionplans.aspx>

RESEARCH OBJECTIVES

The focus of this baseline study is on the 3 key exporting industries of Vietnam: garment, footwear and electronics. The three industries are selected because they act as the backbone of the export-oriented manufacturing sector of Vietnam. Since 2012, electronics has been the biggest exporting industry, accounting for 30% of the total export value of Vietnam, followed by garment and footwear. The three industries directly employ nearly 4 million workers (Do 2017). The European Union is the biggest exporting market of phones produced in Vietnam and the second biggest market for clothing and footwear (Vietnam Customs Office 2017).

The UNGP covers a wide range of human rights stated in a number of international conventions. However, as the Project focuses mainly on the labour rights, this study will be devoted to assessing the most burning labour issues in the 3 industries. Recent surveys of the three industries in Vietnam show that the most salient violations in the field of labour rights (Do 2017) include:

- Freedom of association and right to collective bargaining
- Non-discrimination
- Minimum wage and living wage
- Working hours

With such research focus, the baseline study will aim at the following objectives:

- **Objective 1:** Provide a baseline assessment of the implementation of UNGP within the global supply chains of garment, footwear and electronics in Vietnam, focusing on labour rights
- **Objective 2:** Investigate the remedies for workers who fall victims of violations within the supply chains
- **Objective 3:** Identify and analyse possible entries for the Project to effectively support the businesses in the three industries to better implement the UNGP framework

METHODOLOGY

As the research aims at three different objectives with a wide coverage of the garment, footwear and electronic supply chains in Vietnam, a combination of qualitative and quantitative research methods were employed, including:

Archival analysis of major brands' sustainability policies, procedures, and practices

The purpose of the archival analysis is to make an assessment of the brands' sustainability policy and performance using the operational principles as guided by the UNGP Pillar 2.

For this purpose, the research team selected 06 of the largest brands in the three industries to study their sustainability policy, procedures and practices. The companies selected are not only the top brands in their own industries but also have a large network of suppliers in Vietnam (see Table 1).

Table 1: Attributes of the brands selected for synthesis review

| BRANDS | NATIONALITY | INDUSTRY/PRODUCTS | NUMBER OF SUPPLIERS* IN VIETNAM |
|---------|--------------|--------------------------------|---------------------------------|
| Brand 1 | European | Garment | 49 |
| Brand 2 | European | Garment and Footwear | 130 |
| Brand 3 | American | Garment and Footwear | 114 |
| Brand 4 | European | Garment and Footwear | 143 |
| Brand 5 | Japanese | Electronics/Electrical devices | 300 |
| Brand 6 | South Korean | Electronics/Phones | 300 |

Source: compiled by the author based on the published supplier lists of the brands on their official websites in 2018 and interviews with the sustainability officers of the local offices.

***Note:** Suppliers here include first-tier suppliers/vendors only

For comparison, the research team also analysed the sustainability policies of Better Work Vietnam which is working with over 400 garment and footwear suppliers to international brands and Fair Wear Foundation (FWF), a non-profit organisation that represents 29 European garment brands sourcing from 155 companies² in Vietnam to see if there is any difference between the first-party (brands) and third-party (NGOs) sustainability approaches.

² Interview with the FWF Vietnam country representative, November 2018

The documents analysed include:

- Annual sustainability reports (between 2011 and 2017)
- Compliance reports and audit reports
- Human rights policy/statement
- Supplier Code of Labour Standards
- Supply Chain Management Policy (including social compliance monitoring and procurement)
- Other reports by the media, NGOs, governmental agencies related to the labour right issues of the brands and their suppliers both in Vietnam and other countries
- Previous studies/surveys on the sustainability issues of the brands and their supply chains in Vietnam and other countries

The review is based on a framework of the 4 operational principles of the UNGP Pillar 2.

In-depth Interviews

The research team conducted 25 in-depth interviews with the key stakeholders to inform the research as well as to cross-check upon the research findings. The interviews were either carried out directly or via email/telephone, especially with the stakeholders not based in Vietnam.

Table 2: In-depth Interviews

| STAKEHOLDER | LEVEL | FOCUS | NUMBER OF INTERVIEWS |
|----------------------------|--|---|----------------------|
| Brands | Regional Offices | Brands' sustainability policies and practices | 05 |
| | Country Offices | | 05 |
| International Organisation | EU Delegation to Vietnam | EU's perspective on UNGP and Labour rights in Vietnam | 02 |
| Governmental Agencies | Ministry of Labour, Invalids, and Social Affairs | Implementation of Labour Code; directions of Labour Code reform | 02 |
| Trade Unions | VGCL | Union's perspective on labour rights ; recent union initiatives | 01 |
| | Provincial FOL | Remediation for workers | 01 |
| NGOs | VIJUSAP Ho Chi Minh city | Remediation for workers | 01 |
| | Light | Remediation for workers; labour right practices | 01 |
| | Human Rights Space | Remediation for workers; socio - political environment for human rights | 02 |
| Others | Economists | Economic development strategy of Vietnam and impacts on labour practices | 01 |
| | Trade Union Specialist | Union's perspective on labour rights; recent union initiatives | 01 |
| | Labour auditors | Auditing procedures and practices; key labour issues in the supply chains | 03 |
| TOTAL | | | 25 |

Analysis of Empirical Data on the 4 Labour Right Issues in the Supply Chains

The purpose of this research method is to provide the empirical evidence about the implementation of the 04 labour right issues in the 03 supply chains in Vietnam. The firms covered by this analysis include both the suppliers to the selected brands as well as the smaller brands. As a result, this analysis will provide a broader overview of the performance of the supply chains in the 04 key labour issues.

For this purpose, the research team use the raw data collected through 03 surveys in 2016, 2017 and 2018 including:

- The 2016 CLS+ Survey covering 6 garment, 4 footwear, and 6 electronic firms and 110 workers
- The 2017 CDI Survey of 55 electronic firms and 202 workers in Bac Ninh
- The 2018 CDI Survey covering 238 electronic workers in Dong Nai and Hai Phong province

Although these three surveys were originally designed for different objectives, they share the same coverage of the labour practices of the suppliers in the global supply chains. As a result, the raw data from these surveys are processed and analysed specifically for the purpose of this study, focusing on the 5 labour right issues mentioned above.

Review of Anonymous Social Compliance Audit Reports

To provide additional evidence for the analysis of the 5 labour right issues at the supply chain level, the research also reviews the audit reports from 14 electronic first-tier suppliers, 7 first-tier footwear factories, and 27 first-tier garment companies. All the reports are made anonymous to keep the confidentiality of the firms and workers. The research team only analyse the findings of violations related to the five labour right issues.

RESEARCH LIMITATIONS

There are hundreds of brands engaged in the garment, footwear and electronic industries in Vietnam. Each brand is different in terms of human rights approaches depending on their business models, corporate values and capacity. This research is only able to cover a small number of brands that are bigger and more influential in each industry, which may not be sufficiently representative of the overall situation.

Also, the smaller brands tend to be looser in monitoring their supply chains which may result in the poor human right compliance among the indirect sub-contractors that are SMEs and even household businesses. Unfortunately, there has not been a thorough study over this area of the supply chain.

The available empirical data on the labour practices of suppliers does not cover the later tiers of the supply chain, especially the small-sized businesses that supply indirectly to the global brands. To make up for this deficiency, we relied on the secondary information from previous studies.

CHAPTER 2:

LOCAL CONTEXT FOR BUSINESS AND HUMAN RIGHTS

2.1. CONTEXT FOR BUSINESS AND HUMAN RIGHTS IN VIETNAM

Over three decades after the launch of the economic reform, Doi Moi, Vietnam has gained remarkable economic achievements, most notable of which is the bloom of the business sector. Between 2007 and 2016, the number of registered businesses tripled from 149,082 to 477,808. The size of labour force employed by the registered businesses also increased from 7.2 million to 12.9 million in the same period with the annual growth rate of 7.2%/year. The FDI sector achieved the highest labour force growth rate, followed by the private domestic sector while the state-owned enterprise sector has seen a decline in labour due to the equitization process. It should be noted, however, that the labour force of the registered businesses accounts for only 22% of the total employment of Vietnam (World Bank 2014).

At the international level, Vietnam is a party to a wide range of international human rights instruments including:

- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination against Women; and
- Convention on the Rights of the Child.
- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment

Convention on the Rights of People with Disabilities Under the 2013 Constitution, the State ensures and constantly promotes people's rights in all spheres. The Government has the duty to take measures to protect the legitimate rights and interests of citizens and create conditions for them to exercise their rights and fulfil their obligations, and to protect the environment. The State prohibits all acts of discrimination and acts that cause damage to the environment. State organs, economic and social bodies and all individuals must abide by State regulations on the rational use of natural wealth and on environmental protection. If people feel that their rights are violated, they have the right to lodge complaints and denunciations with the competent state authorities against the illegal doings of state organs, social or economic organizations, or individuals.

2.2. UNGP AND VIETNAM LEGISLATIVE FRAMEWORK FOR LABOUR RIGHTS

The country has ratified 24 conventions of the International Labor Organization. Among the 08 core labour conventions, by July 2019, Vietnam has ratified 06 except for Conventions 87 and 105. (see Table 3).

Table 3: Vietnam’s Ratifications of ILO Core Conventions by July 2019³

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

In 2012, the Vietnamese National Assembly adopted the new Labour Code, maintaining that it is the State policy to ensure the legitimate rights and benefits of employees. Every person has the right to work, to choose freely the type of work or occupation, to receive a salary on the basis of an agreement reached with the employer, to be entitled to labour protection, safe and hygienic working conditions and collective welfare, among others. The State shall ensure women’s rights to work on a basis of equality with men in every aspect. The State shall establish policies to encourage employers to create conditions for women to work on a regular basis and apply widely the policy of flexible working time, part-time and casual employment and working from home. Employers are prohibited from the following acts: discriminating based on gender, race, colour, social class, marital status, belief, religion, participation in trade unions, HIV-AIDS infection, or disability; mal-treating employees; sexual harassment; forced labour; making use of apprenticeship or on-the-job training for the purpose of getting benefits for oneself and exploiting employees, or enticing or compelling an apprentice or on-the-job trainee to carry out illegal activities; making enticement, false promises, or false advertising to deceive employees or making use employment service or

³ Source: http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103004

the export of labour to foreign countries to do illegal acts; employing illegally child labour; obstructing the establishment or joining of trade unions and participation in union activities. Employees shall have the right to strike and to form or join in union activities, and to participate in dialogue with employers or management.

According to the review of the Human Rights Resource Center, the Labour Code of Vietnam provides a relatively comprehensive protection of the key labour rights although a few key gaps linger.⁴

First, freedom of association and the right to organise of Vietnamese workers are limited as all unions must be affiliated to the Vietnam General Confederation of Labour (VGCL) which is controlled by the Vietnam Communist Party.⁵ 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 workers.⁶ 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 positions.⁷

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' participation.⁸

Second, the Labour Code provides a number of mechanisms for settlement of collective and individual labour disputes. For example, an interest-based collective dispute should be mediated by the labour mediator before being submitted to the provincial labour arbitration; if the workers and their representatives disagree with the decision of the labour arbitration, they can organise a strike.⁹ An individual dispute is supposed to be mediated by the district labour mediator before it is submitted to the Labour Court.¹⁰ These mechanisms are supposed to be the main channels for remedies of the workers. However, none of the 6,000 strikes since 1995 followed the legal procedure of dispute settlement and strike organisation. The provincial arbitration committees have rarely handled any collective disputes¹¹ and the

⁴ Human Rights Resource Center. 2013. Business and Human Rights in ASEAN: A baseline study

⁵ 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>

⁶ 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

⁷ Ibid.

⁸ VGCL-FES Survey of 1000 collective bargaining agreements in 2015

⁹ Article 206 of the 2012 Labour Code

¹⁰ Article 200 of the 2012 Labour Code

¹¹ Clarke, Lee and Do (2007)

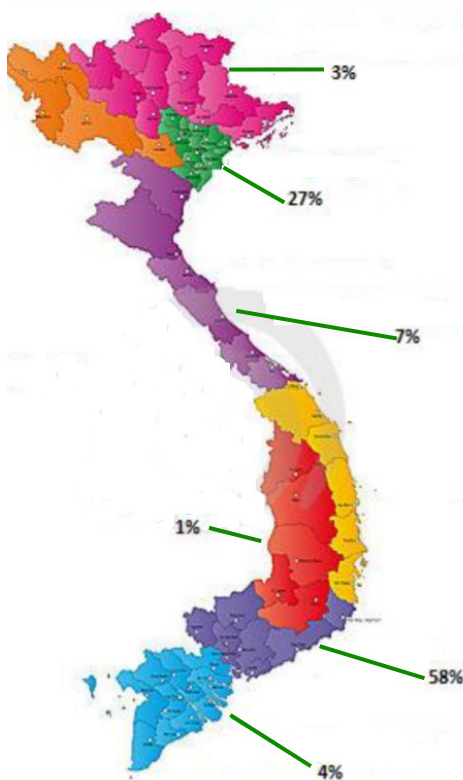
labour mediators have tackled a meagre proportion of all the right-based disputes. In reality, most workers have either chosen to walk out in wildcat strikes to protect their rights and further their interests or quit the jobs. This means that much remains to be done to improve the workers' access to the remedies provided to them by the law.

Finally, weak enforcement of the labour rights presents a major challenge to the government. The number of labour inspectors remains limited compared to the fast-growing number of enterprises. In particular, there are over 700 labour inspectors in Vietnam while the number of enterprises is nearly 500,000. Another problem is the transparency of inspectors. According to the Provincial Competitive Index Survey of VCCI, 45% of the surveyed FDI companies claimed that they had to pay informal fees to the inspectors in 2017.¹²

¹² VCCI. 2018. *Provincial Competitive Index Report*. Link: <http://pci2017.pcivietnam.vn/uploads/pci2017/PCI-2017-day-du.pdf>

CHAPTER 3:

IMPLEMENTATION OF THE UNGP FRAMEWORK IN THE GLOBAL SUPPLY CHAINS OF GARMENT, FOOTWEAR AND ELECTRONICS IN VIETNAM



Picture 1: Distribution of Textile and Garment Enterprises

3.1. OVERVIEW OF THE GARMENT, FOOTWEAR AND ELECTRONICS SUPPLY CHAINS IN VIETNAM

READY-MADE GARMENT (RMG)

The textile and garment industry has a long tradition in Vietnam, starting in 1889 with the establishment of Nam Dinh textile complex (Hill 1998). After the country's reunification in 1975, the state-owned garment companies mainly produced for the domestic market and exported a small proportion to the socialist countries in Eastern Europe. By 1995, exports accounted for only 10.4 percent of garment and 29.5 percent of textile production of the industry and the total garment export value was USD 1.02bn (UNIDO 1998). After the collapse of the Soviet bloc, the garment industry plunged into crisis. The remaining companies started to find new markets for exports thanks to the lifting of the US trade embargo in 1995 and the first landing arrival of foreign-direct investment. But the growth of the garment industry was mainly boosted by the 2002 U.S.-Vietnam Bilateral Trade Agreement and later, Vietnam's accession to the WTO in 2006. Between 2002 and 2008, Vietnam's garment export value increased at the annual rate of 22%. The global economic recession and internal economic difficulties have slowed down the growth of Vietnam's garment sector since 2008 but the industry has still maintained an average export growth rate of 12 percent (GSO 2016). In 2001, there were only 1,031 textile and garment companies (FPTS 2016); by the end of 2016, this number is 8,770, among which nearly 6,000 are garment manufacturers while the rest are producers of fibres and textile (see Table 4). The center of the industry is Ho Chi Minh city and the neighboring region with 58% of garment and textile companies (see Picture 1). The second biggest hub is Hanoi and the a few Northern provinces such as Nam Dinh, Thai Binh, Hung Yen, accounting for 27% of the total number of garment and textile companies.

Table 4: Overview of Vietnam's garment industry, 2016

| | FIBRE AND FABRIC | CLOTHING | WHOLE INDUSTRY | NATION WIDE |
|----------------------------------|--|--------------------|----------------|-------------|
| Total output | Fibre: 2,050 tons Fabric: 2.85bn m ² | 3,903 mil.products | | |
| No. of enterprises | 2,789 | 5,981 | 8,770 | 442,485 |
| Total employment | 243,428 | 1,337,132 | 1,580,560 | 12,856,856 |
| Total turnover (bn. VND) | 204,996 | 227,779 | 432,775 | 13,516,042 |
| Total profit after tax (bn. VND) | 5,700 | 4,696 | 10,396 | 556,695 |
| Total capital (bn. VND) | 194,195 | 149,028 | 343,223 | 19,677,247 |

Source: National Statistical Yearbook, 2016

The average size of textile and garment companies is small, only 180 workers/firm. There are only 30 companies with more than 5,000 workers. Still, the industry is the biggest employer in the formal private sector with the total (formal) employment being 1.58 million which accounts for 12.3% of the waged employment of the country (National Statistical Yearbook 2016).

According to the 2016 National Statistical Yearbook, the profit margin of the textile and garment companies is much lower than the average of the whole economy. The profitability of textile and garment companies (after tax) is slightly over 2% while the average after-tax profit margin of the economy is 4.1%. According to FPTA (2016), the after-tax profit for companies producing on CMT contract ranges from 1-3% of turnover, on FOB contract is 3-5% and on ODM is 6-7%. As 65% of garment companies in Vietnam are producing on CMT and only 35% on FOB and 5% on ODM, the profitability of the garment industry remains low.

With 95% of garment export from Vietnam made through international buyers, the brands (lead firms) have been playing a crucial role in shaping the garment industry of Vietnam. The biggest fashion brands sourcing from Vietnam include Nike, Adidas, Levis, and Inditex (Zara), among others (see Table 3).

Table 5: Top 10 fashion brands sourcing from Vietnam

| BRAND | NIKE | ADIDAS | VF | GAP | INDITEX | H&M |
|-----------------------------|------|--------|----|------|---------|-----|
| <i>Suppliers in Vietnam</i> | 63 | 38 | 69 | 130* | 130* | 57 |

Source: compiled by the author based on the published supplier lists of the brands, 2017

(*The number of suppliers include both apparel and footwear factories)

The brands normally enter into FOB contracts with either vendors or 1st suppliers (direct suppliers). In some cases, the vendors do not manufacture themselves (as in the case of Li&Fung) but sub-contract to material suppliers and manufacturing firms. For the latter case, the contract is usually a CMT one with the materials selected and prices negotiated by the vendor in advance. The materials are imported by the vendors and transported to the supplier factories. In most cases, however, the 1st supplier manufactures themselves and sub-contracts a part of the production order to smaller suppliers (2nd tier suppliers). However, according to our interviews with the fashion brands, the 2nd tier suppliers are supposed to be audited and approved by the brands beforehand.

The vast majority of 1st tier suppliers are FDI firms (Korean firms are the biggest group in Vietnam) while domestic firms account for a small proportion of their 1st tier suppliers. For instance, Nike (RMG branch) sourced from 10 domestic firms among 34 RMG factories in Vietnam¹³ while Inditex had only 2 domestic firms among their 26 factories in the country.¹⁴ A big number of the 1st tier suppliers are now members of the Better Work Vietnam Project (BWV). Most of the Vietnamese garment companies are in the group of 2nd tier suppliers, those that sub-contract for the vendors and 1st tier suppliers (see Figure 8).

Therefore, there are at least 4 groups of garment firms in Vietnam with peculiar positions in the GVCs:

- **1st tier manufacturing suppliers:** these are large firms with big capacity and good connections with the brands. Nearly 90% of these 1st tier suppliers are FDI firms and the rest includes Vinatex member companies and a small number of big private domestic companies. The biggest clusters of 1st tier garment suppliers are found in Binh Duong, HCMC, and Dong Nai (see Picture 1).
- **2nd tier processing suppliers:** these are the firms that provide printing, washing or embroidery services to finish the products for the 1st-tier suppliers. In some cases, the processing suppliers are owned by the manufacturing suppliers while in other cases, they are separated and sub-contract to more than one manufacturing company.

¹³ FES-VGCL Survey of garment and footwear supply chain, 2015

¹⁴ Interviews with Zara Procurement Team, September 2016

- **Material suppliers:** there are a small group of material suppliers (yarn and fabric) in Vietnam as most of the materials are still imported.
- **2nd tier manufacturing suppliers:** these are smaller garment firms employing under 300 workers, owned by both foreign and domestic investors. Unlike the first group that has strong connections with the brands, the second group has small chance of supplying directly to big brands, instead they manufacture smaller orders sub-contracted by the first group or via vendors.

FOOTWEAR

Vietnam is the third largest exporter of footwear (by value) after China and India. Footwear export account for nearly 10% of the total export value of the country, employs nearly 1 million workers and almost 2 million in the supporting industries (see Table 6). There are 1,382 footwear companies with over 50 % of them are foreign-owned firms and 80 % of footwear companies concentrate in Ho Chi Minh city, Dong Nai, Binh Duong, and Long An.

Table 6: Overview of the footwear industry of Vietnam

| | |
|---|---|
| TOTAL NUMBER OF ENTERPRISES | 1,382 |
| FDI companies | 800 |
| % of enterprises with over 500 workers | 16.1 % |
| Total labour force | 930,000 |
| Main products (% of total production) | Sport shoes: 64.4 % Canvas shoes: 6.4 % Leather shoes: 29.2 % |
| Export/total production | 90 % |
| Main export markets | United States: 40 % Europe: 32 % Asia: 14 % Latin America: 7 % |
| Local content value¹⁵ | 45 % |

Source: Vietnam Ministry of Trade and Industry and Vietnam Customs Office (2015)

¹⁵ Local content value is defined as the value of materials and parts produced in Vietnam as %age of the total value of materials and parts used to produce the final product (VITAS 2016)

The footwear industry is highly export-oriented with 90% of total production are sold overseas while the domestic markets are dominated by footwear imports from China. The past 5 years observed a phenomenal growth of the export-oriented footwear industry with both the number of enterprises and export value doubled. This was mainly because of the production shift of major shoe brands from China to Vietnam to avoid the rising wages in the former country. Taiwanese firms account for 51% of the FDI footwear companies, followed by Korea (16%) and China (10%).

Structure of the footwear supply chain

Vietnam has grown to be one of their biggest sourcing countries for major sport shoe brands. Adidas now sources most from Vietnam (41% of its production in 2015) and for Nike, Vietnam is the second biggest production base (see Table 7).

Table 7: Top shoe brands sourcing from Vietnam

| BRAND | ADIDAS | NIKE | VF | NEW BALANCE |
|---|---------------|-------------|-----------|--------------------|
| <i>No. of factories in Vietnam</i> | 29 | 26 | 21 | 7 |

Source: Compiled by the author based on the brands’ published supplier list, 2018

Despite the industry booming over the past 5 years, the footwear supply chain in Vietnam has been increasingly dominated by the East Asian footwear corporations. The East Asian footwear corporations such as Pou Chen Group and Feng Tay Group have been able to develop the whole cycle of shoe production from material processing, machinery to assembly, which gives them the major advantage in terms of costs, efficiency and time over the domestic competitors. Vietnamese companies, in the mean time, have to import materials and machinery which drives their final cost much higher than the FIEs’. As a result, the FIEs have contributed an average of 77% of the total sector export value since 2011 and in 2016, this proportion is increasing to 81% (Vietnam Customs, 2016). Unlike the garment industry which is characterised by a large number of SMEs, the footwear industry is dominated by a small number of large-scale Taiwanese footwear producers. For instance, PouChen Group, the biggest sport shoe manufacturer in the world, has 11 factories with 200,000 workers in Vietnam and accounts for 17% of the total footwear export value of the country (LEFASO 2016)

Normally, the brands sign FOB contracts with the direct suppliers/vendors that are mainly FDI companies. The direct suppliers purchase materials and parts that meet the brands’ requirements and assemble the final products in their factories in Vietnam. In some cases, the direct suppliers (and vendors) sub-contract a part of the order or some production steps (such as finishing or packaging) to smaller firms which are mostly domestic private ones.

ELECTRONICS

The electronics industry has a long tradition in Vietnam dating back to the 1960s when the first state-owned companies produced electrical equipment solely for domestic consumption. Since 1994, together with the lifting of the trade embargo by the United States, Vietnam has enjoyed a rising inflow of foreign direct investment into electronics pioneered by Japanese MNEs such as Canon, Panasonic, Sony, and Mitsubishi in the late 1990s. Thanks to the first wave of FDI, the electronics industry quickly increased their its export value to 6.3 percent of the national export value by 2011 (see Figure 1).

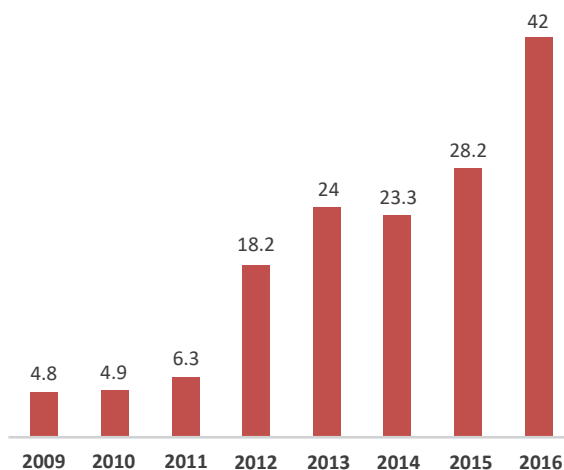


Figure 1: Proportion of electronics exports in total export value of Vietnam (%)

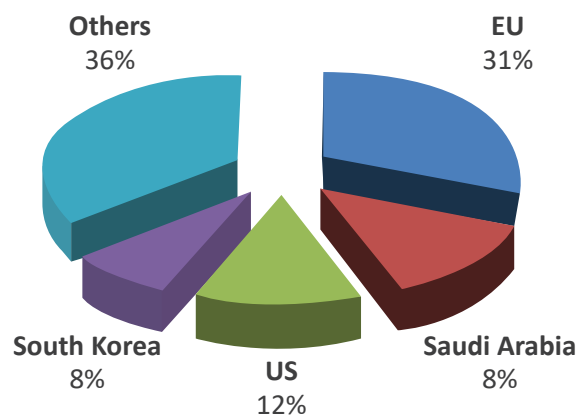



Figure 2: Key export markets of mobile handphones and parts from Vietnam

Source: Vietnam Customs Office, 2016

The second wave of FDI into electronics came in 2012 when the leading phone producers shifted their manufacturing base from China because of rising labour costs here.¹⁶ Since 2012, big phone brands such as Nokia, Apple, LG and Samsung developed their manufacturing base, mostly in the North of Vietnam, making electronics the export champion, contributing 18.2 percent of the total export value. This figure grew to 40 percent in 2016, of which phones and parts accounted for approximately 70 percent. The EU is the biggest export market of the electronics industry, followed by the US (see Figure 2).

¹⁶ <https://www.whathifi.com/news/why-vietnam-new-china-global-electronics-giants>



The growth of the electronic industry since 2005 has been characterised by the increase of large-scale, foreign-owned companies with the labour force increasingly dominated by female workers (see Table 8). The classification of C26 which includes computer, phones and parts has seen a relative growth in the number of acting enterprises from 256 to 713 between 2005 and 2012 but the average labour force size of these enterprises was 406 workers per firm or four times higher than the average labour size of electronics firms in general. The total labour force of the phone industry also tripled to 289,000 in 2012 and around 500,000 in 2016.¹⁷ Another remarkable change is the growth of the proportion of female workers in the phone industry: while overall women accounted for only 43% of the electronic industry's labour force, this figure in the phone industry was 77.1% in 2012.

¹⁶ CLS+ country study for Vietnam 2016 and interview with VEIA (2018)

Table 8: Outline of Vietnam electronics industry, 2005 and 2012

| No. of acting enterprises | 2005 | | 2012 | |
|---|-----------|---------------------------|------------|---------------------------|
| | | % share (out of total) | | % share (out of total) |
| Total | 106,616 | 100% | 346,777 | 100% |
| Manufacturing | 20,843 | 19.5% | 56,305 | 16.2% |
| Manufacture of computer, electronic and optical products | 256 | 0.2% | 713 | 0.2% |
| Manufacture of electrical equipment | 485 | 0.5% | 1,128 | 0.3% |
| NUMBER OF EMPLOYEES | | | | |
| Total | 6,077,202 | | 11,084,899 | |
| Manufacturing | 2,982,926 | 49.1% | 4,990,858 | 45.0% |
| Manufacture of computer, electronic and optical products (C26) | 45,685 | 0.8% | 289,757 | 2.6% |
| Manufacture of electrical equipment (C27) | 85,782 | 1.4% | 145,573 | 1.3% |
| FEMALE EMPLOYEES, % SHARE | | | | |
| Total | 43.3% | | | 43.5% |
| Manufacturing | 58.6% | | | 58.8% |
| Manufacture of computer, electronic and optical products (C26) | 58.0% | | | 77.1% |
| Manufacture of electrical equipment (C27) | 63.9% | | | 61.6% |
| AVERAGE COMPENSATION PER MONTH (THOUSAND VND) | | | | |
| Total | 1,657 | | 5,322 | |
| Manufacturing | 1,404 | | 4,678 | |
| Manufacture of computer, electronic and optical products (C26) | 1,989 | | 5,303 | |
| Manufacture of electrical equipment (C27) | 1,840 | | 5,543 | |
| Electronics Industry Output as % of GDP | 3.14% | | 11.4% | |

Source: General Statistics Office, tabulated by the author

Vietnam’s electronic industry is dominated by the foreign invested enterprises both in terms of number of enterprise, production, employment, and sales. One third of the electronics enterprises are FDI enterprises but they account for 99% of the total exports of the industry. Samsung Electronics Vietnam – the largest one in the industry- accounted for 22% of the national export value. 99/100 top electronic companies are foreign-owned. Among the top 20 electronic companies, there are 11 Japanese, 4 Korean, 3 Taiwanese and 1 American firm (ILO 2016). The top 20 electronic firms employ 49.4% of the labour force of the whole industry.¹⁸

While the brands in RMG and footwear do not have their own manufacturing capacity, most of electronic brands (the only exception is Apple) maintain both their own manufacturing factories and a network of (part and manufacturing) suppliers. Each brand is surrounded by their suppliers which are located either in the same industrial zone or in nearby provinces to ensure ‘just-in-time’ production. The two major production regions include the three Northern provinces of Bac Ninh, Thai Nguyen and Hai Phong as well as the Southern provinces of Ho Chi Minh city and Binh Duong. The electronic firms in the Northern hub mainly produces phones and phone parts with the domination of Korean brands such as Samsung (Bac Ninh and Thai Nguyen) and LG (Hai Phong) together with their suppliers. There are approximately 500 electronic companies in these 03 provinces. The Southern center includes mainly the producers of electrical products and parts with over 100 companies in HCMC and Binh Duong (see Picture 2).

Picture 2: Distribution of electronic brands by provinces



Source: <http://bdg-vietnam.com/de/about/news/details/items/vietnams-electronics-sector-development-locations/>

¹⁸ <http://cafef.vn/100-doanh-nghiep-nganh-dien-tu-lon-nhat-viet-nam-99-cai-cua-ngoai-1-cua-viet-nam-nhung-chot-bang-20160930152336763.chn>

3.2. LEAD FIRMS' UNGP POLICY AND IMPLEMENTATION

This section discusses the lead firms' compliance with the operational principles in Pillar 2 of the United National Guiding Principles. The section also makes a rough assessment of the level of implementation of each of the principle by the lead firms in each of the three industries by a traffic light rating system (see Table 9). It should be emphasized that the assessment is based on the review of the policies and practices of the key lead firms in each industry within the framework of this baseline study and may not reflect the whole picture of the policies and implementation of all the brands, big and small, in the industries. For instance, the bigger brands tend to place higher priority into their sustainability policy and implementation whereas the small ones may not invest as much into this aspect. The differences between the leading brands and the smaller ones in this aspect may be significant.

Table 9: Gap analysis using the Traffic Light Rating System

| | |
|---|--------|
| Major gap between business policies and practices and international principles | Red |
| Gap between business policies and practices and international principles | Orange |
| Slight gap between business policies and practices and international principles | Yellow |
| Good match between business policies and practices and international principles | Green |

PRINCIPLE I: POLICY COMMITMENT

This principle relates to a company's expressed commitment to respect human rights, including labour rights, through a public statement that:

- A. Is approved at the most senior level of the business enterprise;
- B. Is informed by relevant internal and/or external expertise;
- C. Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
- D. Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
- E. Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise

| PRINCIPLE I: POLICY COMMITMENT | GARMENT | FOOTWEAR | ELECTRONICS |
|--|--|--|---|
| <i>Approved at the most senior level of the business enterprise</i> | HR statement approved at top level | HR statement approved at top level | HR statement approved at top level |
| <i>Informed by relevant internal and/or external expertise</i> | 3 rd party CoCs informed by multi-disciplinary experts | 3 rd party CoCs informed by multi-disciplinary experts | 3 rd party CoCs informed by multi-disciplinary experts |
| <i>Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services</i> | Both direct and indirect suppliers required to commit to buyers' CoCs Lack of clear guidance on how to implement the standards | Both direct and indirect suppliers required to commit to buyers' CoCs Lack of clear guidance on how to implement the standards | Indirect suppliers not audited Lack of clear guidance on how to implement the standards |
| <i>Publicly available and communicated internally and externally to all parties</i> | Workers in supplying firms are poorly trained about CoCs Consequences of violation not clearly communicated to suppliers | Workers in supplying firms are poorly trained about CoCs Consequences of violation not clearly communicated to suppliers | Workers in supplying firms are poorly trained about CoCs Consequences of violation not clearly communicated to suppliers |
| <i>Reflected in operational policies and procedures necessary to embed it throughout the business enterprise</i> | Purchasing practices still obstacle the implementation of labour standards Some brands have introduced incentives for good performers of labour standards | Purchasing practices still obstacle the implementation of labour standards Some brands have introduced incentives for good performers of labour standards | HR issues not incorporated into core business Brands' practices worsen labour practices in suppliers Few incentives for good performers of labour standards |

Approval at the most senior level of the business

All of the major lead firms in garment, footwear and electronics industries in Vietnam have adopted a policy commitment on human rights and ethical issues. There are two types of human rights policy commitment: one is a policy commitment developed exclusively by the lead firm for its own company and business partners; and the other is the adoption of an ethical code of conduct (CoC) developed by a third-party organisation (such as an NGO). For instance, Nike, Adidas, H&M and Inditex have their own ethical codes of conduct whereas smaller brands tend to adopt a third-party CoC such as Ethical Trading Initiative (ETI) Base Code or Fair Wear Foundation (FWF) Code of Labour Standards. Still, quite a few brands in garment and footwear commit to both their own CoCs and a third-party CoC with the contents of the two CoCs mostly overlapping. In the case of electronic industry, most of the lead firms tend to adopt the Electronics Industry Citizenship Coalition (EICC) code of conduct together with their own policy commitments.

In terms of labour rights, the surveyed lead firms are generally committed to the O4 core labour standards including (i) elimination of child labour, (ii) employment is freely chosen (no forced labour), (iii) no discrimination in employment and (iv) freedom of association and collective bargaining. Additionally, the lead firms also commit to other important standards such as no excessive working hours, occupational safety and health, humane treatment, payment of minimum wage and/or living wage,¹⁹ and regular employment (see Table 10).

¹⁹ Except for H&M and Fair Wear Foundation that are committed to paying the living wage in their CoCs, other brands and third-party organisations demand for payment of minimum wage only.

Table 10: Commitment to International Labour Standards by Key Lead Firms

| COMPANIES | FOA AND CB | ABOLITION OF CHILD LABOUR | ABOLITION OF FORCED LABOUR | NON DISCRIMINATION | OTHER STANDARDS |
|-----------|------------|---------------------------|----------------------------|--------------------|---|
| H&M | Yes | Yes | Yes | Yes | <ul style="list-style-type: none"> • Fair living wage • Recognized employment • Health and safety |
| Inditex | Yes | Yes | Yes | Yes | <ul style="list-style-type: none"> • No harsh or inhumane treatment; • Safe and hygienic working condition; • Wage are paid, • Working are not excessive • Regular employment. |
| Nike | Yes | Yes | Yes | Yes | <ul style="list-style-type: none"> • No harassment and abuse • No excessive working hours • Timely-paid compensation • Regular employment • Health and safety at work |
| Adidas | Yes | Yes | Yes | Yes | <ul style="list-style-type: none"> • Wages and Benefits • Disciplinary practices • Working hours |
| Samsung | Yes | Yes | Yes | Yes | <ul style="list-style-type: none"> • Working Hours • Wages and Benefits • Humane Treatment |
| Canon | Yes | Yes | Yes | Yes | <ul style="list-style-type: none"> • Working Hours • Wages and Benefits • Humane Treatment |

Source: Sustainability Policies of the companies, as stated in their websites

The human rights CoCs are normally adopted by the top leadership of the brands (CEO or Chairman). For instance, the CEO and Chairman of H&M and Inditex respectively announced the adoption of the brands' human rights policies via public letters. The announcement by H&M on its website is brief and informative:

“In December 2012, H&M adopted its Human Rights Policy. This policy is based on the UNGPs as well as the UDHR, the international covenant on civil and political rights, the international covenant on economic, social and cultural rights, as well as other international standards and guidelines. The policy is approved by H&M’s CEO and throughout its development stakeholders, both internal and external, were consulted and had the opportunity to give input to the content.”

Informed by relevant Internal and External Experts

There is not sufficient information in the public reports provided by all the brands about whether or not their human rights policies were formed with consultation of external experts. An exception is H&M which briefly informed about its consultation with the external stakeholders in its announcement on its website. The third-party codes of conduct, however, have usually been consulted with external experts, civil society organisations and trade unions.

Stipulates the enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services

The brands require their business partners to express their general commitment to comply with the CoCs through the signing of an agreement. In turn, when the direct business partners work with their sub-contractors, the sub-contractors are supposed to sign in an agreement to comply with the brands' CoCs too.

What is missing in most codes of conduct of the brands, however, is a clear guidance for each of the standard about how the standard should be implemented. Normally, the guidance on implementation is expected to be provided via trainings for the suppliers, if any. However, as explained later, the infrequency and limited coverage of trainings by brands for its suppliers may mean that a number of suppliers are left on their own terms to implement these codes of conduct.

In our interviews with the suppliers, their main understanding of the CoCs is compliance with the national labour standards. The manager of a supplying firm said:

The CoCs of different brands are basically the same. We often organise one training for all CoCs. They [the CoCs] require us to comply with the national labour law. What is different is that the brands’ audits are very strict so we have to monitor our own compliance more closely.

The differences, though minor, between the CoCs and the national law such as the definition of sexual harassment or encouragement of employee voice through labour-management communication channels are mostly overlooked by the suppliers due to shortage of trainings.

Publicly available and communicated internally and externally to all parties

The human rights policies of all the brands surveyed are made public on their own websites. According to the sustainability reports published by the brands and interviews with the suppliers, the factories that the brands work with are required to sign an agreement to comply with the brands' code of conduct. The brands also provide information sessions and trainings for the compliance managers or the top management of the suppliers on CoC. However, very few brands provide their own trainings on the CoCs for workers in the supplying firms. One exception is the Fair Wear Foundation (FWF) which provides trainings on the FWF Code of Conduct for up to 10% of the workers in the suppliers to their members.²⁰ The common practice is that the brands require their suppliers to post the CoCs in the workshops for workers to read and the suppliers have to provide trainings on the labour standards to their own workers and supervisors during orientation trainings and other regular trainings that the suppliers may organise.²¹ Our interviews with the auditors in the three industries in Vietnam show that workers rarely read the CoCs posted in the factories. As each factory may have to commit to a number of CoCs, the management may provide a general information session for the new workers on the key labour standards and work rules during orientation trainings without specification to any specific brands' policies.²² Consequently, the awareness of the workers in the suppliers about the brands' codes of conduct is limited.

The UNGP does not specify on whether or not the second-tier suppliers (subcontractors) are included in the implementation of these principles but clearly implies that the whole supply chain ('all business partners and other relevant parties') should be covered. Our review of the brands' policies shows that the top brands have started to engage the sub-contractors in the coverage of their sustainability policies. In particular, the suppliers who source from the sub-contractors will have to require the latter to sign an agreement to comply with the brand's CoC. The sub-contractors are also asked to post the CoCs in their workplaces for workers to read. However, according to the interviewed auditors, unless the brands conduct regular audits of the sub-contractors, the awareness of the brands' human rights policies among the sub-contractors and their workers remains very weak.

²⁰ Interview with FWF auditors in Vietnam, October 2018

²¹ Review of Sustainability Reports of major brands in garment, footwear and electronics

²² Interview with CSR auditors in Vietnam, October 2018

Apart from the requirement to comply with the policies, the majority of brands in all three industries do not make it clear and consistent about the possible sanctions and incentives for compliance by the business partners. Our interviews with the management of suppliers showed that most suppliers believe that violations of the CoCs would lead to suspension of the business relationship with the brands. The brands' policy also states that if the suppliers fail to make correction of their violations, they are subject to suspension of business. However, the interviews with the procurement and CSR managers of the brands revealed that suspension of business relationships has rarely happened. For instance: a major American garment and footwear brand with over 150 suppliers in Vietnam has suspended only 1-2% of the non-complying suppliers over the past 5 years. It is also unclear to what extent a correction of violation is considered sufficient. A recent survey of the electronic supply chain in Bac Ninh found that the suppliers repeatedly violated the overtime limits but received only an oral warning from the brands without any specific deadline for correction; neither a threat of sanction was made.²⁴

Reflected in operational policies and procedures necessary to embed it throughout the business enterprise

A very important aspect of Principle 1 is the embedment of the human rights policies in the business operations. Yet, this has proved to be one of the most challenging areas for the brands in the three industries to comply with the UNGP. In particular, the purchasing practices of the brands, in many aspects, are not in conformity with its human rights policies in the supply chain. First, linking procurement incentives to CSR compliance has recently emerged as a new trend which remains limited to the few top brands in garment and footwear. For instance, H&M has introduced the sustainability performance scoring system which results in more procurement orders for high-score suppliers. Similarly, Nike and Adidas maintain rankings of their suppliers based on their sustainability performance and prioritise placing more orders with those of higher rankings.²⁵ For other brands, however, the purchasing decisions depend first and foremost on cost and efficiency while compliance with human rights codes of conduct is regarded as a pre-condition only. A procurement manager of an European garment and footwear brand said:²⁶

We always make sure that our suppliers comply with the sustainability standards. Unsustainable sourcing is not the key of the actual market scenario. However, our suppliers must improve their efficiency and control their costing, which is crucial to maintain long business relationship with us²⁷

²³ Interview with the CSR officer of the brand, August 2018

²⁴ Do (2017)

²⁵ H&M Sustainability Report 2017; Nike Sustainability Report 2017; Adidas Sustainability Report 2017

²⁶ Interviews with the procurement and CSR officers of garment and footwear brands sourcing from Vietnam, July 2016 and October 2018

²⁷ Interview conducted in August 2016

In electronics, provision of incentives for good performance in social compliance remains rare whereas sanctions are imposed in an inconsistent manner. With the same violation of excessive overtime, a priority supplier received only a warning whereas another supplier faced with reduction of orders from the brands (Do 2017).

Secondly, the interviewed suppliers complained that the CSR compliance has increased their costs such as the expenses related to social audits, improvement of working conditions and annual adjustment of minimum wages and living wage. Nonetheless, the purchasing prices from brands in all three industries have not been increased in the past 5 years. In garment, for instance, the suppliers claimed that the brands demand for price reduction of 5-10%/year whereas the factory prices in footwear have not been adjusted for the past 5 years. In electronics, the prices for each product model are lowered every quarter after the product launch (Do 2017). According to the brands, the prices can not be increased but the suppliers should invest into improving efficiency to become more profitable. A procurement manager of an European garment and footwear brand explained the reason for not raising purchasing price despite the costs of CSR compliance:

It is not about us raising purchasing prices. In fact, our suppliers have been very active in pushing efficiency and productivity so that they can become more profitable.... Sustainability does not bring as much impact on efficiency and profit as industrial engineering but labour standards are about human rights and potential risks for the factories so we still have to comply.²⁸

The garment and footwear suppliers have responded to price pressure by increasing their productivity but claimed that their profitability has been shrinking. If the prices are not adjusted, there will come a time when they have to shift production to a cheaper destination. The director of a luggage factory supplying to European brands said:

Our profitability has been shrinking as the production cost, especially the labour cost has been increasing. Now the labour cost accounts for 25% of total production cost; once it reaches 30% we will have no more profit. I think we still have 5 more years in Vietnam before reaching that point. Then, we will have to move to another country²⁹

Thirdly, the surveyed brands have made it clear in their human rights policies that their purchasing departments need to constantly review the lead time requirements to prevent imposing excessive overtime. For instance, the Sustainability Report in 2017 of a Korean electronic corporation stated:

[The corporation] observe & analyze the data on suppliers' production capacity and production volume to generate data on estimated overtime work as a way to preemptively manage work hours

²⁸ Interview conducted in August 2016

²⁹ Interview conducted in July 2016

However, our interviews with the suppliers that sub-contract exclusively to this corporation revealed the opposite: the corporation frequently assigned orders with short lead time, sometimes under one week, especially during the peak seasons, which resulted in excessive working hours for workers in the supplying firms.³⁰ The manager of an electronic supplier explained:

The delivery time is determined by the buyer. The lead time ranges from 3 days to one month but during high seasons, the lead time is much shorter so we have to ask workers to do more overtime.³¹

Excessive overtime has become a pervasive problem in all three industries. Better Work Vietnam with over 400 garment and footwear suppliers to major fashion brands acknowledged that exceeding overtime limit is the ‘one of the industry’s leading and most long-standing compliance challenge’ as 77% of the member companies still fail to meet monthly limits and 72 percent exceed annual limits.³² A survey by CDI in 2017 of 202 workers in over 50 electronic companies in Bac Ninh showed that over 70% of surveyed workers constantly worked beyond the legal limit of overtime all through the year. During high-season months, nearly 70% of the surveyed workers had to work for more than 45 hours/month of overtime and the highest monthly overtime amount recorded in our survey is 150 hours/month (or nearly 14 hours per day).³³

Although one can claim that the overtime problem may partially be attributed to the fact that many suppliers overbook orders, it is undeniable that the brands have not implemented fully their commitments to labour rights in their supply chains. The CSR manager of an European garment brand quoted here believed that the responsibility lies more with the suppliers rather than the brands:

We look into the purchasing practice to make sure that we don’t push the suppliers to exceed the overtime limit. The suppliers should have the mindset to respect labour standards and have to control the limit themselves.³⁴

Interviews with the suppliers show that in order to handle the overtime challenge, it does not depend only on their ‘mindset’ but their ability to balance between the demands of the buyers in terms of lead time and the compensation for workers. First, the suppliers must be able to negotiate with the buyers on the delivery time of orders so as to fit with the working hour limits of their labour force. Normally, the bigger suppliers that have a long-term relationship with the buyers enjoy higher bargaining power in this respect whereas the smaller, periphery suppliers tend to accept any conditions from the buyers (and vendors)

³⁰ Interviews conducted in July 2016

³¹ Ibid.

³² Better Work Vietnam, Annual Report 2017. Link to the Report: https://www.ilo.org/hanoi/Whatwedo/Publications/WCMS_574710/lang--en/index.htm

³³ CDI. 2017. Survey of the Working Conditions of Migrant Workers in Electronics Companies in Bac Ninh.

³⁴ Interview with the CSR and Procurement Regional Managers of the brand, August 2016

even though that may result in excessive overtime. Second, the suppliers must be able to pay workers competitive wages for their regular working hours so as to lessen the urge of workers to work overtime to improve their income. Companies that pay the regular wage too low tend to face with the threat of workers quitting if they can not get additional income from overtime. A footwear supplier that has managed to control the overtime limit explained:

If our wages are too low, the workers, especially the migrant, will always demand for more overtime or they will quit the jobs. Therefore, we tend to focus on increasing productivity so that the workers can get higher pay without having to work too much overtime. Our factory does not favour overtime as the overtime premium is expensive and productivity during overtime is lower.³⁵

In short, in terms of policy commitment, the surveyed brands in the three industries have adopted a human rights policy statement at the top level of their business and have tried to make public their policies either through their websites or through their communication with the business partners. However, the provision of clear, consistent and detailed instructions to their business partners and their workers has been affected by the shortage of trainings and guidance. Particularly, when it comes to the disparity, if any, between the CoCs and the national legislation, the suppliers are mostly left on their own terms on how to handle them. Another area of major gap between the supply chain's practices and the UNGP principles is the embedment of human rights approach in the brands' policies and procedures. Particularly, the conflict that often emerges between procurement strategies and the human rights requirements has prevented the brands and business partners to achieve significant improvements, especially in terms of working hours and wages. In a recent encouraging initiative, the bigger brands in garment and especially footwear, however, have started to link the sustainability performance of the suppliers with the procurement decisions.

PRINCIPLE 2: HUMAN RIGHTS DUE DILIGENCE

This principle points to the need for business enterprises to carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. In particular:

- **Impact Assessment:** Companies need to identify and assess the nature of actual and potential impact on the rights of people either by their own activities or as a result of their business relationships
- **Acting on findings:** preventing, mitigating and remediating impact
The company uses findings internally to adapt policies and processes to prevent or mitigate potential impact. The company acts upon the findings of actual impact which it has caused or contributed to.
- **Tracking effectiveness:** The company should track the effectiveness of their response to address adverse human rights impacts
- **Transparency:** A company should communicate externally how impacts are addressed.

³⁵ Interview with the Director General of the supplying firm, July 2016

| PRINCIPLE 2: DUE DILIGENCE | GARMENT | FOOTWEAR | ELECTRONICS |
|-------------------------------|---|---|---|
| Impact Assessment | <p>Costs of social audits transferred to suppliers</p> <p>Social audits extended gradually to indirect suppliers</p> <p>Tailored training/counseling for suppliers become more common</p> | <p>Costs of social audits transferred to suppliers</p> <p>Indirect suppliers are included in social audit boundary</p> <p>Suppliers are required to remediate with little support from buyers</p> | <p>Social audits apply mainly to direct suppliers</p> <p>Buyers provide little support for remediation</p> |
| Acting on Finding | <p>Audit outcome kept confidential between buyers and suppliers resulting in lack of monitoring of acting on findings</p> <p>Workers not informed about audit outcome and remediation measures</p> <p>Some initiatives by 3rd-party organisations to improve transparency of audit outcome</p> <p>Efforts of changing purchasing practice to lessen impacts on labour standards remains limited</p> | <p>Audit outcome kept confidential between buyers and suppliers resulting in lack of monitoring of acting on findings</p> <p>Workers not informed about audit outcome and remediation measures</p> <p>Efforts to share audit data with 3rd-party organisations remain limited</p> | <p>Audit outcome kept confidential between buyers and suppliers resulting in lack of monitoring of acting on findings</p> <p>Workers not informed about audit outcome and remediation measures</p> <p>Inconsistent application of sanctions by buyers</p> |
| Tracking Effectiveness | <p>Tracking effectiveness is obstructed by audit confidentiality and disengagement of workers</p> <p>Some initiatives by 3rd party organisations in tracking effectiveness</p> | <p>Tracking effectiveness is obstructed by audit confidentiality and disengagement of workers</p> | <p>Tracking effectiveness is obstructed by audit confidentiality and disengagement of workers</p> |
| Transparency | <p>Brands publish annual sustainability reports</p> <p>Sustainability reports are vague and may not reflect accurately the actions of the brands</p> | <p>Brands publish annual sustainability reports</p> <p>Sustainability reports are vague and may not reflect accurately the actions of the brands</p> | <p>Brands publish annual sustainability reports</p> <p>Sustainability reports are vague and may not reflect accurately the actions of the brands</p> |

Impact Assessment

Social auditing has been the most common method for brands in garment, footwear and electronics to make impact assessment of the compliance of their business partners with their human right policy, identification of the impacts of their operations and the potential risks in the supply chain. There are 04 types of social audits including the pre-assessment audits, regular audits, special audits and traceability audits (see Table 10 for details).

Table 10: Methods of Impact Assessment

| METHODS OF IMPACT ASSESSMENT | PURPOSE | FREQUENCY | EXECUTED BY | COSTS COVERED BY |
|---|---|--|--|---|
| Social Audits | | | | |
| Pre-assessment Audit | First assessment of a new supplier that is being considered for establishing business relationship with the brand | Once | <ul style="list-style-type: none"> Brands' internal team External auditors | <ul style="list-style-type: none"> Brands Suppliers |
| Regular audit | Regular assessment of suppliers' compliance | 1-4 times/year | <ul style="list-style-type: none"> Brands' internal team External auditors | <ul style="list-style-type: none"> Brands Suppliers |
| Special audit | Assessment of a special issue or a grievance | Depending on the case | <ul style="list-style-type: none"> Brands' internal team External auditors | <ul style="list-style-type: none"> Brands Suppliers |
| Traceability audit/ Audit of sub-contractors | Assessment of the sub-contractors to the suppliers | First assessment and regular (once/year) | <ul style="list-style-type: none"> Brands' internal team External auditors | <ul style="list-style-type: none"> Brands Suppliers |
| Self-reporting/ Self-assessment | Suppliers making their own assessment based on a reporting template provided by the brands | 1-4 times/year | <ul style="list-style-type: none"> Suppliers | <ul style="list-style-type: none"> Suppliers |

Source: The author's review of the CSR policies of major garment, footwear and electronic brands sourcing from Vietnam, 2017

Previously, the bigger brands used to maintain their own auditing teams to monitor all or most of their supply chains. However, over the past decade, the brands have gradually minimized or even replaced their own auditing team with the external auditors. In particular, the brands may either enlist a group of independent auditing firms for their suppliers to contract with or join a third-party organisation, such as FWF, Better Work, FLA, SAI, among others, and rely on these third-party's auditing services. Such a shift in social auditing also implies an increasing cost for the suppliers because while the brands cover the costs of first-party auditing, they normally require the suppliers to pay fully or partially for third-party audits.³⁶ According our interviews with the suppliers, a medium-sized supplier in garment and footwear industry gets an average of ten social audits per year whereas the number of audits for an average electronic supplier is four.

³⁶ In a few exceptional cases, a small number of bigger brands are willing to cover the costs of external audits for their suppliers (Interviews with labour auditors, October-November 2018)

Another challenging area for impact assessment is the auditing of the indirect suppliers or sub-contractors – the firms that supply to the direct suppliers of brands. In garment and footwear, the indirect suppliers include firms that provide printing, embroidery, or washing services to the manufacturing suppliers. The indirect suppliers also include small manufacturers that carry out a part of the assembly order for a bigger firm that supply directly to brands. The material suppliers have also been categorised as indirect suppliers in a few brands’ policy. In electronics, the direct suppliers or ‘tier 1’ vendors are normally the larger and ‘preferred’ suppliers to the brands than vendors of lower tiers. Tier 2 vendors sub-contract to tier 1 vendors but tier 2 vendors can become tier 1 if they can satisfy the brands’ requirements in terms of capital, capacity, technology and quality. Our review found that auditing of the 2nd tier suppliers have increasingly been practised in garment and footwear but remains an exception in electronics. The major garment and footwear brands now require their direct suppliers to be transparent about all the sub-contractors they are sourcing from. The bigger brands such as H&M, Nike, Adidas, among others will conduct the pre-assessment audits of the sub-contractors before allowing their direct suppliers to source from them. Smaller brands tend to rely on the direct suppliers to monitor the labour standards in their sub-contractors.

BOX I: H&M IMPACT ASSESSMENT SYSTEM

H&M monitor the compliance with Sustainability Commitment and drive constant improvements in its supply chain via Sustainable Impact Partnership Programme (SIPP), The SIPP started in 2015. It is only applied to the commercial business suppliers of H&M Group (those providing goods that H&M sell). - - SIPP consists of five major components: minimum requirements, self-reporting, validation, capacity building and case handling.

- 1. Minimum requirements assessment:** start before any working relationship. H&M carry out the assessment onsite. In 2017, 1736 assessments were carried out across tier 1 and tier 2 business partners.
- 2. Self-reporting:** The partners make self-assess on their own sustainability performance annually. The self-reporting component of SIPP is closely linked with SAC's facility module
- 3. Validation:** H&M validate the result of the self-report of the partners. H&M assess every business partner's capacity to manage their sustainability issues and to track their performance using environmental and social sustainability metrics. Then, the Sustainability Index (SI) is created. The SI score is from zero to 100 and is based on the Higg facility module and H&M criteria.
- 4. Capacity building:** Using the validated assessments, H&M ask business partners to set their own goals and take actions to strengthen their capacity to better manage sustainability matters themselves. H&M group capacity building programmes serve as platforms through which H&M can support their business partners in different focus areas.
- 5. Case handling:** If H&M group receives input that a problem or incident linked to a supplier has occurred, the sustainability team will log the case and investigate. If a case of minimum requirement non-compliance by a supplier is confirmed, a Letter of Concern is sent to the supplier. Depending on the number and kind of violation, different consequences will be applied by H&M group. In such cases, a corrective action plan must be submitted and approved by H&M group before any further business is conducted.

Source: H&M Sustainability Report 2017

In electronics, the brands may require the audits of the tier 2 vendors but not on a systematic basis. Instead, the electronic brands still rely on their tier 1 vendors to be responsible for informing the sub-contractors on the brands' human rights policies as well as monitoring the implementation.

The effectiveness of social auditing in tracking and handling human right risks in the global supply chains has been widely criticised by the civil society organisations and scholars (Hale and Wills, 2007; Raworth and Coryndon, 2004; War On Want, 2008).³⁷ Most notably, the collapse of the Rana Plaza in Bangladesh raised deep suspicion about not only the ineffectiveness but also the adverse impacts of social audits on the rights and working conditions of the workers in the supplying firms.³⁸ In particular, Noemi et al. (2016) found that in the case of Rana Plaza, the pressure for compliance has led the garment suppliers to prioritise the implementation of measurable standards over the socially grounded needs and priorities of workers. Furthermore, the pressure for compliance created the necessity to find ways to cover the sizable cost of compliance. This prompted firms to pursue process upgrading through technological advancements and increased work pressures on the labour force. These initiatives led to an increased power imbalance and the exclusion of unskilled workers from the job market.³⁹ The social auditors interviewed for this study also admitted the shortcomings of audits. The member of an auditing team of an American garment and footwear brand in Asia said:

The audits are not always accurate and effective. We only visit each factory for one day. How can we be sure that in just one day we are able to cover accurately all issues in the factory? That is not to say that many factories have trained their workers on how to respond to auditors. Double-booking is another challenge...The long-term solution is to build a partnership with the factories to coach them through a process.⁴⁰

In an attempt to overcome the weaknesses of compliance auditing, a few brands have pioneered in coupling audits with training programs for their suppliers so as to help them in addressing the root causes of their violations. H&M, for instance, has developed a capacity building program which usually follows compliance audits to coach their suppliers in improving the focus areas (see Box 1). Better Work maintains advisory services tailored for each member factory in an attempt to coach the members in dealing with the problems pointed out in audits.⁴¹ However, not all brands have been able to develop such training programs for all their suppliers. The common practice remains that the violations identified in the previous audit will be followed up only in the next audit visit and the factories are required to correct the problems on their own.

³⁷ Hale A and Wills J (2007) Women Working Worldwide: transnational networks, corporate social responsibility and action research. *Global Networks*, 7(4): 453–476;

Raworth K and Coryndon A (2004) *Trading Away Our Rights: Women Working in Global Supply Chains*. London: Oxfam International.

War On Want (2008) *Fashion Victims II: how UK clothing retailers are keeping workers in poverty*. London: War On Want

³⁸ Sinkovics, N., Hoque, S. F., & Sinkovics, R. R. (2016). Rana Plaza collapse aftermath: are CSR compliance and auditing pressures effective? *Accounting, Auditing & Accountability Journal*, 29(4), 617–649. doi:10.1108/aaaj-07-2015-2141

³⁹ Ibid.

⁴⁰ Interview conducted in August 2018

⁴¹ <https://betterwork.org/where-we-work/vietnam/bwv-our-services/>

Acting on Finding

In principle, after each social audit, each supplier will develop a corrective action plan (CAP) so as to improve the issues identified by the auditors. Depending on the seriousness of the issues, the supplier is given a time frame of 1-6 months for correction. For the zero-tolerance issues which often includes child labour and deadly violations of health and safety standards, the remediation is supposed to be taken immediately. After the time allowed for correction, the supplier may receive a special audit by the brands to make sure that the issues have been properly addressed. If improvement has not been made, the brands can impose sanctions such as degrading of suppliers' rankings/score which may eventually result in reduction of orders or cancellation of business relationship.

However, the CAPs as well as the outcome of audits have rarely been informed to the workers in the supplying firms although they are the most affected party if violations occur.⁴² In fact, the CAP and audits are kept confidential among the brands and the top management of the supplying firms. The confidentiality of the audits and CAPs makes it difficult to assess whether the brands and the suppliers have really acted on the finding of violations by the social audits.

The confidentiality of audits from the workers and any other parties that may be able to monitor the correction process has been blamed as the cause of the continuation of violations in a number of suppliers. One prominent example is the extensive violations of labour rights at Han Sae Vina, a major apparel supplier to Nike, Amazon, The Children's Place, Gap, Hanes, J-Crew, JC Penny, Kohl's, Macy's, Pink, Polo, Target, Walmart and Zara, which were revealed by the Worker Rights Consortium (WRC) and Fair Labour Association (FLA) in 2015.⁴³ The violations included extensive wage theft; illegal recruitment fees, extorted from workers by managers; chronic verbal abuse and incidents of physical harassment of workers; pregnancy discrimination; forced overtime; illegal restrictions on workers' access to toilets; illegal denial of sick leave; putting factory managers in leadership positions on the union executive board; as well as dozens of violations in terms of health and safety. It should be noted that Han Sae Vina had supplied to Nike for a decade and every year, there were dozens of social audits by Nike and other leading brands. For instance, throughout the year of 2015, the brands conducted 26 separate compliance audits at Han Sae Vina but the root causes of the violations were neither addressed nor captured in the brands' sustainability reports.⁴⁴

⁴² Interviews with social auditors

⁴³ WRC 2016 Report:

<http://workersrights.org/Freports/WRC%20Assessment%20re%20Hansae%20Vietnam%205.6.2016.pdf>

FLA 2016 Report: <http://www.fairlabor.org/report/hansae-vietnam-second-investigation>

⁴⁴ <https://scienceblogs.com/thepumphandle/2016/12/13/hansae-vietnam-case-study-of-hazardous-working-conditions-and-the-failure-of-corporate-social-responsibility-audits-to-fix-the-hazards>

In electronics, the acting of the brands on suppliers' violations depends on the suppliers' importance in the supply chain. According to the 2016 survey by FES, the electronic brand may impose much heavier sanction on the less important supplier compared to a core supplier though both companies had the same violation of excessive overtime.⁴⁵

At the same time, while criticizing the suppliers for exceeding overtime limits, the brands continue to push for rush orders to catch up with the production targets.⁴⁶ Such conflict between the procurement practice and the findings of social audits has been the root causes of persistent violations of overtime limits in all three industries.

Tracking Effectiveness

As compliance audits and self-assessment remain the two most popular tools for due diligence in the global supply chains, the ability to track the effectiveness of the responses to the affected groups faces with two obstacles: the confidentiality of the audit outcome and the lack of engagement of the workers. As mentioned in the previous section, the confidentiality of social audit reports gives the brands the unchecked power and freedom to make decision upon how they should act upon the findings. In many cases, as pointed out by the case of Han Sae Vina, either that the social audits have failed to find out the violations of the company or the brands have failed to act upon the audit findings.

Third-party audits tend to be more transparent as the NGOs involved are supposed to monitor the correction of violations as well as the responses by the brands. However, our review of the policies and practices of a few NGOs that represent their members in terms of labour rights show that there are limits to what the NGOs can demand the brands to take actions upon. Fair Wear Foundation (FWF), for instance, has a system of performance check for their member companies, through which the member brands are evaluated in terms of their efforts to improve the labour standards in their own supply chains. Poor performance by member companies for two consecutive years is supposed to lead to the suspension of FWF membership for one year. However, in the performance checks of 2018, the FWF had to lower the benchmark score from 63 to 58 '*due to limited progress on purchasing practices, specifically related to production planning and analysing root causes of excessive overtime*' among most of its member brands.⁴⁷ In some cases, the FWF audits pointed out that the poor production planning and delays by the member brands were the root causes for excessive overtime in the supply firms, a problem that has not been solved for many years.

⁴⁵ Do, Q.C. 2017. The missing link in the chain: Trade regimes and Labour standards in Garment, Footwear and Electronics Supply chains in Vietnam. FES: Working Paper.

⁴⁶ Interviews with electronic suppliers in Vinh Phuc and Bac Ninh showed that the lead time is imposed by the brands without the suppliers' being able to re-negotiate.

⁴⁷ See the policy explained here: <https://www.fairwear.org/resource/odd-molly-performance-check-2018/>

In a pioneering attempt to make audits more open to public access and monitoring, Better Work Vietnam has published summaries of the violations of their member companies on the Program's website. However, it will be even better if progress of correction is also updated and consulted with the workers of these companies.

Transparency

A business should communicate externally how impacts are addressed and the communications should:

- Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences;
- Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;
- In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.

All of the brands surveyed in the three industries publish their sustainability reports on an annual basis. Most sustainability reports adopt the Global Reporting Initiative (GRI) guidelines and are developed by the internal teams of the brands. The sustainability reports explain the general trends in the global supply chain networks of the brands with non-specific identification of violations, if any. Each brand tends to choose one or several priority issues to address in the supply chains. For instance, H&M has been concentrating on social dialogue and living wage; Canon focuses on sexual harassment at workplace; Nike has been flagging women empowerment.

There have also been attempts to be more transparent in terms of supply chain auditing. For instance, Nike has worked with the FLA to share data on factory performance with other companies, helping to create a path toward identifying and remediating systemic issues. Adidas participated in the Fair Factories Clearinghouse platform since 2006 and has used the platform to share supplier audit and monitoring information since 2008. However, all these data are only available for companies that are members of the initiatives rather than the wider public.

As mentioned earlier, Better Work has pioneered in publicising information about suppliers' breaches and Fair Wear Foundation has made public workers' complaints from various supplying plants as well as how these complaints have been handled.

Despite these positive changes, there remains complaints about the vagueness of sustainability reporting by brands. For instance, an investigative article by the Grind in 2016 reported that despite their pledge to improve health and child care for workers in its supply chain in its sustainability report, Nike actually regarded this as the suppliers' responsibilities:

And in its 2012–13 report, Nike noted that health and child care are concerns for workers in its supply chain and that they are “looking at how we can collaborate with other organizations and factory owners to support workers in their lives.” But when I [the reporter] asked how many of its factories now offer child care and about its plans to expand such services, the company wrote me that child care decisions are the responsibility of the factories, which they “encourage” to “engage with their workers to identify and resolve needs.”⁴⁸

Another example is the conflict between H&M’s commitment in 2013 to ensure its suppliers would pay a living wage to around 850,000 textile workers by 2018 and the actual wages earned by the workers in their suppliers around the world. Clean Clothes Campaign found that workers in factories which supply H&M in Cambodia earned less than half the estimated living wage, a figure which dropped to around a third for those living in India and Turkey.⁴⁹ In response, H&M claimed that their definition of living wage is based upon the negotiations between workers and management. H&M spokeswoman said:

“There is no universally agreed level for living wages, and wage levels should be defined and set by parties on the labour market through fair negotiations between employers and workers representatives, not by Western brands,”⁵⁰

However, in countries where H&M is sourcing from, the conditions that enable the workers to conduct ‘fair negotiations’ with employers are usually missing, either because of the legislative framework of the country or the weaknesses of the worker representative organisations.

In short, although all the major brands have published their sustainability reports on a regular basis, these reports do not provide adequate and accurate information about the human rights situation of the brands’ supply chain as well as how the brands respond to the emerging issues. There is often a disparity between what the brands pledge to do and what actually is carried out in reality.

**PRINCIPLE 3:
REMEDATION**

The company ensures remediation through legitimate processes, such as effective grievance mechanisms to identify impact and to address grievances

| PRINCIPLE 3: REMEDIATION | GARMENT | FOOTWEAR | ELECTRONICS |
|--|--|--|---|
| Effective grievance mechanisms to identify impact and address grievances | Formal grievance mechanisms are in place but not effective; Workers prefer informal channels | Formal grievance mechanisms are in place but not effective; Workers prefer informal channels | Few grievance mechanisms are provided to workers; Employers deny the need for workers to voice their grievances |

⁴⁸ D Link to the original article: <https://slate.com/business/2016/08/nikes-supply-chain-doesnt-live-up-to-the-ideals-of-its-girl-effect-campaign.html>

⁴⁹ As reported by the Independent (link to article: <https://www.independent.co.uk/news/business/news/h-and-m-fair-wages-global-factory-workers-living-wage-employees-pay-bulgaria-turkey-india-cambodia-a8553041.html>)

⁵⁰ Ibid.

Within the supply chains, there are 02 systems of grievance mechanisms: a system managed by the brands to handle grievances from workers in the supply chain and the internal grievance-handling mechanism at each supplying factory (see Table 11).

Table 11: Grievance mechanisms adopted by brands and suppliers

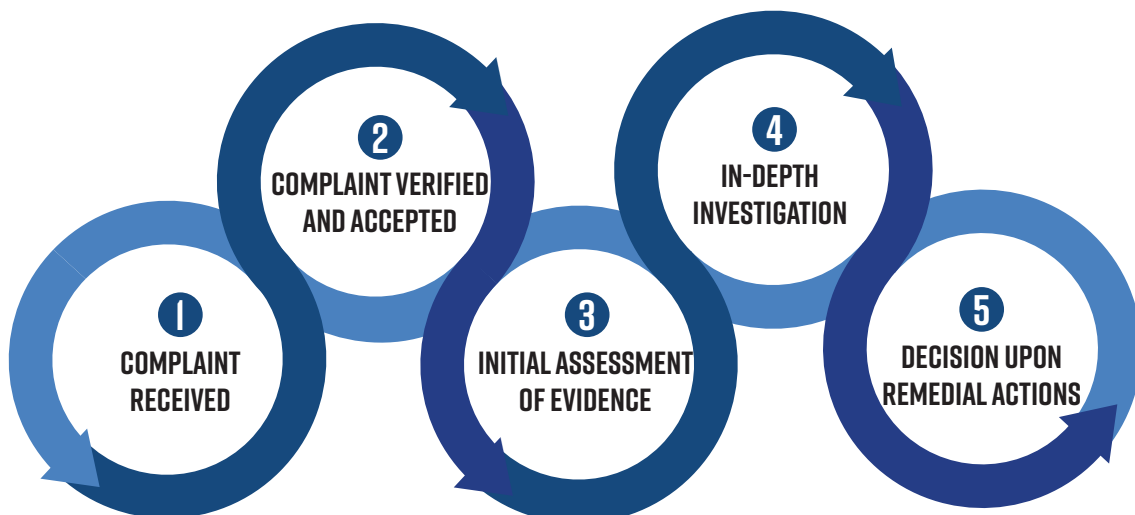
| BRANDS' GRIEVANCE MECHANISMS | SUPPLIERS' GRIEVANCE MECHANISMS |
|--|---|
| Hotlines to local production office | Suggestion boxes |
| Email | Hotlines |
| Dialogue between the global and local sustainability teams | Open-door policy (approaching team supervisors, HR staff, other managers) |
| SMS-based grievance channel | Enterprise unionists |
| Web-based/App-based grievance channel | |

Source: Compiled based on a review of major brands' sustainability reports and previous studies

Grievance mechanisms by Brands

Hotlines are the most common channel of grievance for workers in the supplying factories (see Figure 3 for a typical grievance-handling procedure by brands). The brands require the suppliers to post the hotline numbers in all factories for the workers to refer to in case of complaint. The hotlines can be managed by the brands' own local sustainability offices or by a representative of the (third-party) NGO to which the brand is a member. However, the policy towards treating the complaints through grievance mechanisms by the brands varies. Most brands treat this as an internal and confidential process just between the brands and the suppliers. Some brands report the number of grievances they receive every year in sustainability reports without specifying on the nature of the complaints. The only exception is FWF which publicises all received complaints and the progress of addressing them on their websites.

Figure 3: Typical grievance-handling procedure by brands



Source: compiled by the author based on review of complaint procedures of major brands

There has not been any evaluation of the effectiveness of the grievance mechanisms by the brands for their supply chains; however, according to our interviews with the brands' CSR officers, most grievances raised through the hotlines are about unlawful dismissal.⁵¹ The workers tend to resort to this mechanism only when they have lost the jobs.

Internal Grievance Mechanisms of Supplying Factories

Having a written procedure for handling grievances is a requirement in most brands' sustainability code of conduct. However, only a few brands provide specific guidelines on how such grievance mechanisms should be constructed and managed. According to the labour auditors, 90% of garment first-tier suppliers have already developed the written procedure for grievances although the effectiveness of the grievance mechanisms remain problematic. While the brands require their suppliers to set up grievance mechanisms, they are not able to monitor the impacts they have on the workers. The social compliance auditors will normally check on the existence of the written grievance procedures and the minutes of the quarterly labour-management dialogues which are required by the law (Decree 60/2013/ND-CP). These two factors, however, can hardly guarantee effective grievance-handling systems for the workers.

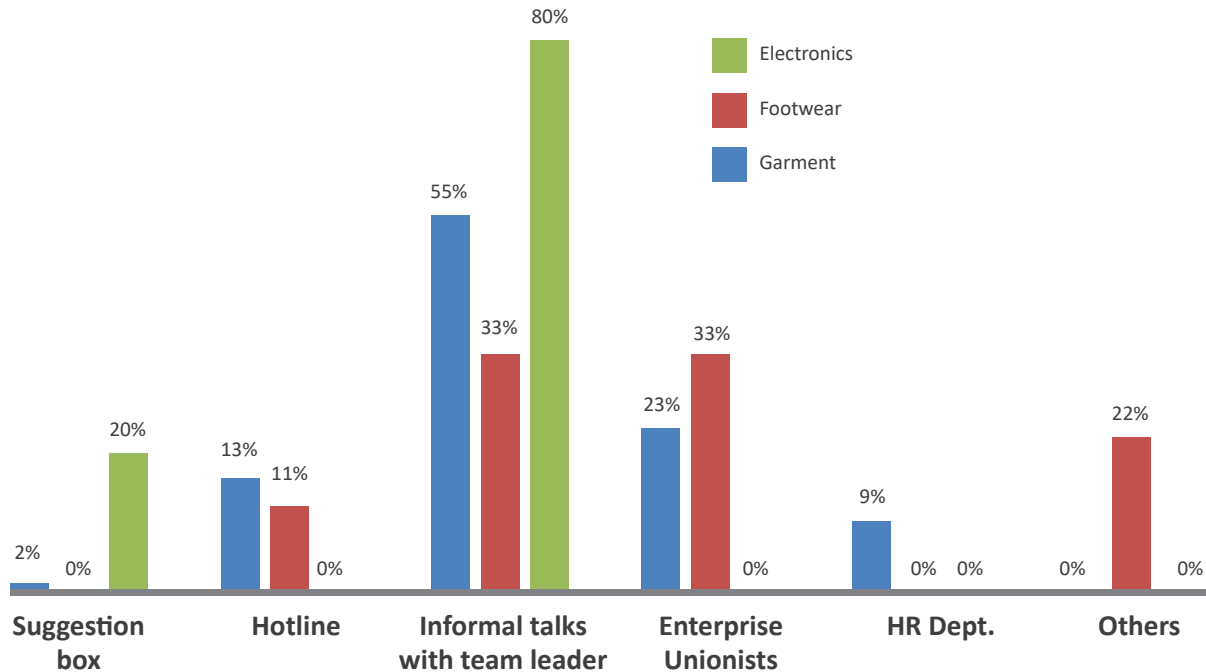
In the 2016 CLS Plus survey which covered 110 workers in the 3 industries, the workers were asked about their most trusted channel for grievances.⁵² The result is that the informal mechanism of workers talking to their team leaders was the most trusted channel of grievance-handling. This outcome has also manifested the low effectiveness of other formal grievance mechanisms such as the hotlines (which were chosen by only 13% of workers in garment, 11% in footwear and 0% in electronics), suggestion boxes (which were rarely selected by workers in garment and footwear), and enterprise union officials (which were favoured by 23% of workers in garment, 33% in footwear and 0% in electronics).

A comparison of the grievance mechanisms in the three industries shows that the electronic industry lags behind in terms of the diversity of the grievance channels (see Figure 4). The electronic workers tend to turn to only 02 channels: either their team leaders or the suggestion boxes. The workers in garment and footwear have more choices to raise their voice although they still prefer the informal channels to the formal ones.

⁵¹ Interviews with representatives of FWF, Colosseum and VF

⁵² Here the researcher used the primary data from the CLS Plus survey to calculate the results used in Graph xx

Figure 4: Workers' most trusted channel for grievances



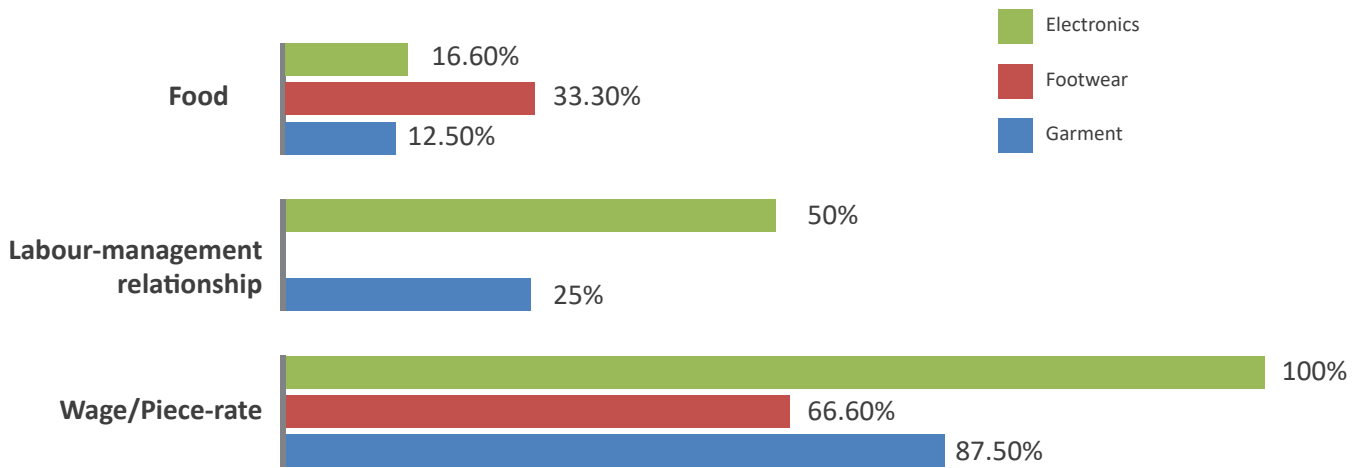
Source: Analysed based on the CLS+ 2016 survey's primary data

While the brands and manufacturers in garment and footwear are more open to workers' grievances, the electronic companies remain reluctant to recognise the fact that their workers have complaints about labour issues. In our interviews with the electronic brands, one refused to reveal information about worker complaints which they regard as *'business secrets'*; the other claimed that *'most workers called the grievance hotlines to ask for advice on personal matters such as how to handle family relationships. Therefore, we are going to establish a counselling center for the workers'*.⁵³ However, as previous surveys prove that workers in all three industries have burning concerns about working conditions, especially about wages.

Wage-related issues are the biggest complaint for workers in all three industries, specially in electronics and garment followed by labour-management relationship and food quality (see Figure 5). Workers not only complain about low wages and allowances but also about the piece rate. Normally these complaints can be channeled into the collective bargaining process between the enterprise unions and the management. Yet, the fact that these wage-related complaints are handled mostly via the informal channel (team leaders) and suggestion boxes has proven that the collective bargaining mechanism has not been effective to address workers' demands for higher wages.

⁵³ Interviews with the HR officials of the electronic brands, December 2018

Figure 5: Complaints by rank-and-file workers



Source: Compiled by the author based on re-processing of CLS+ primary data

The ineffectiveness of the grievance mechanisms tends to result in the accumulation of workers’ discontent which can either turn into high labour turnover as workers choose to ‘exit’ or high rate of labour activism as workers decide to walk out. According to the VGCL’s statistics, the three industries of garment, footwear and electronics are most affected by wildcat strikes. Although the number of strikes in the three industries have reduced since 2012 (see Figure 6) but garment, footwear and electronics together still account for 50.1% of strikes that happened between 2009 and 2015.⁵⁴

Figure 6: Strike incidence in Garment, Footwear and Electronic Industries, 2009-2015



Source: VGCL Strike Statistics

⁵⁴ VGCL’s internal strike statistics

ISSUES OF CONTEXT

In all contexts, business enterprises should:

- A. Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;
- B. Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements;
- C. Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate

| ISSUES OF CONTEXT | GARMENT | FOOTWEAR | ELECTRONICS |
|-------------------|---|--|--|
| | There have been initiatives by brands and 3rd party organisations to overcome the gaps in FOA | Few initiatives reported on overcoming the issues of context | Few initiatives reported on overcoming the issues of context |

As discussed in Chapter 2, the gap between the Vietnamese labour legislation and the international labour standards exists mainly in the field of freedom of association, which, at the enterprise level, is manifested by the management intervention in union organising, leadership and activities. The main cause of union dependence on management is the legacy of the socialist trade union system in the state-owned enterprises of Vietnam, in which the union leadership is considered a component of the company management. Except for the owner or the top executive of the companies, all other managers are allowed to join and even head the enterprise unions. In fact, around 60% of the enterprise unions in Vietnam are led by managers (Ly 2013). The fact that the managers lead the enterprise unions has weakened the workers' practice of collective bargaining, access to dialogue and grievance mechanisms, resulting in high labour turnover and labour disputes.

There have been pioneering initiatives in the garment industry to address this contextual issue, mostly conducted by the third-party organisations. Better Work Vietnam, for instance, has promoted the PICC (Performance Improvement Consultative Committee) model as a mechanism to communicate on work-related issues. The members of PICC include not only the management and the union representatives but also worker representatives elected by the rank-and-file workers at production line level.⁵⁵ The PICC model encourages more participation of the rank-and-file workers apart from the official union officers.

FWF is reportedly developing a communication training program for its members' suppliers in Vietnam. The program aims at helping the workers to elect their own representatives who will be trained so as to be able to communicate with the management on the issues of workers' concerns such as working hours, wages, work safety, among others.⁵⁶

⁵⁵ For more information about PICC model, see: https://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_233415/lang--en/index.htm

⁵⁶ Interview with FWF Vietnam country representative, November 2018

Since 2016, Better Work Vietnam has also urged its member factories to increase the proportion of rank-and-file workers in the union executive board and remove management from the enterprise union. Specifically, the chairperson of the enterprise union should be a worker rather than a manager. Initially, the initiative was met with strong opposition from the management as well as the VGCL officials who argued that rank-and-file workers may not be capable enough to serve as the union chairpeople.⁵⁷ However, with the request from the brands and Better Work's plan of publicising member factories' violations, there have been an improvement among its members to remove management from the enterprise unions.⁵⁸

Inditex has engaged with IndustriALL union and the VGCL in a project to strengthen the capacity of the unions of its supplying plants in Vietnam. The objective of the project is to provide information and skill training to the union officials so that they can participate in dialogues with Inditex and may, in the long run, initiate a collective bargaining agreement across the Inditex supply chain.⁵⁹ Apart from these initiatives in the garment industry, there has not been any active effort to overcome the contextual limitations in footwear and electronic industries.

CHALLENGES

IN IMPLEMENTING THE UNGP PRINCIPLES IN THE GLOBAL SUPPLY CHAINS

This chapter has reviewed the human rights policy, procedure and implementation by some of the biggest brands in garment, footwear and electronics sourcing from Vietnam using the UNGP Pillar 2 Principles as the analytical framework. One can find pioneering attempts of some major brands and the third-party organisations to improve the transparency of monitoring, provide more support to the suppliers and workers, enhance the incentives for good sustainability performers, and improving workers' access to in-house remedies. However, overall, the lead firms in the three industries still face with some common weaknesses which have limited the impacts of their human rights policy on improving the working conditions for the workers in the supply chains (which are discussed in details in the next Section). These weaknesses include:

First, the human rights policy has not been integrated into the core of the business. As most brands in the three industries compete on costs and fast adaptability to the market trends, their business model inherently conflicts with the implementation of the human right principles in many aspects. In particular, the pressure on suppliers on costs and lead time has resulted in chronic violations of overtime limits and payment of low wages. The linkage between sustainability compliance of the suppliers and their access to orders from the lead firms remains weak in most cases. The lead firms continue to stress on lower costs and higher efficiency and leave it to the suppliers to handle the adverse impacts, if any, on the working conditions of rank-and-file workers.

⁵⁷ Interview with Better Work Vietnam representative, August 2016

⁵⁸ Better Work Vietnam Annual Report 2017 (Link: <https://betterwork.org/blog/portfolio/better-work-vietnam-annual-report-2017/>)

⁵⁹ Interview with IndustriALL Union representative, November 2016

Second, the lack of transparency in monitoring in the supply chains may result in the inertia in acting upon finding of violations. As the compliance assessment is mainly kept confidential between the lead firms and their suppliers, both have been slow and reluctant in acting on the finding of violations, which was shown vividly in the case of Han Sae Vina. The positive impacts of Better Work's revelation of violations by their member companies have shown that enhanced transparency via third-party participation in the compliance monitoring is crucial to create real improvements in the supply chains.

Third, while workers are the most affected party by violations of labour rights in the global supply chains, they are usually the least consulted about the implementation of human rights policies. The trainings for workers on labour standards have mainly been done in a brief and generic manner by the supplying firms themselves. Workers are not informed about the audits of their own companies nor how the management is going to correct the problems. When they have grievances, the workers have very few effective channels to voice up. As shown in the case of Rana Plaza in Bangladesh, the suppression of workers' voice will deter the sustainable improvement of working conditions.

3.3. LABOUR PRACTICES IN THE SUPPLY CHAINS

This section looks into the outcome of the implementation of the human rights policies of the brands in the three industries, which is shown in the labour practices of the suppliers and impacts on the rank-and-file workers. For this section, the research team analysed both the violations identified by the social compliance audits as well as the violations found through independent empirical studies.

Freedom of association and right to collective bargaining

The major issues that the social audits focus on in assessing the compliance to these specific labour standards include⁶⁰:

- Is the employer involved in union decision making, the formation of the constitution and rules, in union activities, administration, finances or elections?
- Does the employer obstruct workers from joining or participating in union activities?
- Does the employer comply with the legal procedure for collective bargaining including engaging the enterprise union in the bargaining process, consulting workers, posting the CBA for workers?
- Does the employer implement the provisions in the CBA?
- Does the employer organise the compulsory dialogues (quarterly dialogues and annual workers' congress) as required by the law?

⁶⁰ There may be additional questions asked in different audit questionnaires but the questions are mainly based on the local legal requirements.

A growing number of social audits are also asking about the management presence in union leadership although this may not be regarded as a violation within the context of Vietnam.

According to Better Work Vietnam 2017 assessment which covered 257 garment factories, the non-compliance rate in terms of employers' manipulation of union decision making, management and activities is 34%. Around 60% of BWV factories failed to comply in some way with the legal requirements in collective bargaining, of which the most common violations include not consulting the unions where the law requires and not securing over 50% of workers' approval for the CBA.⁶¹

The situation in footwear and electronics is similar. According to our review of the audit reports of first-tier footwear and electronic suppliers, over 50% of the audited companies failed to communicate with the workers on the collective bargaining agreements (CBAs) as required by the law. As much as 71% of the unions of the audited companies are led by high-ranking managers, including Vice Director General and Director of the Administration Department.

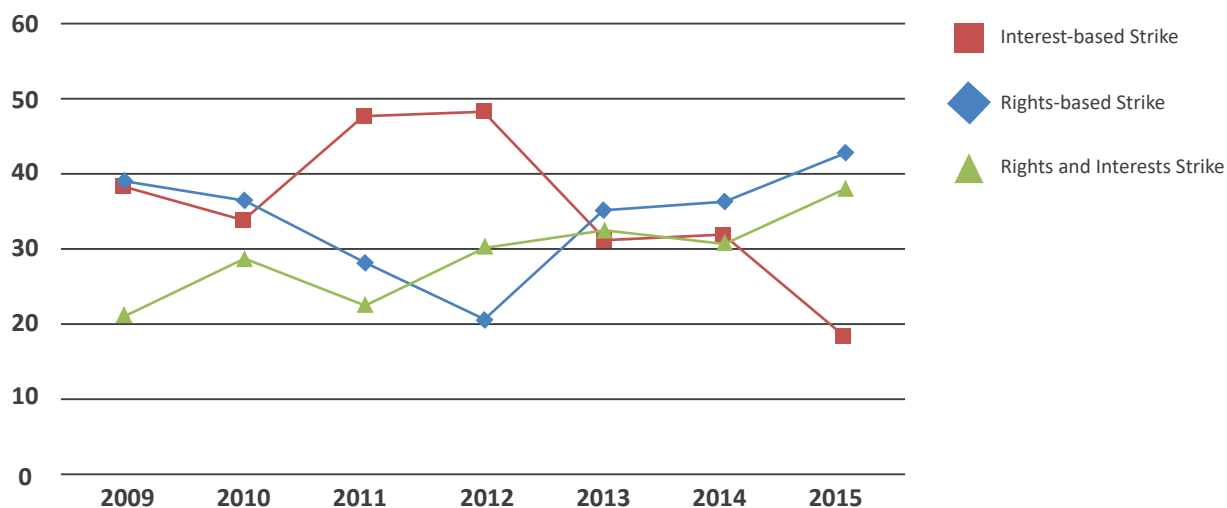
As discussed in the previous section, when the enterprise union is led by the high-ranking managers, the workers are deprived of the formal mechanisms to raise their voice, handle their grievances and bargain collectively with the employer to protect their own rights and improve their interests. When workers are not able to practise their legal right of communication and bargaining, it is natural that workers will raise their voice in the informal ways. Consequently, 80% of electronic workers resorted to the informal channel of talking to their team leaders for dialogue and grievances (these figures for footwear and garment are 55% and 34% consecutively).⁶² Also, the garment, footwear and electronic industries are the most strike-hit sectors, accounting for over 50% of strikes in Vietnam.⁶³ According the VGCL strike statistics, around 42% of the strikes in 2015 occurred over violations of labour rights and 38% of strikes were about interest-based disputes (see Figure 7). In other words, the workers have used (wildcat) strikes as the de facto mechanism to protect their own legal rights and improve their working conditions.

⁶¹ Better Work Vietnam Annual Report 2017

⁶² Do (2017)

⁶³ VGCL strike statistics

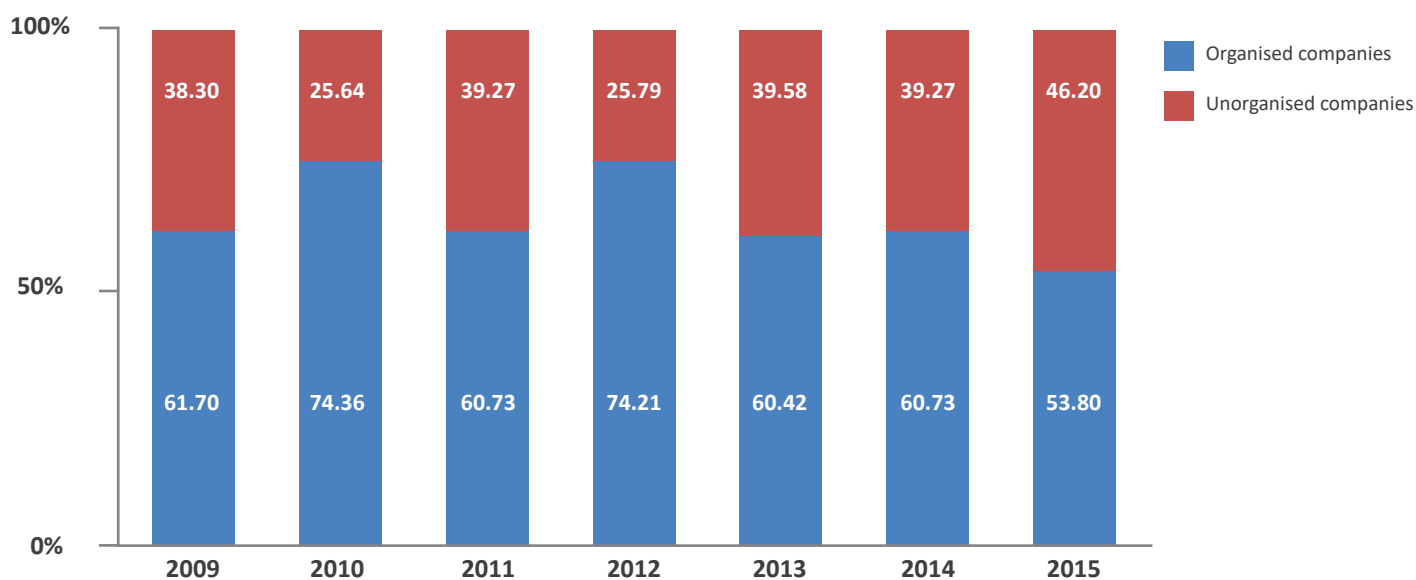
Figure 7: Classification of strikes by causes, 2009-2015



Source: VGCL Strike Statistics

Wildcat strikes which were not led by the formal unions and did not follow the legal procedure happened more in unionised companies than the unorganised ones (see Figure 8). This trend can be explained by two reasons. First, strikes tend to happen in larger firms which have mostly been unionised. The unorganised companies tend to be the SMEs of under 100 workers where workers have lower tendency to choose to walk out. Second, the enterprise unions have not been able to act as the representative of workers in protecting their legal rights and further their interests in negotiations with the employers. It should be noted that apart from strikes, the workers have a number of other types of activism such as mass exit, mass absenteeism, and sabotage.⁶⁴

Figure 8: Percentage of strikes in organised vs. unorganised companies, 2009-2015



Source: VGCL Strike Statistics

⁶⁴ Clarke, Lee and Do (2007); Chan and Wang (2005); Do (2011)

Upon consideration of the weakness of the official representation of workers in the manufacturing firms, there have been a few attempts to improve the mechanisms for workers' voice in the supply chains in Vietnam; the most notable of which is the PICC model of Better Work Project. However, recent studies have pointed to a number of deficiencies of the PICC in enhancing employee participation and reducing strikes. Chae (2012)⁶⁵ found that the managers of Better Work companies were reluctant to join PICC meetings which they considered as an obligation imposed by the brands. Anner (2017)⁶⁶ analysed the Better Work survey database to point out that over 70% of the PICC meetings can not happen without the presence of the Better Work enterprise advisors. Also, workers feel safer expressing their discontent through strike actions – where a large group of workers act in unison – rather than in a small group speaking to management in a PICC meeting where they may face with management reprisal.

In short, establishment of effective mechanisms for workers' voice remains one of the most challenging area for the lead firms, suppliers and the third-party organisations in the three industries in the context of the labour legislation and union system of Vietnam.

Non-discrimination

Discrimination is an under-reported area in social audits. According to Better Work Vietnam, under 5% of their member companies were found to practise gender discrimination, mainly in the form of stating a gender preference in job advertisements.⁶⁷

Social audits by third-party organisations have identified possible discrimination against pregnant women and women over 35 years old in all three industries. Examples are that the female workers are asked to have urine test in the electronic firms or jump on the spot in some garment factories to screen out the pregnant workers from the recruitment process.⁶⁸ Some factories have reportedly required their female workers not to get pregnant for a certain period of time. According to the 2018 Survey by CDI⁶⁹ over 238 electronic workers in Hai Phong and Dong Nai, 28.6% of the surveyed workers claimed that their companies had rules on the non-pregnancy period for the new workers.

⁶⁵ Chae, Su-hong. 2012. The Political Economy of Strikes in 2011: the cases of 4 Korean garment factories in Binh Duong. Report for ILO Industrial Relations Project.

⁶⁶ Anner, Mark. 2017. Wildcat strikes and Better Work bipartite committees in Vietnam: Toward an elect, represent and protect framework. Better Work Discussion Paper (24), May 2017.

⁶⁷ Better Work Vietnam. Compliance Report for 2017

⁶⁸ Audit reports of electronic firms in Vinh Phuc and Bac Ninh; Better Work Vietnam's 2017 Compliance report

⁶⁹ CDI. 2019. Baseline study for the Project on Empowerment of migrant workers in Vietnam (to be published)

The CLS Plus study in 2016 found evidence of gender-based discrimination in the electronics industry. The management of the surveyed electronic factories have gender-specific approach to recruitment for different types of jobs. An HR manager explained:

“Men are not fit for this job [assembling] because they are not as hard-working, patient and obedient as women. The workers have to sit for long hours and work with very small details so women with small hands are better than men. Also, managing women is easier. Men tend to be more aggressive and reactive to supervisors”.⁷⁰

For these factories, the assembly jobs are for women and heavier tasks such as mechanics and packaging are for men.

While over 70 percent of the labour force in garment, footwear and electronics are female, women account for less than 30% of union leadership, which prevented the workers from voicing about their gender-specific issues.⁷¹ A female worker told us:

“Almost all workers are women but the numbers of toilets for men and women are equal and we usually have to queue for a long time. Also, there is no clean water in the toilets for women during their menstruation period. We told the union chairman but he did not understand”

According to the Marie Stopes International (MSI), over 60% of female workers in footwear factories are suffering from gynaecological diseases due to poor hygienic conditions in the factories and restricted toilet breaks.⁷²

Minimum wage and living wage

The percentage of workers in the formal sector being paid below the regional minimum wages is minor, only 11% for female and 6% for male employees.⁷³ Workers in garment, footwear and electronics are either paid on monthly basis or on piece rate. Even when the workers are paid on piece rate, the factories maintain a second payroll which is used as the basis for social insurance contribution. In the second payroll, each piece rate worker has a monthly base wage which is adjusted annually in accordance with the new regional minimum wages. When the piece-rate workers, especially in garment factories, fail to produce enough to reach the base wage, the factories tend to pay them extra to make up for the difference between their actual production and the base wage (which is normally the minimum wage). According to the garment factories, they tend to make up the wages for the slower workers for at most 3 months before the workers are asked to leave.⁷⁴

⁷⁰ Do (2016)

⁷¹ M-Net. 2018. Women, Employment and Wage: an overview of female workers in Vietnam. Leaflet

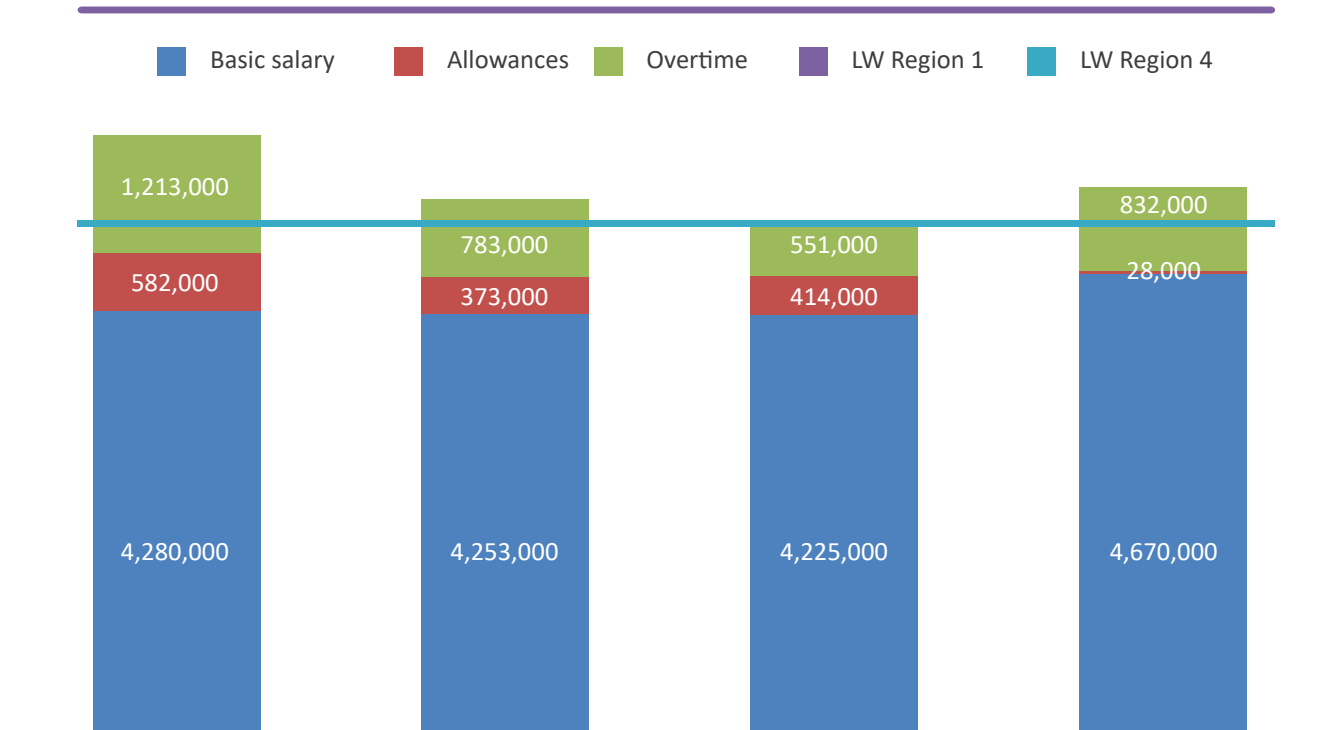
⁷² Marie Stopes International Vietnam. 2015. Cost and Benefits of CSR Investment in Footwear Factories in Dong Nai. CSR Project Document. Link: <http://mariestopes.org.vn/vn/nghien-cuu/nghien-cuu-msv/hieu-qua-chi-phi-cham-soc-skss-cho-cong-nhan-1477.aspx>

⁷³ Chi, D.Q., and N. Torm (2015). ‘Wage Fixing Institutions and Their Impacts in Major Garment-Producing Countries: The Case of Viet Nam’. Mimeo. Geneva: International Labour Organization

⁷⁴ Institute of Workers and Unions – Oxfam Vietnam. Survey of Wages in the Garment Supply Chain (upcoming)

According to the 2018 survey by the VGCL's Institute of Workers and Unions which covered 150 enterprises and over 3,000 workers in 28 provinces, the wages of workers in garment, footwear and electronics are lower than the national average (see Figure 9).

Figure 9: Wages of workers in Garment, Footwear and Electronics vs. Living Wage Benchmarks, 2018



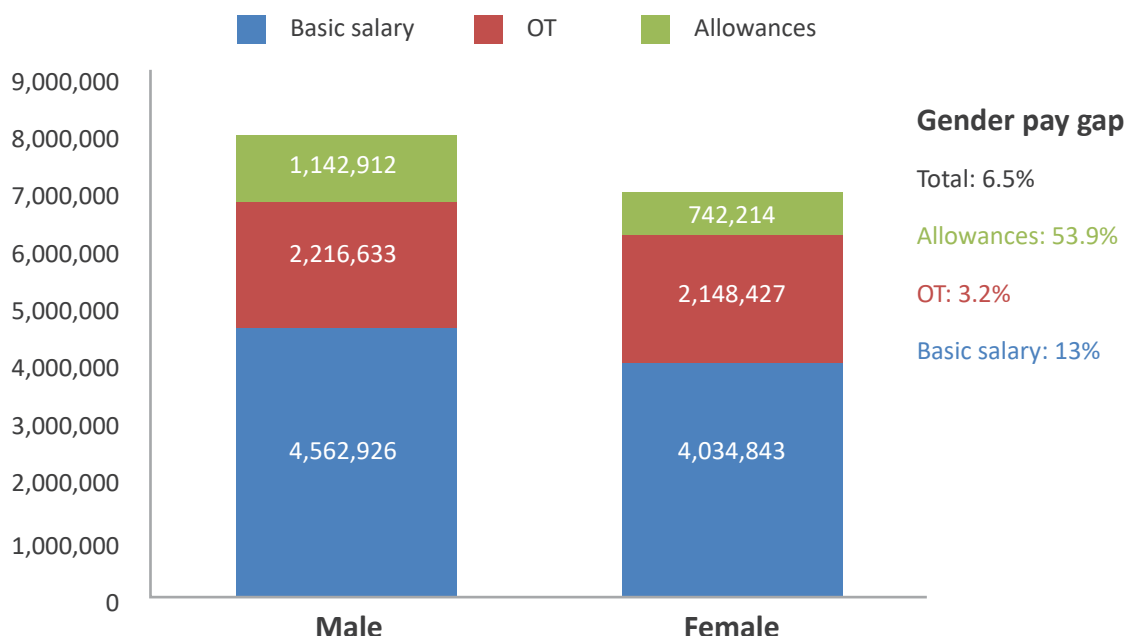
Source: Adapted from the survey by the Institute of Workers and Unions in 2018 and Living Wage benchmarks by Wage Indicator for Vietnam in 2018

The basic salary paid to workers in the three industries is around VND 4,200,000/person/month. About 50% of the surveyed workers are paid at the regional minimum level and from 5-10% workers in each MW region are paid below the legal minimum wage.

The total income of workers in footwear (VND 6,075,000/person/month) surpasses those in the other two industries due to the significant amount of overtime (40.8 hours of overtime per month).⁷⁵ Still, the compensation for workers in the three industries during the regular hours remains much lower than the living wage benchmarks. As seen in Figure xx, we use the living wage benchmarks of Wage Indicator for Region 1 (urban regions) and Region 4 (rural regions) for comparison. Without the overtime pay, the average income (basic salary and allowances) of the workers in the three industries accounts for only 60% of the living wage of Region 1.

⁷⁵ Institute of Workers and Unions. 2018. Wages, income, expenses and living standards in 2018. Internal report

Figure 10: Average monthly compensation of electronic workers (VND)



Source: Adapted from the CDI's Survey of Working conditions in the Electronic Supply Chain in Bac Ninh, 2017

A closer look into the wages paid to the electronic workers in Bac Ninh showed that not only workers are earning less than the living wage but the female workers are paid less than men in all wage components. A survey of over 200 electronic workers in 55 factories in 2017 by the Center for Development and Integration (CDI) found that the biggest gap between men and women is the payment of allowances and bonus (53.9%), followed by basic salary (13%) and overtime (3%) (see Figure 10). The overall gender pay gap is 6.5%. The pay gap of 13% in basic salary between male and female rank-and-file electronic workers is higher than the national gender pay gap of 10.5%.⁷⁶

When the basic wages are paid just at the minimum level and the total salary lags behind the living wage rate, the implications are obvious:

First, wages are set arbitrarily by the employers, mainly based on the legal minimum wages without consultation or negotiation with the workers and their representatives;

Second, when wages paid during the regular hours drop far below the liveable wage, workers are placed in the constant need to do overtime to achieve a sustainable income for themselves and their families;

Third, wage-related issues continue to be the primary concern and complaint of workers as well as the main cause of strikes. In particular, wages have been the cause of over 40% of wildcat strikes⁷⁷

⁷⁶ Information from the General Statistics Office:
<http://www.gso.gov.vn/default.aspx?tabid=382&idmid=&ItemID=18667>

⁷⁷ Anner (2017)

Working hours

Compliance with the legal provisions on working hours has been a long-standing challenge for all three industries. The most common violations including: (i) exceeding the overtime limits and (ii) failure to ensure workers' consent to work overtime.

Better Work Vietnam recorded high non-compliance rate in terms of overtime among its over 400 member garment companies: 77% fail to meet monthly limits (30 hours) and 72% exceed annual limits (300 hours) and 44% fail to provide at least four days of rest per month to all workers.

The average monthly overtime hours in the footwear industry in 2018 is 40.7 hours, which is higher than the legal limit of 30 hours/month.⁷⁸ In the electronics industry, the CDI survey in 2017 found that over 70% of the surveyed workers constantly worked beyond the legal limit of overtime all through the year of 2017. During high-season months, nearly 70% of the surveyed workers had to work for more than 45 hours/month of overtime and the highest monthly overtime amount recorded in our survey is 150 hours/month. The Labour Inspectorate also reported 130 among 216 inspected electronic enterprises violating the overtime limits in its national inspection campaign in 2017.⁷⁹

Although the low wages often urge workers to take up overtime work, it happens in a number of cases that workers are 'automatically' summoned for overtime without signing in the written consent⁸⁰. The 2018 Survey by CDI over electronic workers in Hai Phong and Dong Nai pointed out that 21.1% of the workers were frequently required to work overtime against their will. In particular, 5.04% of the surveyed workers were victimised and 1.2% threatened of dismissal if they refused to work overtime.⁸¹ Forced and excessive overtime was also the cause of a number of collective labour disputes in recent years. For example, in 2012, workers at Canon Vietnam went on strike because they were forced to work over 9 hours per day and got the break time between shifts of only 7-8 minutes.⁸² In 2017, many workers from Viva Garment, a Hongkong garment supplier to Adidas, called the journalists to complain about continuous overtime of 1-3 hours per day. A female worker said:

"The time before Tet, I had to work a lot of overtime and usually returned home around 8pm. I had no time to take care of the children. Long working hours and lack of time for the family have put constraints on my marriage"⁸³

⁷⁸ Institute of Workers and Unions. 2018. Wages, income, expenses and living standards in 2018. Internal report


⁷⁹ Labour Inspectorate. 2017. Report of the 2017 Inspection Campaign in the Electronic Industry. Link: <http://thanhtralaodong.gov.vn/chien-dich-thanh-tra/tong-ket-chien-dich-thanh-tra-lao-dong-trong-linh-vuc-dien-tu-44137.html>

⁸⁰ Better Work Vietnam. 2017 Compliance Report.

⁸¹ CDI. 2018. Baseline research for the Project on Empowerment of Migrant Workers in Vietnam (to be published)

⁸² <https://thanhvien.vn/thoi-su/cong-nhan-canon-viet-nam-dinh-cong-doi-tang-luong-486676.html>

⁸³ <http://baovinhphuc.com.vn/kinh-te/37880/co-hay-khong-tinh-trang-ep-lao-dong-tang-ca-o-cong-ty-tnhh-may-mac-viet-thien.html>



The analysis in this Chapter has shown that despite recent progress by the lead firms in implementing the UNGP principles, much remains to be done to improve the labour standards in the supply chains, especially with regards to freedom of association, payment of a liveable wage, elimination of gender discrimination, and working hours. The root cause of these problems lies not only in the failure of the specific suppliers to comply with the sustainability codes of conduct of their buyers but more in the way the human rights policy is being implemented in the whole supply chains. As discussed in the previous section, the three main weaknesses of the implementation of human rights policies in the global supply chains of garment, footwear and electronics include:

- Human rights policy has not been integrated into the core business of the lead firms;
- The monitoring of compliance in the supply chains lacks transparency which causes inertia in acting upon findings of violation;
- The workers are rarely informed and engaged in the implementation of the human right policy including lack of proper trainings, no consultation of workers about audit outcome, and shortage of effective grievance channels.



CHAPTER 4:

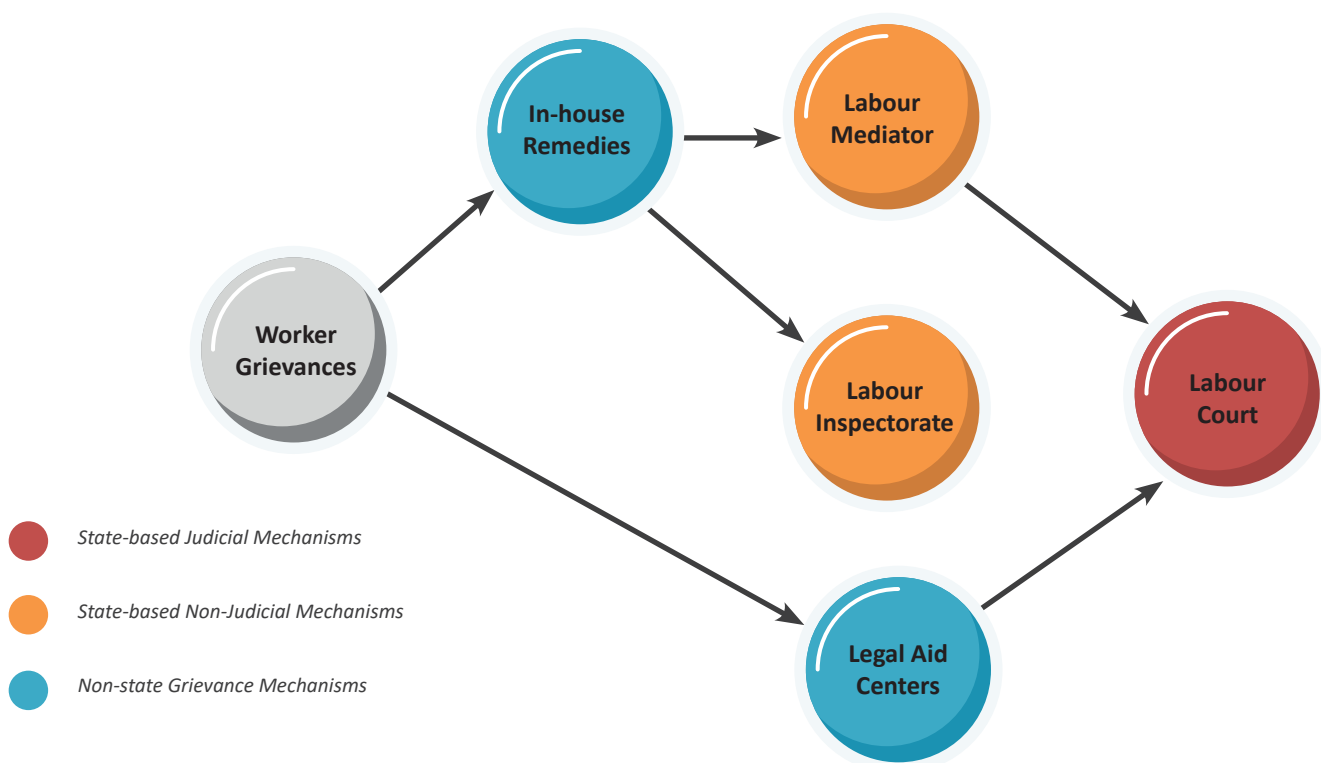
REMEDIES FOR WORKERS IN THE GLOBAL SUPPLY CHAINS

4.1. OVERVIEW OF THE REMEDIES FOR WORKERS IN VIETNAM

On the basis of the Pillar 3 of the United Nation Guiding Principles, this chapter will review the three types of remedies for Vietnamese workers in the global supply chains of garment, footwear and electronics. As classified by the UNGP, these remedies include the state-based judicial mechanisms, the state-based non-judicial grievance mechanisms and the non-state based grievance mechanisms. These remedy mechanisms are summarised in Figure 11.

The procedures for settling labour grievances and disputes are provided by the 2012 Labour Code, the 2015 Law on Complaint and the 2011 Law on Denunciation. Apart from these laws, there is Decree 47/2010/ND-CP of the Government dated 6 May 2010 on Administrative Sanctioning of Violations which specifies administrative violations, sanctioning forms and levels, remedies, and competence and procedures for administratively sanctioning violations of the laws. Additionally, Decree 24/2018/ND-CP provides for the scope and procedures for handling grievances and denunciations in labour, employment, OSH, vocational training and sending workers abroad.

Figure 11: Mechanisms for Remedies of Labour Abuses



In accordance with the Labour Code and the Law on Complaint, when the worker has a grievance about a labour abuse/violation, s/he can choose to handle the grievance via in-house remedies (which are discussed in Chapter 3) including the enterprise's dialogue and grievance mechanisms. After exhausting the in-house remedies, the worker may also place their complaint to the provincial labour inspectorate (Decree 24/2018/ND-CP) or contact the local labour mediator to handle the grievance as an individual labour dispute (Art. 201, 2012 Labour Code). If the dispute is not solved by the labour mediator or the worker does not agree with the Labour Inspectorate's decision, s/he can bring the case to the Labour Court. In certain cases such as unlawful dismissal, violations in social insurance, abuses of domestic workers and overseas workers, the worker can take the case immediately to the Court without going through mediation (Art. 201, 2012 Labour Code). Apart from these state-based grievance mechanisms, the worker may seek legal counselling from legal aid centers managed by the trade unions or non-governmental organisations.

The following sections will review the workers' accessibility and the effectiveness of these grievance mechanisms.

4.2. STATE-BASED JUDICIAL MECHANISMS

Labour Court

According to the Supreme Court, the number of labour cases submitted to the court has increased quickly from 745 in 2000 to 1,700 in 2008. Specially between 2008 and 2013, this figure rocketed to over 4,000 cases (see Table 12). All of the labour cases accepted by the court were individual labour disputes. Over the past decades, only 4 strikes were brought to the court but were not accepted while two collective labour disputes (one in Hanoi and one in Hai Phong) were suspended.

Most of the labour disputes handled in the court occurred in industrialized provinces such as HCMC, Binh Duong, Can Tho, Hanoi, Hai Duong, Vinh Phuc. The majority of labour disputes happened in foreign-invested companies.

Table 12: Number of Labour Disputes Settled at the Court

| YEAR | LABOUR DISPUTES |
|-----------|-----------------|
| 2000 | 745 |
| 2001 | 690 |
| 2002 | 805 |
| 2003 | 652 |
| 2004 | 714 |
| 2005 | 950 |
| 2006 | 820 |
| 2007 | 1022 |
| 2008 | 1701 |
| 2009 | 1890 |
| 2010-2011 | N/A |
| 2012 | 3117 |
| 2013 | 4470 |
| 2014 | 4682 |

Source: Evaluation Report of the Law on Complaints, Supreme Court, 2015

According to the labour lawyers who have represented workers at the labour courts, most of the cases brought to the court are about unlawful dismissal, unilateral termination of employment contracts, and work accidents. A union labour lawyer said:

The workers tend to sue the employer at the court only when they have been terminated from work or got serious work accidents without proper compensation from the employer. If the worker is still working, they tend to file a grievance for mediation rather than going to the court.⁸⁴

It is estimated by the labour lawyers that workers tend to win 90% of the labour cases brought to the court. However, according to Pham Cong Bay, a senior official of the People's Supreme Court, there remains a number of challenges to handling labour cases in court, including⁸⁵:

First, the law provides that the disputants are responsible for acquiring evidence for the case. In many cases, the workers do not have sufficient resources to acquire the necessary evidence to present to the Court.

Second, the labour legislation remains incomplete and ambiguous in a number of areas. For instance, Art. 38 of the Labour Code provides that the employer can unilaterally terminate the employment contract if the worker repeatedly fails to accomplish work assignment. However, the accompanying decrees and circular fail to specify the criteria to define 'repeated failure to accomplish work assignment', which makes it difficult for the court to issue a judgement in many cases.

⁸⁴ Interview conducted in November 2018

Third, the time for a labour case to go through the court procedure ranges from 1-2 years. Although the employer is supposed to pay the worker the regular wages during this time, it remains difficult for the worker to commit to the whole procedure due to their financial limitations.

Finally, even when the worker wins the case, it is challenging to ensure that the employer comply with the Court's judgment including reinstatement of the worker, public apology or compensation, among others.

4.3. STATE-BASED NON-JUDICIAL GRIEVANCE MECHANISMS

Labour inspectorates

The responsibility of the labour inspectorates in handling grievances and denunciations in labour, employment, OSH, vocational training and sending workers overases is specified in Decree 24/2018/ND-CP issued on 27 February 2018. In accordance with Decree 24/2018/ND-CP, a worker is eligible for placing a grievance against the employer within 180 days after the decision that s/he wants to complain is made. The first grievance must be made to the employer and if the worker does not agree with the settlement of the employer, s/he can place the second grievance to the Chief Labour Inspector of the province. The Chief Labour Inspector organises dialogues between the worker and the employer and issues the decision upon the grievance based on the evidence presented by the two parties. If the worker does not accept the decision of the Chief Labour Inspector, s/he can bring the case to the labour court.

The workers, through their local unions, can also send complaints to the local labour inspectorate if they identify violations by the employers. The labour inspectorate then can conduct an inspection visit to the companies.⁸⁶

The capacity of the labour inspectorate, however, has been put on question for a number of reasons such as the limited number of labour inspectors both at national and local levels compared to the number of enterprises. There are over 700 labour inspectors in Vietnam while the number of enterprises is 500,000. Another problem is the transparency of inspectors. According to the Provincial Competitive Index Survey of VCCI, 45% of FDI companies claimed that they had to pay informal fees to the inspectors in 2017.⁸⁷

⁸⁵ Pham Cong Bay. 2009. Settlement of labour disputes at the people's court: from law to practice and recommendations. *Tap Chi Luat Hoc 9(2009)*

⁸⁶ Interview with the labour inspectorate of Da Nang, July 2016

⁸⁷ VCCI. 2018. Provincial Competitive Index Report. Link: <http://pci2017.pcivietnam.vn/uploads/pci2017/PCI-2017-day-du.pdf>

According to the National Labour Inspectorate Office, the labour inspectors conduct 4,500-5,000 inspections every year with 25,000-30,000 violations identified.⁸⁸ Despite the large number of violations, a modest number of 700 enterprises are sanctioned each year. The labour inspectors face with limitations from the local authorities such as the inspection should not last for more than half a day and the plan for an inspection must be approved by the provincial government.

Labour Mediation

The labour mediators play a crucial role in settling individual labour disputes and wildcat strikes in Vietnam. The Labour Code provides that the labour mediators who are appointed by the provincial People's Committee are responsible to handling individual labour disputes and rights-based collective disputes. However, as there has been no collective dispute that follows the legal settlement procedure, the labour mediators have worked closely, instead, with the local strike taskforce to resolve wildcat strikes. Despite the importance of labour mediators, the provinces with high level of labour disputes have been struggling with recruiting more qualified labour mediators. For instance, Binh Duong and Ho Chi Minh city, two of the most industrialised provinces, have one labour mediator for every 1,000 companies.⁸⁹ The labour mediators must have good knowledge of the labour legislation and at least 3 years of experience in industrial relations and dispute settlement.⁹⁰ Yet, the budget for labour mediators remains limited and most of the current labour mediators are working on part-time basis.

Despite their limitations, the labour mediators have handled a growing number of labour disputes and wildcat strikes. For instance, between 2008 and 2013, the 108 labour mediators in HCMC resolved 6,248 disputes including 5,715 individual disputes and 569 wildcat strikes.⁹¹ The rate of successful mediation by the labour mediators is high, which, in the case of HCMC, is 70.5% for individual disputes and 93.1% for wildcat strikes.

⁸⁸ <http://thanhtralaodong.gov.vn/tiep-dan-va-giai-quyet-khieu-nai-to-cao/hon-25-000-sai-pham-ve-phap-luat-lao-dong-tai-viet-nam-39376.html>

⁸⁹ <https://laodong.vn/cong-doan/1000-doanh-nghiep-moi-co-1-hoa-giai-vien-137219.bld>

⁹⁰ Decree 46/2013/ND-CP

⁹¹ <https://laodong.vn/cong-doan/1000-doanh-nghiep-moi-co-1-hoa-giai-vien-137219.bld>

4.4. NON-STATE BASED GRIEVANCE MECHANISMS

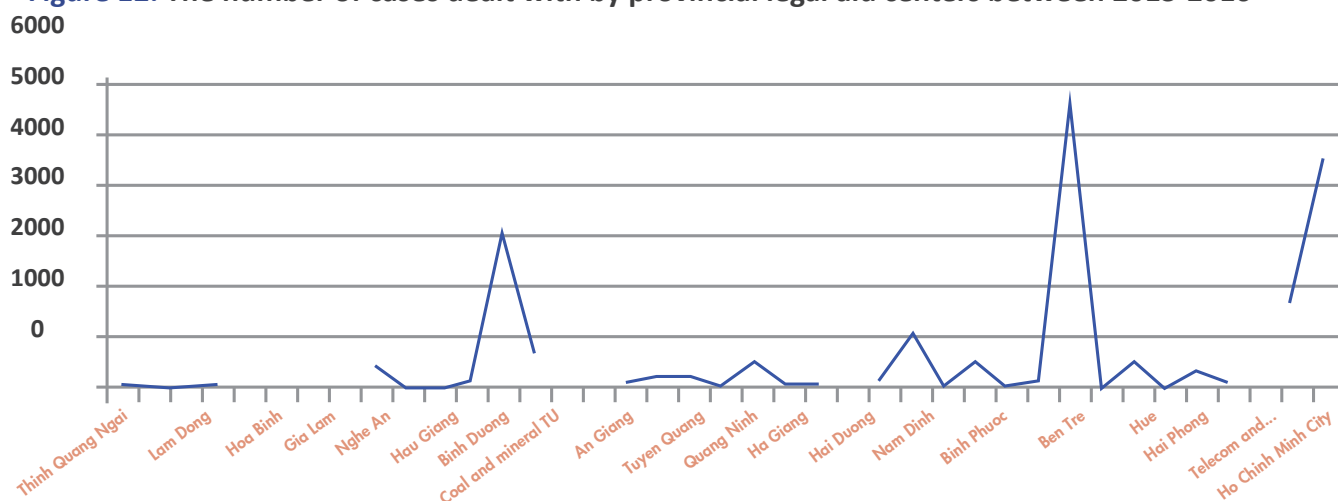
The non-state based grievance mechanisms for workers can be classified into two groups: (i) the legal aid centers of the trade unions; and (ii) the legal-counselling organisations and individuals.

Trade Union’s Legal Aid Centers

The first legal aid center was established in 1991 and by far, there are 53 legal service points within the VGCL structure. There are two forms of legal service points: either as a legal advice office integrated in the provincial/sectoral federation of labour or as autonomous Legal Advice Center focusing only on legal tasks. There are 16 Legal Advice Centers (LACs) mainly located in industrialized provinces. These LACs can recruit lawyers in addition to their official personnel quota. The legal service points of the VGCL have two main functions of disseminating information about the law and providing legal protection of workers. In terms of legal protection, the legal aid centers either advise workers to settle grievances at the workplace or represent the workers in Court procedures. Apart from the union members, the LACs also support non-union members and workers in the informal sector.⁹² All services provided by the union legal aid centers for workers are free of charge.

The issues that the LACs have dealt with recently include: legal advice on social insurance policy; handling grievances for workers with regards to wages and shifting of job position; and representing workers in the labour court in cases of unlawful dismissal and work accidents.⁹³

Figure 12: The number of cases dealt with by provincial legal aid centers between 2013-2016



Source: FES Vietnam’s Evaluation Report of the Union Legal Aid Centers, 2016

⁹² Interview with the Director of Dong Nai Legal Aid Center, October 2018

⁹³ Ibid.

However, the effectiveness of the union's legal aid centers varies among provinces. According to an evaluation of the legal aid centers by the FES Vietnam, only 10 out of 53 provincial legal aid centers have been active. As seen in Figure 12, most of the provincial legal aid centers dealt with fewer than 1,000 cases in the three years between 2013-2016. The LAC of Hanoi dealt with only 111 cases in 03 years whereas the LAC of HCMC took up 4,490 cases.⁹⁴

Due to the varying degree of effectiveness of the union legal aid centers, their visibility for workers as a reliable source of legal counselling and protection also differs from one province to another. Dong Nai Legal Aid Center, the first and most famous legal service point of the VGCL system, claim to be the first choice for 80% of the local workers in need of legal protection.⁹⁵ For other provincial LACs, this figure can go to below 50% as workers tend to seek help from non-union legal aid centers.⁹⁶ Particularly, the coverage of the union LACs focus mainly in the formal sector whereas the workers in the SMEs and household businesses have not been aware of these union-based mechanisms.⁹⁷

Non-union Legal Aid Centers

There is only a small number of lawyers and non-union legal aid centers specialising in labour law, the most prominent of which is probably the Vietnam Judicial Support Association for the Poor (VIJUSAP). VIJUSAP is a non-profit organisation set up under the Ministry of Home Affairs in 2011. VIJUSAP provides free legal services to the poor including poor workers. By 2018, VIJUSAP has 06 regional offices. Apart from the full-time lawyers, VIJUSAP offices can collaborate on part-time basis with members who are the specialised lawyers to handle specific cases.

VIJUSAP organises law dissemination sessions in worker villages, through which they collect workers' grievances. The VIJUSAP lawyers will advise workers on the court procedure as well as supporting them in preparing the necessary documents and representing them in Court. VIJUSAP also set up a network of core workers in these villages to become legal trainers for the migrant workers and transfer grievances, if any, to the Association's lawyers. Each year, the VIJUSAP Office in HCMC, for instance, handles 20 cases to the labour court. According to the Director of VIJUSAP HCMC, most grievances from workers have been about unlawful dismissal of pregnant workers and older workers who are laid off because they are having higher seniority salaries:

The current trend of grievances from workers that we receive is the dismissal of workers on the basis of pregnancy and high seniority salary. The employers want to avoid the high costs related to maternity as well as the older workers who are paid based on seniority. These cases happen mostly in smaller companies which are ignorant of the law.⁹⁸

⁹⁴ FES Vietnam. 2016. Evaluation Report of the Union Legal Aid Centers. Internal Report.

⁹⁵ Interview with the Director of Dong Nai Legal Aid Center, October 2018

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Interview with the Director of VIJUSAP HCMC, September 2018

Inconsistency of Access to Remedies for Workers in Different Regions and Firms

This chapter has shown that Vietnam has got a number of both state-based and non-state based grievance mechanisms for workers. The procedures for these mechanisms have also been specified in the relevant laws. However, the access to these mechanisms seems to be better for workers in the formal sector in the industrialized provinces where they are supported by the legal aid centers and counsellors. Workers in the SMEs, informal sector and especially those in less industrialized provinces where the legal support services are under-developed, the access to remedies faces with more difficulties.

The capacity of the state-based grievance mechanisms to handle the increasing grievances from workers has been constrained by their limited resources and personnel. Such constraint is most evident in the case of the labour inspectorate. Although the government has been aiming at increasing the number of labour inspectors, a more sustainable solution is to improve the labour mediation system and in-house grievance mechanisms at enterprises.

Another obstacle to workers' access to remedies is their financial difficulties which may discourage them from engaging in a prolonged grievance process. Although the workers may enjoy free legal aid services, the fact that their income is seriously reduced or even cut off during the grievance process may result workers refusing to seek remedies for their complaints.

As discussed earlier, workers tend to seek for external remedies only when they face with dismissal or serious work accidents whereas the vast majority of other work-related grievances during their work in the enterprises are supposed to be handled by in-house remedies. However, as found in Chapter 3, the in-house remedies of enterprises remain insufficient and ineffective, relying more on the informal channels such as the team leaders rather than the more formal and structured mechanisms. Particularly when workers in the garment, footwear and electronic factories tend to rely on wildcat strikes to both demand for their rights and improve their interests.⁹⁹

⁹⁹ Do, Q. Chi. 2017. The missing link in the chain: *Trade regimes and labour standards in the garment, footwear and electronic supply chains in Vietnam*. FES working paper.

CHAPTER 5:

CONCLUSION AND RECOMMENDATIONS

SUMMARY OF FINDINGS

This baseline study has reviewed the implementation of the Pillar 2 (Respect) and Pillar 3 (Remedy) of the United Nation Guiding Principles in the global supply chains of garment, footwear and electronics in Vietnam. The baseline study focuses on a group of leading brands sourcing from Vietnam in an attempt to find the general trends as well as the pioneering initiatives taken in implementing the brands' human rights policy. The baseline has also made an review of the remedies including the state-based and non-state mechanisms available for the workers in the supply chains in Vietnam. The key findings of the study include:

- All of the surveyed brands have adopted a human right policy statement at the top level. The brands have also required at least their direct business partners to comply with their human rights CoC.
- As part of due diligence, impact assessment is carried out via social audits and self-assessment. Impact assessment is mainly limited to the direct business partners (or first-tier suppliers) although a few leading brands in garment and footwear have extended the coverage to the sub-contractors (second-tier suppliers).
- The brands have a policy of acting on the finding of violations in the supply chains which potentially results in cancellation of business relationships.
- In-house remedies have been set up but most of them remain ineffective. Rank-and-file workers often have to choose informal channels to voice their concerns or walk out in wildcat strikes to protect their own rights and advance their interests
- The implementation of the human rights policy of the surveyed brands in the supply chains has three main weaknesses including:
 - » First, the human rights policy has not been integrated into the core of the business. As most brands in the three industries compete on costs and fast adaptability to the market trends, their business model inherently conflicts with the implementation of the human right principles in many aspects.
 - » Second, the lack of transparency in monitoring in the supply chains may result in the inertia in acting upon finding of violations.
 - » Third, while workers are the most affected party by violations of labour rights in the global supply chains, they are usually the least consulted about the implementation of human rights policies.

- The study has found quite a few good practices, especially among the third-party organisations in overcoming these weaknesses such as: the revelation of the violations of suppliers by Better Work to increase the transparency of the supply chains, trainings of workers on labour standards by FWF, operation of hotlines to provide additional remedies for workers, encouragement of replacing unionists who are managers by rank-and-file workers by Better Work, among others.
- The weaknesses in implementing the human rights policy have resulted in the violations of labour standards in the supply chains. The study found violations in terms of intervention of management in union work, gender discrimination, excessive and forced overtime, and payment of unliveable wages
- Vietnam has got a comprehensive system of both state-based and non-state based grievance mechanisms for workers. The procedures for these mechanisms have also been fully specified in the relevant laws.
- Access to remedies is better for workers in the formal sector in the industrialized provinces where they are supported by the legal aid centers and counsellors than those in SMEs and informal sector
- The capacity of the state-based grievance mechanisms, including the labour inspectorate, to handle the increasing grievances from workers has been constrained by their limited resources and personnel
- Another obstacle to workers' access to remedies is their financial difficulties which may discourage them from engaging in a prolonged grievance process.

RECOMMENDATIONS FOR THE BHRTR PROJECT

1. As the UNGP framework remains a new concept in Vietnam, it is advisable that the BHRTR Project provides training sessions for the relevant stakeholders about the UNGP and how it is implemented. The trainings should focus on the following target groups:
 - » Trade union officials, especially those who are working for industrial zone unions and unionists from major exporting firms;
 - » Representatives of exporting firms
 - » Representatives of key brands sourcing from Vietnam
 - » Government officials including national and provincial labour administrators as well as labour inspectors
 - » Labour mediators and representatives of legal aid centers
2. Documentation of good practices in implementing UNGP within the supply chains to share among the brands and suppliers in the three industries
3. Organisation of dialogues among brands, suppliers, trade union officials and CSOs about measures to implement the UNGP better in the supply chains
4. Organisation of dialogues among the government officials, CSOs and other relevant stakeholders about the possibility of a National Action Plan (NAP) for UNGP in Vietnam

REFERENCES

- Anner, Mark. "Stopping the Race to the Bottom: Challenges for Workers' Rights in Supply Chains in Asia". FES Briefing Paper. Hanoi: FES Vietnam, December 2015. <http://library.fes.de/pdf-files/iez/12321.pdf>.
- Better Work Vietnam. *Garment Industry 7th Compliance Synthesis Report*. Geneva: ILO, 2014. <http://betterwork.org/global/wp-content/uploads/Better-Work-Vietnam-Synthesis-Report-N%C2%B07-July-20141.pdf>.
- Cable News Network. "How Much Does It Cost to Make a Denim Shirt in Bangladesh vs. the U.S.?" May 3, 2013, <http://edition.cnn.com/2013/05/02/world/asia/bangladesh-us-tshirt/>.
- Cho, S. J and Do, Q. Chi, 2017, *Employment Relations of Korean companies in Vietnam*, Working Paper of the Korean Labour Institute
- Do, Chi and Torm, N. "Wage Fixing Institutions and their Impacts in Major Garment Producing Countries: the case of Viet Nam". ILO, 2016. Working Paper.
- Do, Q. Chi and van den Broek. "Wildcat Strikes: A Catalyst for Union Reform in Vietnam?" *Journal of Industrial Relations* 55, no. 5 (2015): 783 – 799.
- Do, Q. Chi. 2017. "The missing link in the chain? Trade regime and labour standards in the garment, footwear and electronics supply chains in Vietnam". FES Working Paper (Link: <http://library.fes.de/pdf-files/bueros/vietnam/13334.pdf>)
- Do, Q. Chi. *Vietnam Country Study: Labour Standards in the Garment Supply Chain*. Utrecht: CNV International, 2016. <https://www.cnvinternationaal.nl/Resources/Persistent/c693cde01921991a984c192d70c887f75412dcdc/CNV-Vietnam-Garment-Supply-Chain-web%20clickable%20ENG%20DEF.pdf>.
- Fair Wear Foundation. *Vietnam: Country Study 2015*. https://www.fairwear.org/wp-content/uploads/2011/12/Country-Study-Vietnam-FINAL_web.pdf.
- FES Vietnam. "Survey of the Collective Bargaining Agreements". Internal report for the VGCL, 2015.
- Fforde, Adam. "Vietnam: Economic Strategy and Economic Reality". *Journal of Current Southeast Asian Affairs* 35, no. 2 (2016): 3–30.
- Foote, Virginia. "Overview and Assessment of the TPP". Keynote Speech at Vietnam Leadership Summit. Ho Chi Minh City, April 8, 2016.
- Goto, Kenta. "Industrial Upgrading of the Vietnamese Garment Industry: An Analysis from the Global Value Chains Perspective". RCAPS Working Paper No. 07-1. Beppu: Ritsumeikan Asia Pacific University, 2007. https://www.apu.ac.jp/rcaps/uploads/fckeditor/publications/workingPapers/RCAPS_WP07-1.pdf.
- GSO, 2016, Report on the economic and social development in 2015 (Link: <https://www.gso.gov.vn/default.aspx?tabid=621&ItemID=15507>)
- Herr, Hansjörg, Schweisshelm, Erwin and Truong-Minh Vu. *Vietnam in the Global Economy: Development through Integration or Middle – income Trap?* Hanoi: Friedrich-Ebert-Stiftung Vietnam, 2016. <http://library.fes.de/pdf-files/bueros/vietnam/12822.pdf>.

Hill, Hal. *Vietnam Textile and Garment Industry: Notable Achievements, Future Challenges*. UNIDO, July 1998. http://www.unido.org/fileadmin/import/40564_texti.pdf.

Hughes, Owen. "How much does a Samsung Galaxy S7 really cost? The price of smartphone revealed." *International Business Times UK*. March 16, 2016. <http://www.ibtimes.co.uk/how-much-does-samsung-galaxy-s7-really-cost-price-smartphone-revealed-1549917>.

ILO Vietnam. *Survey of strike trends in 2010-2011*. Internal report, 2011.

ILO, MOLISA and GSO. *Vietnam National Child Labour Survey 2012-Main Findings*. Hanoi: 2014. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_237833.pdf.

ILO. *Ups and downs in the electronics industry: Fluctuating Production and the Use of Temporary and Other Forms of Employment*, Issues paper for discussion at the Global Dialogue Forum on the Adaptability of Companies to Deal with Fluctuating Demands and the Incidence of Temporary and Other Forms of Employment in Electronics, Geneva, 9–11 December 2014, International Labour Office, Sectoral Policies Department, Geneva, ILO, 2014.

IPEN and CGFED, 2017, *Stories of women workers in Vietnam's electronics industry, Working paper* (Link: http://ipen.org/sites/default/files/documents/FINAL_Stories%20of%20Women%20Workers%20in%20Vietnam%27s%20Electronics%20Industry%20FINAL%20Nov%202017.pdf)

LEFASO. 2016. *Overview of Vietnam's Leather and Footwear Industry*. Report presented at the Conference on Labour standards in international economic conference, Hanoi, 10 January 2017.

Miller, Doug. "Towards Sustainable Labour Costing in the Global Apparel Industry: Some Evidence from UK Fashion Retail". University of Northumbria, 2013. <http://dx.doi.org/10.2139/ssrn.2212100>.

Ohno, Kenichi. "An Approaching Middle Income Trap and Industrial Policy Quality in Vietnam". National Graduate Institute for Policy Studies (GRIPS). Tokyo, 2015.

Oxfam. *Legal and Practice Barriers for Migrant Workers in their Access to Social Protection*. Hanoi: Oxfam Vietnam, 2015.

Schmél, Ferenc. *Structure of Production Costs in Footwear Manufacture*. Zlin: United Nations Industrial Development Organization, 2000. <http://www.unido.org/fileadmin/import/userfiles/timminsk/leatherpanel14schmelcosts.pdf>.

Schweisshelm, Erwin. "Trade Union Pluralism through Free Trade? Vietnam's Trade Agreements with the EU and US." Policy Briefing Paper. Hanoi: FES Vietnam, November 2015. <http://library.fes.de/pdf-files/iez/12094.pdf>.

Trinh, Khanh Ly. "Trade Union Organising Free from Employers' Interference: Evidence from Vietnam." *Southeast Asian Studies* 3, no. 3 (December 2014): 589–609.

UNCTAD. *Global Value Chain and Development: Investment and Value Added trade in the Global Economy*. United Nations, 2013. UNCTAD/DIAE/2013/1. http://unctad.org/en/PublicationsLibrary/diae2013d1_en.pdf

UNIDO. "International Yearbook of Industrial Statistics: Textiles and Clothing Vietnam." 2015. <http://data.worldbank.org/indicator/NV.MNF.TXTL.ZS.UN?end=2013&locations=VN&start=1998&view=chart>.

VCCI. “*Survey of Labour Issues in the Garment Industry.*” Report used as a policy paper of VCCI in discussion of the 2002 Labour Code revision. 2009.

VCCI. *VCCI Annual Labour Market Report*. Hanoi: VCCI, 2016.

Vietnam Customs. “*Tinh hinh xuat nhap khau ca nuoc nam 2015.*” Last accessed February 24, 2017. <https://www.customs.gov.vn/default.aspx>

West, Sean, and David Brown. *The Trans Pacific Partnership: Sizing up the Stakes – A political Update*. New York: Eurasia Group, 2015. https://eurasiagroup.bluematrix.com/sellside/AttachmentViewer.action?encrypt=009c9184-4c8f-4b0f-9f2f-c39d898429a8&fileId=18482_d0bcb84c-803d-4e3f-a57a-cf290798cd59&isPdf=false.

Wilshaw, Rachel, Do, Chi, Fowler, Penny, and Thu Thuy Pham. *Labour Rights in Vietnam: Unilever’s Progress and Systemic Challenges*. London: Oxfam, 2015. https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/rr-unilever-vietnam-progress-challenges-040716-en.pdf.

World Bank. *Taking Stock: An Update on Vietnam’s Economic Development*. Hanoi: World Bank, 2015. <https://openknowledge.worldbank.org/bitstream/handle/10986/22342/Taking0stock000economic0developments.pdf?sequence=1&isAllowed=y>.

Xuan Hai. “*Politburo of Vietnam: Resolution 06/NQ-TW on International Economic Integration, Socio-political Stability in the Context of Implementing Free Trade Agreements.*” *Laodong*. January 6, 2017. <http://laodong.com.vn/chinh-tri/toan-van-nghi-quyet-so-06nqtw-hoi-nghi-trung-uong-4-khoa-xii-608410.bld>.

Yusuf, Shahid. “*From Silicon Valley to Shenzhen: Global Production and Work in the IT Industry* by Boy Lüthje, Stefanie Hürtgen, Peter Pawlicki and Martina Sproll Lanham, MD: Rowman and Littlefield, 2013.” *Economic Geography* 91, no. 3 (July 2015): 389–391.

NOTES

This study was conducted under the framework of the project ***“Business and Human Rights in Trade Relations and Global Supply Chains in Viet Nam”***, funded by the European Union, implemented by Friedrich-Ebert-Stiftung (FES) and Centre for Development and Integration (CDI), in the period 2018-2021.

Its contents are the sole responsibility of implementing partners and do not necessarily reflect the views of the European Union.

