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Workers of Vietnam, Unite?

A revised labor code could have important implications for how trade unions operate in the country.

By David Hutt

Vietnam's revised Labor Code, agreed to overwhelmingly by the National Assembly on November 20, was mixed news for workers. It failed to reduce maximum working day limits, which stayed at eight hours a day or 48 hours a week, while it also formalized long-term plans to increase retirement ages from 2021 onwards. The Minister of Labor, Invalids, and Social Affairs, Dao Ngoc Dung, stressed any reductions to worker productivity would keep Vietnam in its so-called "middle-income trap." On the other hand, another full-paid national holiday was added to the calendar, while stricter rules on overtime were imposed.

Most promising and unprecedented, however, is that the revised Labor Code will, for the first time, allow independent trade unions to operate. Up until now, all unions had to belong to and be supervised by the state-run federation, the Vietnam General Confederation of Labor (VGCL). Naturally, one must wait and see if this is going to be the kind of cosmetic change the Vietnamese Communist Party is used to making, which looks good on paper but is never properly implemented. Indeed, the revised code still requires an independent union to receive permission to form from state authorities, which allows the Communist Party to refuse the more outspoken and demanding of union leaders.

The Party was in part forced into this measure because it signed up to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and a free trade agreement with the European Union, both of which demand an opening up of trade union rights. But the Vietnamese people have been demanding such changes for years, if not decades. The VGCL has long been seen as irrelevant. While in the 1990s it was considered a way for the Communist Party to break worker solidarity and put down strike action, today it generally plays a neutral role in strike coordination and often merely acts as a charitable arm, giving small financial gifts to sick or pregnant workers.

But times are changing. Wildcat strikes are becoming increasingly popular, as are attempts – long before the revised code was even considered – to form independent unions. In 2006, Nguyen Khac Toan, a union leader, formed the country's first independent trade union, the Independent Labor Union of Vietnam. Weeks later, two well-known labor activists Nguyen Tan Hoanh and Tran Thi Le Hang created the United Workers-Farmers Association. Given that these were "illegal" unions, the founders were swiftly arrested and their unions harassed and closed down (here, Human Right Watch provides an excellent history of Vietnam's trade union movement of the 2000s).

The revised Labor Code unleashes a number of new contingencies in Vietnamese politics. First, it shifts the wage question onto the private sector. In the past, employers could expect the heavy hand of the state to crackdown on any "illegal" industrial action and to enforce minimum wages. The minimum wage hike for 2020 of just 5.5 percent was one of the lowest in years and only marginally better than the rise for 2019. From next year, monthly minimum wages will range

from roughly \$169 to \$190, depending on location (workers in Hanoi and Ho Chi Minh City are guaranteed the higher limits). But these are still low compared to neighboring countries. Cambodian manufacturing workers, for instance, will be guaranteed \$190 per month from next year, despite Cambodia's economy being about 10 times smaller than Vietnam's.

However, if genuinely independent unions are allowed to form, it could lead to more industrial action in some of the country's most sweated sectors, such as low-cost garment manufacturing, which may spill over onto other sectors. One could also expect strikes to become more common. Workers might also be able to attain better representation. Up until now, they were represented by the state-run VGCL at debates over higher minimum wages in the National Wage Council. Naturally, the VGCL didn't argue too forcefully against the Party's investment-minded interests.

Second, allowing independent trade unions to operate is yet another indication of how the Party is willing to weaken its control of the social sphere in order to maximize economic growth – now the Party's real source of legitimacy. The Communist Party long ago contracted laryngitis when attempting to ventriloquize for the Vietnamese workers and proletariat. Now giving these workers their own representation changes the dynamics considerably. Small wonder, then, that during the National Assembly debate on the revised Labor Code, delegates tried invoking Marx and Ho Chi Minh, and claimed the changes were a victory for the socialist spirit of the Communist Party. If true, it raises the question of why the Party was dragged kicking and screaming into enforcing these changes by the international community.

In the 2000s, the Party essentially lost its domination of the public sphere with the arrival of the internet and American social media, chiefly Facebook. The Party-run media is now on its knees, whereas in the 1990s it wielded considerable authority. By divesting itself of state-owned enterprises and handing over power to more non-Party entities, the Communist Party is now also devolving itself from the economy. The rapid rise of private healthcare and education this decade also challenges its monopoly on social welfare. And now the Party is slowing backing away from what could be called its “uncivil society.”

One might say, with some justification, that there is a now in Vietnam a battle between a civil society, the collection of non-state community groups started from the bottom-up, and an uncivil society, the Party's own social organizations administered by the serpentine Fatherland Front. The VGCL is just one of the Front's many “mass organizations.” Others include the Vietnam Women's Union and the Farmers' Association. The uncivil society of the Fatherland Front is still dominant and expansive – the Vietnam Women's Union, for instance, is thought to have more than 13 million members. Many jobs can only be obtained with membership of these groups, especially in academia and intellectual professions. Membership also brings other benefits, like better access to credit.

The uncivil society is greased with patronage and special treatment. But it is declining in power; the growing private sector has leveled the playing field somewhat, while an increasingly wealthy populace is no longer so dependent on state handouts. The current Communist Party leadership is also busy tackling corruption, further reducing the patronage opportunities offered by the Fatherland Front's organizations.

The civil society outside of the Party's control, by comparison, is small and fractious. But it is growing. And the revisions to the Labor Code will add a key element to it in the form of independent trade unions. Might this prompt a move by the Communist Party to formally acknowledge other non-party organizations? Maybe not, for now. But unofficial and “illegal”

organizations of journalists, intellectuals, writers, farmers, and women have sprouted in recent years – all designed to rival the Party’s uncivil society organizations.

By accepting that it no longer maintains total representation of workers, the Communist Party has made an unalterable admission. Granted, its claims of leading a “dictatorship of the proletariat” drowned out years ago. And it now speaks of being the vanguard of all classes, not just those who sell their labor. But if it now loses its monopoly over social institutions, just as it has lost its monopoly over the economy and public sphere, might its monopoly over politics be next in line? Remember that it was Solidarity, the Polish trade union and the first independent union allowed in the communist Eastern Bloc, that was a driving force behind the events of 1989.