

Governance Gaps in Global Supply Chains: Case study of Supply Chain in Vietnam

Phuong Thao Mai

VNUK Institute for Research and Executive Education, The University of
Danang, Vietnam

thao.mai@vnuk.edu.vn

Abstract: Along with the increasingly expanding of global supply chains in global economy is the emerging governance gaps in supply chains that generate consequences directly impacting on labour force around the globe. This has become a major concern on the link between the development of the global economy and human rights violation. This paper investigates the governance gaps that facilitate the labour exploitation and workers' rights violation in global supply chains. Accordingly, governance gaps might facilitate multinational enterprises to have wrongful acts with their workers such as reducing labour standards and working conditions, unguaranteed job, labour right violation. Hence, the paper seeks to answer a question that how to narrow these governance gaps to eventually bridge the gaps in global supply chains. Vietnam has been chosen as a case study of supply chains to examine the labour practices caused by governance gaps and what consequences have workers in this country been faced in recent years. The paper is expected to provide Eastern enterprises and governments a better understanding of practical labour issues happening throughout the supply chain.

Key Words: global supply chain, governance, labour rights, labour exploitation, Vietnam

1 Introduction

In the context of the global economy, businesses in goods producing industries have increasingly relied on global supply chains to conduct their process of goods production and commodity delivery to consumers. One of the most important highlights of supply chains in global economy is creating millions of job opportunities for the poor in the world, especially in developing countries, to emerge out of extreme poverty. In turn, along with constant development of global supply chains, a number of news headlines have also paid attention to human rights violation and challenges on sustainable environment that have been generated by global supply chain operations, particularly in goods producing countries for these supply chains around the world (World Economic Forum,

2016). Global supply chains are conducted by complex structures and networks that result in labour exploitation, vulnerability and unprotecting workers against abusive labour practices. Over the last few decades, there has been more attention focused towards business responsibilities in the impact of commercial activities on human rights. Whilst, it is argued that the attention to the role and responsibilities of states as economic actors regarding their own supply chain is lacking (Martin-Ortega, 2016).

2 Research aims and methods

Realising the importance of global and state governance in managing the global supply chains as well as addressing labour exploitation issues, this paper seeks to examine one of the most stressed human rights challenges to workers in the age of modern day slavery that has been emerged in global supply chains in recent decades, and to investigate the roles and responsibilities of global and state governance in protecting human rights of workers from abusive labour practices in the political economy perspective. The main argument of this paper is that the root cause of the predicament between global business and human rights in today's climate is basically due to the governance gaps generated by globalisation which is between the scope and impacts of economic forces and involving actors, along with societies' capacity to manage their consequences. These governance gaps may cause the negative environment that allows global businesses to commit wrongful acts with their employees and sub-contractors without adequate sanctions and compensation. As a consequence, a crucial question has been raised that how to narrow these governance gaps to eventually bridge the gaps in relation to human rights in global supply chains also seeks to be answered in this paper.

It is important that most of supply enterprises in global supply chains are located in developing countries where have abundant and cheap labour forces with the incomprehensive national labour legislation and the unstable living standard. Thus, workers employed by supply enterprise in developing countries who are working at the bottom of global supply chain, are also the victims of labour exploitation and human rights violation. Thus, this paper chooses Vietnam as a case study to examine governance gaps as well as labour practices relating to labour exploitation and workers' rights violation in supply chains in Vietnam.

The methodology approach to the paper has primarily been qualitative that is basically based on two-month long literature review of existing research and secondary data relevant to the governance of global supply chains. The main idea on labour exploitation of this paper is based on the range of OpenDemocracy's literatures. Along with literature review, an interview-based research is conducted for qualitative data collection. Ten Oxfam's officials and researchers who had a long term of working experience in labour rights in Vietnam were interviewed for exploring labour practices in global supply in Vietnam and policy recommendation.

3 The governance of global supply chains

The governance gaps have been constantly concerned as one of the most important root causes underpinning business demand for forced labour in global supply chains. The sense of employers' freedom to exploit has been focused on, and is to be investigated as the focal point that facilitates severe labour exploitation. Accordingly, the widespread ability for employers to generate practices of exploitation is parallel with a fact that workers would have no choice but to accept that exploitation. By agreeing with this, Skrivankova (2014: 1) highlighted that "underlying causes include a regulatory framework in which the use of forced labour makes 'business sense' even if illegal, because the risks of discovery and prosecution are low, and weak enforcement of labour standards". This paper recognises the governance gaps in global supply chains in the contexts of regulation and enforcement at both of national and international levels, and also within the cross border nature of global supply chains.

3.1 Public governance

Public governance mechanism traditionally derives from laws and regulation at national and local levels which means that it presents a state's duty in enforcing national laws and regulations of labour as well as in ratifying and implementing international labour Conventions (ILO, 2016). According to Lee (2016), public governance is exercised within both of governments and international organisations such as the United Nations (UN) and the International Labour Organisation (ILO) at various levels. For instance, at the supranational level, the ILO core conventions have issued the fundamental guidelines for labour standards and workers' right which governments base on to enforce the national laws and protect labour rights. Apart from this, Bair and Gereffi (2001) claim that bilateral or multilateral trade agreements can contribute to shape the dynamics of global supply chains through providing an advantageous market access, for example, the North American Free Trade Agreement (NAFTA). These trade agreements can also play a role in influencing the social upgrading by 'social clauses'. The main functions of public governance are to manage and control labour administration, inspection and enforcement (ILO, 2016). For example, resolving labour disputes and conducting legal proceedings against workers' rights violators. Furthermore, governments raise the workplace compliance relied on their distinct context of national history, economic growth and legal system. At the local level, public governance involves laws and regulation on labour issues and workers conducted by national and sub-national government. As mentioned by Amengual (2014), national labour laws can impact directly on conditions of working environment and workers' right across the country; besides, the level of national law enforcement may vary among different areas within a country because the distinct in other local measures such as competition or immigration policy, investment regulations may affect the enforcement.

3.2 Private governance

Lead enterprises have applied private governance to run the compliance in global supply chains. Accordingly, the term of corporate social responsibility (CSR) is used to imply the ability of enterprises' voluntarily self-regulating in economic, social and environmental problems. In the private governance, lead firms or groups of enterprises establish private mechanism that is so-called private compliance initiatives (PCIs). These initiatives would help lead firms monitor the compliance by more specific standards or code of conduct. For example, there have been many PCIs established for addressing emerging concerns in unions or civil society. These initiatives have been more common in industries where the image of their international brands are likely to be influenced by pressure from customer, the trade union or NGOs. However, private governance mechanisms for protecting labour rights have been less common within the business-to-business supply chains (ILO, 2016).

The ILO (2016) argued that there have been many limitations to the efficiency of the private compliance initiatives in guarantying the long-term compliance which include a lack of coordination with labour administration at local level, inadequate accountability and, especially, restrictions from upper-tier suppliers. In order to determine the specific private parameters of enterprises' initiative, they choose issues for addressing and the objects to be covered, then the medication for the violation is carried out. As a result, if there is any change in the priority of the lead firms, its auditing and capacity building could be also scaled back. It is also argued that the multiplicity of codes of conduct with different contents may generate the confusion and impact the effectiveness of the PCIs. There could be another concern about PCIs in private governance is that PCIs lack accountability. This is because they do not establish inclusive processes that support workers' participation or information disclosure. In other words, workers are not participating in PCIs' design or amending, and they do not have opportunities to validate, comment or have voice towards processes of decision making. Practically, when an audit occurs, contracted workers and non-standard workers are not consulted, or they are hesitant to present their concerns as they fear of losing the job (Barrientos, 2008). In this case, workers do not have any presentation to raise their voice to protect their own labour rights.

3.3 Social governance

Social governance is defined by the ILO (2016: 52) as 'the interaction between the social partners at the enterprise, sectoral, national or international levels. In social governance, unions, enterprises, employers' organizations and other civil society organizations engage in a process to define and implement joint governance schemes'. The greatest difference between social governance and private

governance is that there is negotiation between employers and workers in social governance which private governance does not include. This means that unions are the representative of workers who will collectively negotiate about bargaining relating to labour issues with higher management sectors at workplace or at national level. It is believed that social governance contributes to the effectiveness of using international/global framework agreements to enhance labour relations in global supply chains (ILO, 2016). To be more specific, many ILO instruments have reaffirmed the social dialogue's commitment, for example, in the 2008 Declaration on Social Justice for a Fair Globalisation (ILO, 2008) that emphasised that promoting social dialogue is recognised as one of the most appropriate measures for comprehending labour law and institutions. At the same time, showing respect of employment relationship and constantly improving labour inspection systems are necessary. Regarding the implementation and enforcement of national labour laws, it cannot deny the important role of social partners or trade unions in making these processes more effective. Basically, trade unions have responsibility to support labour inspection and to assist to solve issues involving to labour standards through settling claims, representing labourers and cooperate with inspectors in investigating and clarifying the problem. In addition, it is argued that social governance mechanism can be used by social partners in order to improve public governance in global supply chains.

However, there have been a number of challenges for social governance in seeking to work effectively in global supply chains. Social governance help representing workers in ensuring the accountability in issues relating to labour rights and labour standards; yet, the degree of transparency and inclusiveness claimed as uncertain. Also, it raises a concern that adequate worker and employer representation in the full global supply chains is controversial. With this sense, the inclusiveness would be restricted by lacking the participation of lead firms at national level as well as the participation of small and medium enterprises (SMEs) at local level. It is therefore concluded that these challenges could undermine the productivity that social partners can get involve in a comprehensive social dialogue to ensure the effectiveness of workplace compliance in global supply chains.

4 The governance gaps in supply chains in Vietnam

The current labour context in Vietnam has showed that the forms of trade liberalisation and international trade agreements have brought about hyper-competitive pressure in goods production in supplier countries, especially in developing countries which have cheap labour costs and a growing workforce in global supply chains such as Cambodia and Vietnam. It is evaluated that social clauses relating to trade in Vietnam have been lacking of protection for workers on

labour standards, and on ensuring fair wages for workers or social protection (Worker Rights Consortium, 2013). Furthermore, it is important to emphasise that the imbalance in power between the multinational corporations which are at the top of global supply chains and the suppliers which are at the bottom of global supply chains, may allow these multinational businesses to impose low costs on producing procedures. This contributes to the vulnerability of workers in suppliers such as low wages, instable jobs, and vulnerable working conditions. In practices of Vietnam's supplier in global supply chains, there have been empirical evidences presenting the declining respect of labour rights as well as reducing production costs in sectors of textiles and garment which are imported by international brands into the U.S between 1989 and 2014 (Do, 2016). According to the U.S. Department of Labour (2012), the garment products imported from Vietnam were added to the list of products made with forced labour by the U.S. Department of Labour in 2012 that made Vietnam become the one of seven countries receiving this designation.

Recently, a study about labour rights regarding the compliance toward good practices in global supply chains in Vietnam has been conducted by the cooperation between Oxfam Vietnam and Unilever operation. This study has determined key obstacles to labour rights protection in Vietnam. In particular, the legal framework for monitoring and enforcing labour rights has not been fully comprehensive. Particularly, national laws on minimum wage for workers have not adequate to the minimum living needs. Since the ratio of labour inspectors to enterprises is still very low, the labour laws enforcement in Vietnam has been limited. The characteristic of political system in Vietnam that has restricted the freedom of labour unions or associations, and controlled the collective bargaining. Additionally, there has not been the compliance and formalisation of jobs, especially in private sectors. And the final main obstacle determined by Oxfam is the commercial practices of sourcing businesses, for example, the short producing time for fulfilling the orders from demanding countries in contracts relied on minimum wage assumptions (Wilshaw et al, 2016). These obstacles are taken into account for considering and examining what would be the roots causes of labour rights violation in supply chains context of Vietnam.

4.1 Lacking enforcement of international labour standards

While international labour standards have become the most fundamental tool for ensuring labour rights of workers in around the world. Yet, the national labour laws creation and enforcement adequate to the international standards have been reckoned as one of the most concerned governance gaps in global supply chains. In the national legislation context of Vietnam, governmental policies have limited the establishment of independent NGOs at grass-roots level, not excepting organisations for investigating labour rights abuses and workers assisting. Also,

the government have restricts the founding of labour unions that prevent the independent monitoring working conditions of export products factories in Vietnam (Chan, 2010). This could explain for the fact that there have been very few such grassroots labour NGOs existing in Vietnam and mostly there was no chance to approach and contact them for collecting information of labour issues in Vietnam.

According to up-to-dated information from official Oxfam Vietnam staff, Vietnam has ratified 21 ILO Conventions in which there are various important conventions relating to migrant labour and informal labour such as Forced Labour Convention (C029), ILO Convention concerning the minimum age for labour or preventing children labour (C138 and C182), Conventions on Equal Remuneration (C100) and Discrimination (C111), and other Conventions on Labour Inspection (C081), Employment Policy (C122), Occupational Safety and Health (C155, C187)⁴⁰. While these conventions transformation and enforcement in Vietnam have been carried out actively by the government and involved parties, it could be deny the fact that the processes of international labour conventions in Vietnam have been confront a number of challenges as well as restrictions due to the 'gap' or the difference in the link between national law and international law which is regulated in Vietnam national law system that the international laws would be initially transferred and adequate to the national laws and practical context of Vietnam, latterly the complementation would be applied⁴¹. Therefore, there would not be the direct enforcement of international labour laws/conventions in Vietnam. Furthermore, a number of definitions and articles in the ILO's Conventions have not reached to the homogeneity. For example, Mr. Bon Ha Dinh, Director of Legislation Department, Ministry of Labour, Invalids and Social Affairs in Vietnam stated that regarding the transferring and enforcing ILO's Conventions of Child Labour Elimination (C138 and C182), Vietnamese government have not only afforded to transfer ILO's regulations effectively into national laws, but also established many action plans in order to contribute to the campaign of eliminating child labour of the ILO. However, beyond these efforts, there have been some specific cases such as in garment and foods processing factories, It was reported that children have to work 8-9 hours/day, even 10-12 hours/day.

⁴⁰ workers' rights project manager of Oxfam Vietnam, interview, 20 July 2017

⁴¹ workers' rights project researcher in Oxfam Vietnam, interview, 20 July 2017

4.2 The violation of freedom of association and the rights to collective bargaining

4.2.1 The control of government on freedom to join or form a union

As emphasised by the Worker Rights Consortium (2013: 5), "[t]he right of workers to form or join unions of their own choosing is a basic element of the fundamental workplace right of freedom of association". This was mentioned in the Article 2 of the ILO Convention of Freedom of Association and Protection of the Right to Organise Convention in 1948 that "[w]orkers [...] without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation" (International Labour Organisation, 2017d). However, according to the U.S. State Department's annual "Country Reports on Human Rights Practices" blamed that Vietnam persists to violate this fundamental workers' right (U.S. State Department, 2012). In the political context of Vietnam, the freedom of association and collective bargaining have been used in national framework by an only labour union system with dual accountability and governed by the government named the Vietnam General Confederation of Labour (VGCL). It is the only official trade union organisation recognised in Vietnam which is regarded as representative for both of workers' and the Communist Party's interests. However, this labour union system is not responsible for ensuring the independent representation of worker rights and benefits. Hitherto, Vietnam has adopted five out of eight fundamental international conventions regarding forced labour, child labour and discrimination. While the government has not ratified the conventions on freedom of association and collective bargaining, the labour code issued by Vietnamese government regulates particular articles on the freedom of association and collective bargaining which is applied in the national labour union system. Specifically, Article 7 (2) of Vietnamese labour code states that "an employee shall have the right to form, join, or participate in union activities in accordance with the Law on Trade Unions in order to protect his legal rights and benefits" (Ministry of Labour, Invalids and Social Affairs, 2012: 13).

The VGCL has established workplace unions at 80% of formal enterprises in Vietnam which manage at least 30 workers. Nevertheless, according to the General Statistics Office of Vietnam (2014), there are current over 373,000 active enterprises in Vietnam; yet, only 35,000 companies have had grass-root workplace unions. It means that less than 10% of total enterprises have had workplace unions representing for benefits ensuring to labourers. In addition, while workplace dialogues and collective bargaining at the enterprise level have been organised more regularly by the unions since the establishment of 2012 revision of the Labour Code and the labour union law, it is argued that they just consult workers' complaints and opinion, but not actually apply democratic procedures during the

process of negotiation for creating collective pressures. Consequently, the quality and outcomes of collective bargaining agreements (CBA) at enterprises in Vietnam are not high and do not bring effective reflections to labour issues reported; even though over 70% of ratified CBAs include at least one article committing that they would create working condition and benefits to their workers better than what labour law requires. Apart from this, it is regulated that only formal workers who have signed at least six month labour contract are allowed to become the members of workplace unions. This means that informal or temporary workers who have confronted vulnerable jobs would not be able to become a member of labour union and they also would not have any representative to express their difficulties as well as the vulnerabilities due to labour rights violation.

As a result, it is difficult for informal sectors to found labour unions even though VGCL has declared recently that expanding membership to the informal sectors would be focused and carried out actively for ensuring labour rights of workers working at these sectors. As mentioned that workplace unions in Vietnam mostly exist in formal enterprises, there are still a number of informal workers groups which gather labourers working at informal sectors such as cycle drivers, motorbike taxi drivers, garbage collectors, labourers working at harbours, fisheries workers and others⁴². These groups are mainly at local level, small-scale and scattered; at the same time, it is notable that they rarely have opportunities to approach and participate in workplace dialogues with employers or local government. Therefore, informal workers in Vietnam labour market do not have any collective mechanism for negotiation or bargaining which support and help them negotiate with government and employers in order to protect their labour right at both local and national levels.

4.2.2 The prohibition of independent unions' formulation and activities

The government in Vietnam enforces the prohibition of establishing and running independent labour unions through prosecuting and imprisoning citizens who form such organisations (The Worker Rights Consortium, 2013). In particular, specific punishment for those who play a public role in founding an independent labour union has been mentioned in not only national policies, but also the Labour Code that they would be subjected to sustained campaigns of prosecution and imprisonment, especially when they persist in their labour activism (Human Right Watch, 2009). There was a practical case happened in 2007 in Vietnam when Mrs. Khai Thanh Thuy Tran, a writer helped formed the Vietnam Independent Trade Union, was convicted of “disturbing the peace” and jailed for nine months. After releasing from the charge, she continued her ambition and again, she was

⁴² workers' rights project researcher in Oxfam Vietnam, interview, 20 July 2017

convicted of assaulting a police officer and sentenced for 3.5 years in prison (Human Right Watch, 2009).

4.2.3 The employer domination in monitoring and governing labour unions

The Worker Rights Consortium (2013) argued that the fundamental labour rights of freedom of association and collective bargaining accordance to Vietnamese law are not respected. The associational rights of Vietnamese workers have been denied not only in the legally prohibition of forming independent unions, but also in a fact that the mechanism of workplace unions has been also dominated by the employers themselves. Basically, most of workplace union's officials are also play an important role in managing the enterprise which means that the head of enterprise-level labour union is basically chosen by the enterprise's or factory's owners/leaders, not by workers. Additionally, union meetings are organised and monitored by the company-managers-cum-union-leaders (Worker Rights Consortium, 2013). All of these issues blatantly violate the right of freedom of association accordance with the ILO Convention 98 (1949) regulated in the Article 2(1) that "[w]orkers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration". The domination of such employers in workplace unions generates a massive conflict-of-interest when union officers who should independently represent workers' interest and have actions to correct labour laws' violation in the factory; yet, they cannot go beyond the responsibility of the company's official who represent the company's interest as an initial priority. Due to this, it is definitely found that the fundamental labour rights of workers in Vietnam have not been fully protected by official labour union at both of workplace and governmental levels.

At the factories where workers are directly impacted by vulnerable working conditions and labour rights abuses; and therefore the collective representation are mostly needed. However, those designated as their representatives are paid to represent the employer and are responsible for ensuring the interests of the company when matters involving to labour relations happened, not for the benefits of workers whom the unions should be represent for in rule. Consequently, it is not surprised when Vietnamese workers show their little trust towards workplace unions. To be more specific, Kerkvliet (2012) has mentioned some practical cases of national labour law regarding this view, there were some groups of workers working in factories in Vietnam attempting to form labour organisations beyond the VGCL dominated by the government and the Communist Party, were prosecuted and jailed on criminal charges as the sanction for their 'wrongful action'. At the enterprise level, the workplace unions are governed by factory managers who basically work as the plant-level unions' officials (Better Work Vietnam, 2011). This is blamed as a fundamental conflict of interests when job

actions like 'wildcat strikes' organised by workers beyond the workplace unions for protesting labour abuses or labour rights violation by enterprises, workers leading such strikes can confront with punishments such as physical violence, firing or imprisonment as a consequence of government and employer retaliation (Gramberg, Teicher, and Nguyen, 2013).

4.3 Lacking laws enforcement and implementation for employment and social protection

One of another important point leading to governance gaps is that attracting foreign investment for GDP growth has been the priority for development of Vietnamese government. Doing so, using cheap labour and low national labour standards is regarded as 'selling points' of workforce in Vietnam. This is so-called "The race to the bottom". With this sense, a number of informal workers suffer most due to a fact that they have been working at the bottom of supply chains in which labour standards as well as wages have been kept lower than the minimum levels of industries. It is strongly emphasised by the Oxfam Vietnam's officials that supply chains governance in Vietnam has been played a fundamental role in creating a legal framework to combat "the race to the bottom" in labour standards and to support negotiations between buyers and suppliers in supply chains. However, this role has been blurred.

According to a report on labour right of Oxfam Vietnam, even though the Labour Code in Vietnam has been updated and progressive, the enforcement is weak. For instance, workers' rights and social protection have been impeded due to social insurance debts from enterprises (Wilshaw et al, 2016). This is proved by an investigation by the State Investigators on social insurance compliance in 2015, all 1261 enterprises which were investigated, have been in debt of social protection for a long period of time and affected over 13 thousands workers who are working for them. Furthermore, according to the laws of social insurance in 2014 which mentioned at Article 124 (1) that with a labour short-term contract (3 months or less) signed by the enterprise and worker, the enterprise has had to pay the social insurance until 2018 when the new laws will be officially applied. Abusing this, it is also invested by the U.S. Department of Labor (2012) that signing short term labour contracts of less than 3 months with workers and repeating them has become a very popular ways that enterprises in most of provinces in Vietnam have done to avoid the expensed for social insurance. In order to tackle this problem, Oxfam Vietnam (2017) has reported that a number of supportive policies by the government are created to help prevent and strengthen these situations in labour market, for example, national policies on promoting flexible labour market or on improving basic health care for workers at the grassroots level, or policy on rising labour investigators to strengthen the labour law enforcement. However, there is not still any financial resource committing for the implementation.

5 Potential Responses and Recommendations

5.1 Establishing national policy on minimum wage that meet the basic needs of living for workers

The governance gaps in global supply chains have caused serious consequences that not only violate labour rights, but also exploit workers and leave them high risks of being vulnerable. In this context, one of the most crucial responses that Vietnamese government has sought to concentrate on in recent years is minimum wage setting. The policies and institutions of wage setting need to be enhanced to meet the demands of changeable labour market in Vietnam and ensure the intensive progress of integration into the economic globalisation⁴³. This response benefits not only workers, but also enterprises in global supply chains and the economic growth of Vietnam in general. With this expectation, the strategic response has become the key message at the national economic conference on “Vietnam wage policy in the context of a market economy and economic integration” organised in November 2014 by the Ministry of Labour, Invalids and Social Affairs (MoLISA) collaborating with the ILO in Hanoi (ILO, 2014). It is believed that the wage employment has been growing rapidly in developing countries in Asia, including Vietnam; hence, wages and purchasing power of wages have great impacts on living standards (International Labour Organisation, 2014). Regarding this, the ILO Deputy Director-General Sandra Polaski stated that “Whether wages are sufficient to meet workers’ basic needs will decide not only if people can feed their family, but also if they can build a better future for themselves and their children” (ILO, 2014). Therefore, minimum wage setting policies by the government that meet the basic needs of living for workers should continue to be the priority of Vietnam government since till this moment, despite of constant efforts of the government to increase the minimum wage for workers, Vietnamese government has not proposed any standard for national minimum wage that meet the basic needs of living for workers (Nguyen et al, 2017).

5.2 Promoting collective bargaining and labour union activities

As mentioned above that collective bargaining is considered as a fundamental labour right that should be respected in any factory in global supply chains to ensure that workers have their own voice in protecting their human rights at workplace. However, it was explained evidently that this basic right has not been respected in Vietnam. The Vice Minister of the MoLISA Pham Minh Huan

⁴³ workers’ rights project researcher in Oxfam Vietnam, interview, 20 July 2017

claimed that collective bargaining has not been recognised in Vietnam which is normally ignored due to the employment pressure (International Labour Organisation, 2014). With the lack of freedom in collective bargaining, wildcat strikes would be more easily to happen because workers do not have other way to express their disagreement in wage or their desire to wage improvement. As said by Ms Polaski “Collective bargaining gives workers and employers a mechanism to better link wages and productivity growth and resolve disputes constructively which benefits both parties” (ILO, 2014). In addition, the dominance of the unique labour union officially recognised by the government has become another challenge to workers in this country to have a truly representative protecting their labour rights⁴⁴. As a result, the most important role of labour union in representing their workers to compact labour right violation has been blurred, at the same time, the trust of workers to their labour union has also been gradually lost overtime. This is not only because of lacking collective bargaining in enterprise in Vietnam, but also the limitation in Vietnam national labour laws which have not ratified a number of ILO’s Conventions, particularly conventions on collective bargaining and freedom of labour union form and activities.

Therefore, promoting collective bargaining and labour union activities is an important recommendation that should be focused in supply chains in Vietnam. In order to achieve this, the interviewees from Oxfam Vietnam suggest that Vietnamese government should more focus on improving their national labour laws and enhancing the ILO’s Conventions enforcement in Vietnam through adopting the ILO Freedom of Association and Protection of the Right to Organise Convention (C087) and the Fee-Charging Employment Agencies Convention (C096)⁴⁵. At the same time, Vietnamese government should pay attention to labour policy on workers empowerment which could bring about a more freedom for workers to present their basic human rights such as right to vote their union leader, right to claim the unfairness in working environment⁴⁶. By doing so, it is expected that there will be more flexibility and freedom in collective bargaining as well as in union policies for protecting and helping workers to have their own voices and supporting from union to combat labour violation and vulnerable working conditions in supply chains. Minimum wage setting and collective bargaining are seen as two important tools of each support the other to help fix the minimum wage in the market economics. While the minimum wage can ensure the basic life for the poorest workers, collective bargaining brings about opportunities to adjust the wage for persons whose income is higher than the minimum wage (ILO, 2014). Stimulating and developing a harmonious labour relationship can help enterprises and workers better adapt to constant transformations derived from broader and deeper economic integration at both of regional and global levels.

⁴⁴ workers’ rights project manager in Oxfam Vietnam, interview, 20 July 2017

⁴⁵ workers’ rights project manager in Oxfam Vietnam, interview, 20 July 2017

⁴⁶ workers’ rights project researcher in Oxfam Vietnam, interview, 20 July 2017

5.3 Promoting multi-stakeholder dialogue in the supply chain in Vietnam

Promoting multi-stakeholder dialogue in supply chains in Vietnam is another recommendation that this paper would like to suggest. According to O'Rourke (2005:2), Multi-stakeholder dialogue is defined as "private and non-governmental stakeholders in negotiating labour, health and safety, and environmental standards, monitoring compliance with these standards, and establishing mechanisms of certification and labelling that provide incentives for firms to meet these standards". As also mentioned by the ILO (2016), the promotion and engagement in effective multi-stakeholders would become an integrated approach that contributes to the improvement of decent work in global supply chains. This approach could be taken place through "sharing good practices on innovative representation mechanisms such as multi-employer bargaining, national tripartite dialogue and the inclusion therein of enterprises and private employment agencies and contractors as well as MNEs and other relevant actors (ILO, 2016: 66). Importantly, The ILO would play an important role as a body which develops the capacity of participators at different levels. Relevant partners base on this capacity to represent and maintain their performance of protecting labour rights as well as addressing issues involving working conditions of labourers at the bottom of supply chains. Regarding multi-stakeholders social dialogue, it cannot deny the importance of international framework agreements (IFAs) which has been recognised as fundamental tools for supporting and protecting labour rights of workers in MNEs' global supply chains. The IFAs' development can be facilitated by the ILO in providing guidelines on minimum requirements for content as well as follow-up mechanism. These tools also strictly follow ILO labour standards and the MNE Declaration as fundamental references to facilitate relevant actors at different levels such as global, regional, sectorial and local (ILO, 2016). As claimed by six out of ten interviewees, there has been not any multi-stakeholder dialogue involving labour standards or workers' right in global supply chains taken place in Vietnam currently⁴⁷. Therefore, if multi-stakeholder dialogue is paid attention with active participation of all actors at different levels in the supply chain, there would be turning points in enhancing labour standards and improving working conditions in factories of supply chains in Vietnam.

5.4 Improving social protection policies

Social protection is an essential demand of workers and this would become more important in developing countries in where the living standard has not been high and stable. However, social protection policies have not been particularly focused

⁴⁷ workers' rights project researcher and manager, interview, 20 July 2017

by Vietnamese government; especially when informal force of workers in medium and small factories in supply chains reported that they have to take more time than normal workers to be able to access the complex administration procedure for access to social protection services as well as public services⁴⁸. According to Munster et al. (2014), the policy system of social protection in Vietnam has been more comprehensive; yet, the basic needs and rights of informal (short-term contracted) workers are still not recognised in the policy. Consequently, 90 per cent of these workers claimed that they cannot access services of social protection at their place where they are living. It is recommended national policies on social protection including social and health insurances, occupational health and safety, and other basic social and public services such as education, health care need to be more paid attention and improved. At the same time, the government should also encourage the social protection enforcement of migrant as informal workers. To achieve this goal, Vietnamese government should allow civil society to have a stronger role in processes of policy making and monitoring the social protection policies enforcement.

Conclusion

In summary, this paper demonstrated the main gaps in supply chain governance which are public governance, private governance and social governance, and investigated their complex mechanism leading to barriers in monitoring and enforcing labour standards from global level to local level. By paying attention to supply chains' labour practices in Vietnam, lacking enforcement of international labour standards, the violation of freedom of association and the rights to collective bargaining and lacking laws enforcement and implementation for social protection are the three mains issues in governance gaps currently happening in Vietnam. Working over-time under poor working conditions, lacking voice in labour right violation claims, not trust labour union and living with very low rate of minimum wage that not meet the basic needs are the worse consequences that millions of workers in Vietnam who work at the bottom of supply chains have been suffering in their daily life. Although Vietnamese government and MNEs together with relevant actors have constantly afforded to respond and improve measures for addressing these issues, labour rights violation and international labour standards disrespect have been widely existed in this country. Through a message said by Mr. Dan Ree, Director of the Better Work Vietnam, "Workers build the wealth" (International Labour Organisation, 2016: 16), the paper's author would like to express her respect to all workers in the world and desire to contribute her knowledge of the severe labour concepts combining with labour practices in Vietnam's supply chain to reader's better understanding about this global concern. This paper would be a potential content that supports further

⁴⁸ workers' rights project researcher in Oxfam Vietnam, interview, 20 July 2017

studies on labour governance in global supply chains, more specifically, in labour standards and workers' rights in Vietnam's global supply chains.

References

- [1] Amengual, M. (2010) "Complementary labor regulation: The uncoordinated combination of state and private regulators in the Dominican Republic", *World Development*, 38 (3): 405–414.
- [2] Bair, J. and Gereffi, G. (2001) "Local Clusters in Global Chains: The Causes and Consequences of Export Dynamism in Torreon's Blue Jeans Industry", *World Development*, 29 (11): 1885-1903
- [3] Barrientos, S. (2008) "Contract Labour: The 'Achilles Heel' of Corporate Codes in Commercial Value Chains", *Development and Change*, 39 (6): 977–990.
- [4] Better Work Vietnam (2011) "Garment Industry", 3rd Compliance Synthesis Report, Better Work, Better Work Vietnam, Vietnam.
- [5] Chan, A. (2010) "Strikes in Vietnam and China: Contrasts in Labor Laws and Diverging Industrial Relations Patterns", Conference paper, ABA International Labor and Employment Law Committee.
- [6] Do, Q. C. (2016) *Vietnam country study Labour Standards in the Garment Supply Chain*, Research Center for Employment Relations.
- [7] General Statistics Office of Vietnam (2017) Population and Employment, http://www.gso.gov.vn/default_en.aspx?tabid=774 (Consulted date: 30 July 2017)
- [8] Gramberg, B. V., Julian Teicher, J. and Nguyen, T. (2013) "Industrial Disputes in Vietnam: the Tale of the Wildcat," *Asia Pacific Journal of Human Resources*, 51 (2): 248-268.
- [9] Human Rights Watch (2009) "Not Yet a Workers Paradise: Vietnam's Suppression of the Independent Worker", Human Rights Watch Report No.2, New York.
- [10] ILO (2008) "ILO Declaration on Social Justice for a Fair Globalization", *19th International Labour Conference*, International Labour Organisation, Geneva.
- [11] ILO (2014) "Protocol of 2014 to the Forced Labour Convention, 1930", *103rd ILC session*, International Labour Organisation, Geneva.
- [12] ILO (2016) "Decent Work in Global Supply Chain", *Report IV*, International Labour Office, Geneva.

- [13] Kerkvliet, B. (2012) “Government Repression and Toleration in Contemporary Vietnam”, Southeast Asia Research Center Working Paper, City University of Hong Kong.
- [14] Lee, J. (2016) Global Supply Chain Dynamics and Labour Governance: Implications for Social Upgrading. ILO Research Paper No. 14, International Labour Organisation.
- [15] Martin-Ortega, O. (2016) “Modern Slavery and Human Rights in Global Supply Chains: Roles and Responsibilities of Public Buyers”, Policy Paper no.2, School of Law, University of Greenwich
- [16] Ministry of Labour, Invalids and Social Affairs (2012) “Labour Codes, General Labour and Employment Acts”, *Official Gazette*, No. 01-03: 4-78
- [17] Munster, F., Mubiru, M., Hoang, P. T., Dang, M. T., Nguyen, B. H. (2014) *Policy Brief: Access to Social Protection of Migrant Workers*, Hanoi, Vietnam Media Print J.S.C.
- [18] Nguyen, D. T., Pham. T. T .T and Nguyen, T. T. (2017) “Tien Luong Toi Thieu o Vietnam: Quan Sat va Nhan Xet”, Bai Thao Luan Chinh Sach, CS13, Hanoi.
- [19] O’Rourke, D. (2005) “Locally accountable good governance: Strengthening non-governmental systems of labor regulation”, Global Economic Governance Working Paper No.16, GEG, Oxford.
- [20] Skrivankova, K (2014) *Force Labour in the United Kingdom*, York, Joseph Rowntree Foundation.
- [21] U.S. Department of Labor (2012), Bureau of Int’l Labor Affairs, Office of Child Labor, Forced Labor and Human Trafficking, List of Goods Produced by Child Labor or Forced Labor (Sep. 26, 2012), <http://www.dol.gov/ilab/programs/ocft/2012TVPRA.pdf>.
- [22] U.S. State Department (2012) Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index> (Last Consulted: 20 July 2017)
- [23] Wilshaw, R., Do, Q. C., Fowler, P. and Pham T. T. (2016) “Labour Rights in Vietnam: Unilever’s progress and systemic challenges”, *Research Report*, Oxfam Vietnam
- [24] Worker Rights Consortium (2013) Made in Vietnam Labor Rights Violations in Vietnam’s Export Manufacturing Sector.
- [25] World Economic Forum (2016) “Shared Responsibility: A New Paradigm for Supply Chains”, Global Agenda Council.