



Labor relations in Vietnam in the context of industrial revolution 4.0: Situation and solutions

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Abstract

The article analyzes the relationship, the legal framework governing the relationship between employees and employers in the context of the industrial revolution 4.0. The analysis results show that it is necessary to apply synchronously many solutions so that Vietnam can make positive changes, contribute to ensuring workers' rights and interests, and reduce labour disputes and strikes. So, improve labour productivity investment environment, promoting production and business activities of enterprises in the context of fierce competition for labour and the widespread influence of the industrial revolution 4.0.

Keywords: industrial revolution 4.0, labor productivity, workers, employers, labor relations

Introduction

The Labor Code is the legal basis governing the relationship between the employee and the employer and the social relations directly related to the labour relationship. According to the provisions of Clause 6, Article 3 of the Labor Code 2012, "Labor relationship is a social relation arising in the hiring, employment, and salary payment between the employee and the employer". Unlike other commonly traded goods, labour-power has an object of purchase and sale of this relationship that cannot exist independently, but is always associated with the subject of labour. Within an enterprise, the labour relationship is a tripartite relationship: between employees; representative of employees is the grassroots trade union; The employer and the employer's representative in the implementation of the provisions of the labour law and the enterprise's commitments on labour contracts, collective labour agreements, wages, social insurance, working hours, rest time, occupational safety and health and other conditions to ensure the rights and interests of both parties at the enterprise. The 4.0 revolution can create greater injustice, mainly posing the risk of disrupting the labour market. When automation replaces people in the entire economy, workers will be redundant, increasing the gap between profit and capital invested and profit compared to wasted labour. On the other hand, overall, stable jobs and higher incomes are likely to increase after technology gradually replaces people. So how can we best adapt to the labour market and harmonize the interests of employees, grassroots unions and employers; ensure good jobs and social security. What are the key, core and priority issues for developing industrial relations in the context of Industry 4.0? Those are the questions that the authors will answer in their research.

Some theoretical issues about labor relations

According to author David Macdonald (1996), Labor relations are the individual and collective relationships between employees and employers in the workplace and arise from work and other relationships. Relations between workers and employers at the national and sectoral levels and their interactions with the state. Such relationships

revolve around legal, economic, sociological and psychological aspects, including such matters as recruitment, hiring, placement, training, discipline, promotion, termination, overtime, bonus, profit sharing, education, health, safety, entertainment, accommodation, working hours, rest, leave and other welfare for the unemployed, sick, accident, old age and disabled. Regulations in Clause 6, Article 3 of the Vietnam Labor Code 2012: "The labour relationship at the unit or enterprise is the social relations arising in the hiring, use of labour, and salary payment between employees. Workers and employers". According to Clause 5, Article 3 of the 2019 Labor Code, it is noted that: Labor relations are social relations arising in the hiring, use of labour, and salary payment between employees, employers, representative organizations of the parties, competent state agencies. Labour relations include individual labour relations and collective labour relations. According to the Labor Relations Textbook of the author group Vu Hoang Ngan, Vu Thi Uyen (2016) said: Labor relations are all relationships related to rights, obligations and interests between the parties involved labour process. From the above opinions, the authors agree that: Labor relationship is the relationship between employees, the collective of employees with the employer and the representative organization of the employer, established based on labour law, includes labour standards, mechanisms for establishing and operating labour relations, institutions for settling labour disputes, and the roles of parties in labour relations. Thus, the content of the concept of labour relations is understood in the following basic ideas: Labour relations are social relations arising in hiring, employment, and paying wages between employees and employers. Labour relations are caused by many interacting subjects, including employees and their representative organizations, employers and representative organizations of employers, and state agencies. Subjects of industrial relations interact through consultation, dialogue, negotiation, all form the operating mechanism of labour relations. It can be a two-party mechanism (employees, representatives of employees and employers) or a tripartite mechanism (State - employer representative - employee

representative). The fourth industrial revolution that is taking place since the 2000s is called the digital revolution, through technologies such as the Internet of Things (IoT), artificial intelligence (AI), virtual reality (VR), interactive virtual reality (AR), social network, cloud computing, mobile, extensive data analysis (SMAC)... to transform the entire natural world into the digital world. So in 2013, a new keyword, "Industrie 4.0," emerged, derived from a German government report talking about a high-tech strategy, computerization of the manufacturing industry without the need for technical assistance human participation. The 4.0 revolution or industry 4.0 is the current trend of automation and data exchange in production technology, including physical networks, the Internet of things and the computing cloud. The essence of the 4.0 revolution is based on digital technology and integrates all intelligent technologies to optimize production processes and methods; Highlighting the technologies that are and will have the most significant impact are 3D printing technology, biotechnology, new material technology, automation technology, robotics.

The history of scientific and technological progress in the world has witnessed many revolutions in which human intelligence is the master, leading the innovation of machines to increase productivity, bring more values to society, and make positive contributions to humanity's physical and mental development. However, the fourth revolution is a successor to the results of the previous three revolutions with the digital world and creates a sweeping change in the world economy in the world. The three aspects of velocity, scope and system, witness the decline of developed countries based mainly on resource exploitation, strengthening the leading role of countries that emphasize innovative technology. The difference between the 4.0 revolution and three previous revolutions is that the 4.0 revolution is not associated with the birth of a specific technology but is the result of the convergence of many different technologies. The focus is on nanotechnology, biotechnology and information and communication technology. Revolution 4.0 is rooted in the 3rd revolution, which brings together technologies, blurring the physical, digital and biological lines. Industry 4.0 has many vital applications, namely in 3 main areas (biotechnology, digital and physical). The core elements of digital in the 4.0 revolution are artificial intelligence, connected things and big data.

Current status of labor relations in Vietnam

In Vietnam, a synchronous legal system on labour and labour relations has been established, including Labor Code, Trade Union Law, Employment Law, Vocational Education Law, and Social Insurance Law. Association, the Law on Occupational Safety and Health, mainly the 2012 Labor Code, with a system of Decrees and guiding circulars, contains contents on labour relations that are adjusted in the direction of determination. Clearly define the rights and responsibilities of each party in entering into a labour contract, improve the role and position of trade unions, especially grassroots trade unions in labour relations, strengthen dialogue and information sharing. Information between parties at the workplace, expanding the scope of negotiation, signing collective labour agreements at the enterprise group level, sector level, strengthening the role of institutions involved in settlement of labour disputes, thereby creating more favourable conditions for the parties

in the enterprise to establish the contents of the labour relations associated with practical requirements. There have been many incomplete and synchronous contents among legal documents in implementing the law on labour relations. However, labour relations in our country are forming and developing, so, understandably, the parties have not fully realized the importance of this institution. On the other hand, the order and procedures for handling labour cases are still complicated; the tripartite mechanism has not been specified by law; The legal framework for representative organizations still has shortcomings, such as The legal basis for the employer's representative organization is not enough and unclear. In addition, the Trade Union Law and the Labor Code have been promulgated for a long time, and some problems are no longer consistent with reality. State management of labour relations is still inadequate as the propagation and dissemination of labour law is still limited; the inspection, examination and supervision of the implementation of the law on labour relations have not yet met the requirements.

In addition, the state management of labour relations has not focused on one focal point, and the supporting institutions have not been effective and working effectively (conciliation, arbitration, adjudication). The consultation mechanism is not strong enough and not on par with the development (a tripartite mechanism), leading to many limitations and difficulties in inspection and examination related to labour relations. Violations of labour relations according to the provisions of the labour law can be sanctioned. However, the actual implementation of the labour law shows that violations of labour relations are relatively common, mainly violations on signing, terminating labour contracts, working hours, work, salary, social insurance. Besides, the provisions of the law are not enough to deter and prevent violations. According to the provisions of Article 46 of the Law on Handling of Administrative Violations 2012, Article 37 of Decree No. 95/2013/ND-CP (Regulations on sanctioning of administrative violations in the field of labour and social insurance): The maximum monetary penalty in many cases does not cause significant economic disadvantage for the violator. So it is ineffective in preventing violations (for example, enterprises can avoid paying social insurance hundreds of millions of dollars). Even billions of dong, but the sanction for violations is only a few tens of millions, which is too light). Regarding the labour relationship between employers and employees in many enterprises, it has not been implemented following the provisions of the labour law and the commitments agreed upon with the employees such as no salary increase years for the employee, or it may be just a low increase or the employee's overtime is quite large. Besides the overtime pay for the employee has not been fully implemented, the issue of contract termination labour in some enterprises is still arbitrary and lacks legal grounds; Enterprises apply "draconian" management measures. Many enterprises have signed collective labour agreements, which are only counterproductive. As for workers, most of them come from rural areas without basic training, propaganda and education have not been paying attention, so their understanding of policies, laws, sense of discipline. There are still many limitations in labour and industrial behaviour, leading to failure to properly exercise rights and obligations when participating in labour relations; labour disputes and strikes

are not under the law. An employment contract is the primary and most common legal form of an employment relationship. The Labor Code of Vietnam in 2019 clearly states: "The labour relationship at the unit or enterprise is the social relations arising in the hiring, employment, and salary payment between the employee and the employer." There are two main actors in the industrial relationship, namely employees and employers (or their representatives). However, an equally important "person" who is considered an arbitrator is the State. Although it does not directly interfere in economic activities, it has a significant influence on the objective economic laws to take effect.

Impact of industrial revolution 4.0 on labor relations in Vietnam

Labour relations in the enterprise are the parties' commitment to employment, wages, bonuses, assurance of occupational safety and health, and regimes of social insurance, collective welfare, Training. They are moreover fostering, improving skills, understanding and practice of law. Labour relations are directly related to the frustrations, conflicts of the parties involved, strikes and collective stoppage of employees. Employers and trade unions are responsible for educating employees about investing in skills through dialogue with policymakers to protect their rights and interests better. Benefits for both parties are the collective employees in the enterprise because these are weak in the labour relationship. Faced with the challenges of industrial revolution 4.0, organizations of both sides need to work together to exchange, share cooperation, and promote a mutually beneficial approach. The impact of the industrial revolution 4.0 on the relationship between employees or labour collectives with employers, according to the authors, should pay attention to the following three core issues: Firstly, it is necessary to put labour relations in the context of globalization and technological development of the industrial revolution 4.0, which has been affecting many changes in the structure of the labour market, scientific progress development technology based on the internet of things, collaborative robots (work with people), 3D printing and cloud computing, and the emergence of new business models. These scientific achievements raise new problems for industrial relations and require a new approach to solving the problem of industrial relations, especially to consider. Moreover, emphasize the role of the State as a policy-making agency and the role of the two main actors (employees/or organizations representing workers and employers) to ensure the legitimate rights and interests of related parties. Among the benefits, we think first of all jobs, then and at the same time better income for workers. Secondly, while delineating the role of each actor in the context of industrial revolution 4.0, it is necessary to pay attention to the actual capacity of the parties to have a development strategy suitable to the capabilities and qualifications of each side. The short- and medium-term strategy should pay attention to the role of social dialogue, collective bargaining based on goodwill, and sharing a shared vision of decent work for both employers and employees. Employees must ensure that employees have suitable and sustainable jobs and that employers receive adequate benefits to stimulate them to invest in the business. Third, the highest goal of the parties is to build a progressive, harmonious and stable labour relationship at all levels (from enterprises, industries, even countries). Its

content includes a positive attitude and spirit of cooperation in solving problems to help businesses run smoothly, employees are well cared for, and conflicts of interest are minimized. Currently, there have not been many in-depth studies comparing the impact of the industrial revolution 4.0 on the actual operation of industrial relations in particular and its impact on the reform process of industrial relations. Each country has a history of formation and development of labour relations associated with laws, policies and the development of specific institutions regulating labour relations. Besides, it is necessary to consider building a harmonious labour relationship with employees as an important management goal. Employers have a responsibility to take care of all aspects of employees, which is a responsibility and a moral. Business owners need to consider employees as an opportunity to create added values and create the wealth of the business. Therefore, employees must be taken care of so that they can wholeheartedly and wholeheartedly stick with the enterprise, working their best for the successful and sustainable development of the business.

Improving labor relations in Vietnam in the era of industrial revolution 4.0

In order to contribute to promoting healthy industrial relations, it is necessary to perform synchronously and flexibly. In the context of industrial revolution 4.0, we propose the following solutions: It is firstly, perfecting institutions, labour laws and labour relations more consistent with international labour standards. It is necessary to continue to improve institutions and laws in line with the roadmap and plan for ratification of conventions of the International Labor Organization (ILO) and clearly define the rights of workers and employers. In addition, it is necessary to recognize and respect the right to participate in the organization and the right to collective bargaining of the parties in the labour relationship. At the same time, perfecting institutions on labour dispute settlement, proceeding to establish specialized agencies in localities with many enterprises and concentrated industrial parks; clearly define the role of state management agencies in supporting the promotion of labour relations that are consistent with ILO labour standards and international commitments in new-generation FTAs. Second, strengthen the role of state management in labour relations and strengthen the system of state management agencies on labour relations from the central to grassroots levels to perform the state management function on labour relations. Industrial relations, while performing well, have the function of supporting the development of industrial relations. At the same time, continue to build and consolidate the entire organizational structure of state management agencies to receive registration and manage workers' organizations and employers' organizations. Third, promote dialogue, negotiate the conclusion of collective labour agreements, and encourage the parties to maintain regular dialogue to strengthen cooperation between employees and employers and build a Friendly and healthy working environment. At the same time, in order for the grassroots trade union to proactively propose and the employer to accept it in good faith, willing to negotiate and sign a collective labour agreement, discuss issues of mutual concern.

Fourth, enhance the role and responsibility of the representative organizations of workers, especially the grassroots trade union, to promote the advantages of well-performing the mission in representing and protecting the rights and interests of employees workers. Trade unions must innovate, continue to take the development goals of each enterprise as the driving force, take care of the material and spiritual life, take care of the material and spiritual life, and protect the legitimate rights and interests of the employees. Trade union membership is a central and cross-cutting task; in order to protect the legitimate rights and interests of employees, and at the same time create conditions for enterprises to do business stably and develop; consider the profits of enterprises to be contributed by workers, who well implement ILO labour standards, and at the same time maintain socio-political stability. Fifth, perfect the organizational system, functions and tasks of the employer's representative organization in labour relations to ensure the ability to protect the legitimate rights and interests of the employer, and at the same time suitable with the socio-economic characteristics of Vietnam. In addition, it is necessary to promote and promote the development and application of 4.0 technology in management, regularly propagate to organizations operating in Vietnam and the workforce and businesses operating in Vietnam. Vietnam's territory is well aware of the legal provisions and guidelines and guidelines of the Party and the State of Vietnam. Sixth, continue to improve the institutions on labour dispute settlement to consolidate and perfect the organizational model and operating mechanism of the current labour dispute settlement institutions. We are supplementing the roles, functions and duties of the Labor Arbitration Council, ensuring the resolution of individual and collective labour disputes. At the same time, study and build a pilot agency in charge of settling labour disputes in several provinces and centrally-run cities with the role of both an agency in charge of conciliation, arbitration and mediator agencies to support and promote dialogue and collective bargaining to ensure harmonious, stable and progressive labour relations. Seventh: building, consolidating and perfecting the trilateral consultation mechanism on labour relations. Clearly define the model of the organization of tripartite consultation at central and local levels, ensuring that it performs well the advisory role for the Government and the Prime Minister in formulating and promulgating policies on relations. In addition, it is consulting and supporting partners in implementing the provisions of the law on labour relations, promoting the mechanism of dialogue and negotiation for equality and harmony between the parties in the labour relations. Eighth: continue to implement housing projects and social and welfare works, including schools, kindergartens, hospitals, amusement parks, entertainment and cultural institutions, sports, serving workers in industrial parks, and promoting and consolidating industrial relations. Along with the above measures, to strengthen the relationship between employees and employers in the era of industrial revolution 4.0, it is necessary to continue to organize arbitration and reconciliation work in the current period. Solutions and improve the operational capacity of these organizations through the training and coaching of staff working in conciliation and arbitration. Conciliation organizations should actively establish a network to provide information on labour disputes in industrial parks and export processing zones and contact enterprises to conduct

conciliation and advice. Industry invites the participation of labour arbitration. In addition, they are promoting research, selective reference to treaties, international conventions, international practices and experiences of countries around the world on labour relations to form a model of labour relations. Activities suitable to our country's conditions, meeting the requirements of international economic integration.

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