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Small Victory, Systemic Problems

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Workers won a small victory: an official Prime Minister's announcement published in newspapers on 2 April 2. The government proposed to the law-making National Assembly to amend Article 60 of the 2014 Law on Social Insurance in their upcoming 20 May meeting.

They propose a law that would be "flexible" in providing workers with two choices: getting lump-sum social insurance payments when they stop working, or waiting until they reach their respective retirement age (60 for men and 55 for women) to get their monthly pension after accumulating 20 years of social insurance payments.

Recent labor history helps in understanding Vietnamese labor-management-state relations. Strikes against state policies have happened before. The 2005-6 strike wave—thinly veiled in FDI factories—ended up forcing the state to legislate and FDI factory owners to comply with a 40 per cent minimum-wage increase (over a frozen minimum wage in the previous seven years). This was followed by the 2007 strike waves which institutionalised annual cost-of-living increases and rising minimum wages in domestic sectors (state and private).

Strikes against both foreign and domestic management practices of fleeing the factories and/or expropriating workers' contributions to the general social insurance funds date back to 2010. Worker discontent and strikes on the loss of their social insurance benefits (including *both* social insurance and health care coverage),^[1] and the fear of a bankrupt Social Insurance system as debts continue to mount nationwide, had caught the state media's attention and surfaced in public debates in 2014, including in the Vietnamese Parliament. ^[2] So this 2015 strike is not a copycat of the Yue Yuen worker strikes in China as argued by one pundit.^[3]

One needs to know the multiple-level of hierarchy in the global supply chain in order to pin down management responsibility to workers. In this case, at the top of the power hierarchy are brands like Nike, Adidas, Converse, Timberland, New Balance, and Ikea.

These companies place an order with the Taiwan-listed Pou Chen Group, a vendor who then places orders with its subsidiary, the Chinese shoemaker

Yue Yuen Industrial Holdings Ltd. Yue Yuen places orders with Pou Yuen, a supplier that employs over 90,000 Vietnamese workers who make sports shoes and apparels for the top buyers. Pou Yuen also has its subsidiaries in Tien Giang Province (southwest of Binh Tan district), where there were many unreported strikes also against the proposed new social insurance law.

Meanwhile, the state has failed to enforce its social insurance laws, unable to discipline fleeing and shirking owners, and suffering from rising debts. In all fairness, the proposed new social insurance law could have worked for workers' long-term retirement benefits in a system that duly receives contributions from labor and management. But the reality is lopsided: workers contribute; management doesn't, without penalty from the government. Already stated in the 2014 draft of the social insurance law revisions, Article 60 rules out workers' ability to take out one lump-sum payment when they stop working *before* reaching their retirement age.

The lack of protest back then was probably due to the vague legal language and more pressing concerns (such as legal retirement ages). In a 2014 draft, Article 60 does not explicitly stop lump-sum payments, but implies this inability in a vague statement: "*Accumulating the whole period that workers contribute to the social insurance funds.*" This means that the funds will be available to workers only when they reach their legal retirement age, not before.

It is preposterous for Pou Chen (the Taiwan-listed vendor) to claim that "*the strike concerned government policy and it had no authority to intervene beyond facilitating dialogue.*"^[4] The strike's cause, while not explicit, relates to management shirking its social insurance responsibility to its workers. In this case, capital successfully transfers responsibility to the state. "Facilitating dialogue" is a lip service that does not get at the root cause of this systemic problem.

Meanwhile debts are mounting. According to the vice president of the Vietnamese Social Insurance office, Mr Nguyễn Văn Mạnh Khôi, as of 15 April 15, the total debt is 5,500 billion VND [about USD \$2.6 billion], of which 700 billion VND [about USD \$333 million] is completely lost due

to fleeing owners (mostly foreign) and factory bankruptcies leaving thousands of workers stranded with their back pay unpaid.[5]

The total figure for all of 2014 is even more staggering; according to the Vietnam General Confederation of Labour (VGCL) President, Mr Nguyễn Ngọc Tuấn, companies still owed over 7,000 billion VND [about USD \$3.3 billion] on their social insurance contributions (for both social *and* health benefits): a big loss for workers who diligently paid their share into this system.[6]

The situation has gotten worse in 2015: in a survey of 1,200 enterprises nationwide, 100 per cent owed social insurance contributions to the state funds.[7] But workers have complained that Pou Yuen deducted money from their salaries for social insurance for three months but failed to pay it to the state social insurance office: a common violation that led to the looming insolvency of the social insurance funds.[8]

Pushed by this phenomenal collective action, the joint delegation—including the Ministry of Labor –Invalids and Social Affairs (MOLISA), VGCL, the Social Insurance Office, the Government Inspectorate, and the Central committee of Fatherland Front—proposed to take violating companies to court for avoiding to pay into the social insurance funds and expropriating workers' contributions. This initiative may sound good on paper, but is incredibly difficult to implement with an ineffective legal system in Vietnam.

How did this strike happen?

On the morning of 26 March, after listening to the Pou Yuen enterprise labor unions explain the meaning of the revised social insurance law, especially Article 60 (which prevents workers taking out a single lump-sum social insurance payment upon leaving work), workers started to strike. A group of male workers went around the factory to mobilise other workers by turning off the electricity so all the machines were shut down and the shop floor was completely dark. The first 500 workers who struck went around this huge factory to mobilise thousands of other workers to join the strike. At this point, Pou Yuen shut down the factory and ordered over

80,000 workers to stop work. So, thousands of workers went outside the factory gate to participate in the strike, marching peacefully. During the following days, representatives from Binh Tan labor federation went to talk to workers, continuing to vouch for the new law. But workers refused to listen to their explanation.

For five days (26-30 March), thousands of workers took turns marching peacefully on National Route 1A—a major thoroughfare, formerly known as the Korean Highway (xa l_cη_{ll} —Pc||6i H |an), built before 1975 by the South Korean army engineer corps—completely blocking all the traffic near the freeway entrance. This effective strategy got both national and global attention. At the beginning of the march, some photos showed workers carrying banners saying: *“Pou Yuen workers disagreed with the new social insurance law... Pou Yuen workers called for the elimination of the new social insurance law.”*

On the sixth day, I went to the site and no longer saw any banners. But the show of force was intimidating. Police presence was everywhere and prominent. I saw all types of police—traffic, special force, secret police, local militiamen, voluntary youth—blocking the gate and intersection, and surrounding the workers to reign them in.

A roving company loudspeaker in an open truck was moving in front of the gate, trying to convince workers to return to work: *“Brothers and sisters, please return to the factory to work. If not, please go home with your families. Do not block the traffic on National Route 1A.”*

According to some newspaper reports, the police did detain some workers, perhaps those who they thought were leaders of this strike. Still, National Route 1A was blocked off and traffic had to be detoured to other side streets.



Workers demonstrated a sophisticated knowledge about the two versions of the social insurance law (2006 vs 2014). They also knew that even when the local unions explained the new social insurance law to them in March 2015, the 2006 law had already expired, *de facto*.

Here is why: Article 55 in the 2006 social insurance law requires a one year wait before workers can actually receive one lump-sum social insurance payments. With the 2014 law, effective on 1 January, 2016, even if workers, in March 2015, wanted to declare their preference for one lump-sum payment under the old 2006 law, they already missed the boat because the one-year wait time will take them to March 2016 when the new law would be already in effect. Strikers effectively galvanised the central level of VGCL and MOLISA to propose amendments to this 2014 law to provide options for workers: either receiving a one-time lump-sum amount when they stop working, or waiting until their retirement age to receive a full pension.

Empty promises are not enough to workers: they demanded an official document in response to their demands before they would end their strike. In one of the meetings with workers, a female worker said to state officials: *“in order for the workers to have peace of mind to return to work, there must be an official document sent to all workers, clearly stating that workers can choose either taking out one lump-sum social insurance*

payment like before, or saving it as monthly pension when they reach their retirement age.”[9]

This collective message was supported by the VGCL and heeded by the Vice Minister of MOLISA (Mr Do Hữu Minh Sơn) who wrote an urgent message to the Prime Minister to propose an amendment to Article 60 of the 2014 social insurance law. This in turn led to the government’s acquiescence to this request, announced publicly on 2 April, 2015.

What were the mobilising factors? How did the strike spread beyond Pou Yuen?

Social and cultural factors brought workers together in this collective action. Native place was one of the mobilising factors: migrants who come from the same villages and hometowns tend to stay together in rental units near the factory.[10] Commuting to work is another factor. Housing in Pou Yuen area cannot accommodate 90,000 workers, so thousands of Pou Yuen workers must commute daily in hundreds of company busses between Tien Giang and Binh Tan district (a one-hour ride each way). This may explain how this strike spread to Tan Huong Industrial Park (in Tien Giang province).

Moreover, capital is mobile: there are subsidiaries of Pou Yuen, located in Tan Huong Industrial Park; all belong to the “mother” Pou Chen Group.[11] But consistent with Barbara Silver’s argument, I also found that *where capital goes, conflict goes*.[12] It is possible that Pou Yuen workers spread the word to workers in Tan Huong Industrial Park. Most workers also have mobile phones, so communication with each other is easy. There were unreported strikes *outside* of Pou Yuen area, such as in Tien Giang and Long An provinces several days *after* the Pou Yuen strike.[13] Even after the Prime Minister’s concession to the Pou Yuen workers’ demands, strikes in Tien Giang and Long An continued for another week. [14]

These strikers’ perseverance is heart rendering. Observing these workers—many covered their faces in masks to avoid the heat and pollution, conveniently hiding their identities—still in action on day six under the scorching heat of 37 Celsius (almost 100 degree Fahrenheit), I was deeply

moved by their strong resolution and clear sense of solidarity to take care of each other. Groups of workers distributed ice-water to their fellow workers, still with a smile on their faces, hope beaming through their eyes, with the police surrounding them. Many of these strikers commuted from Tien Giang province. It is clear that the use of mobile phones helped spread the word.



One of main causes of workers' demands for a lump-sum amount to make a living is the exploitation on the assembly-line that squeezes them to the last drop, *way before* the official retirement age (55 for women and 60 for men).

The experience of these workers exposes the consequences of a neoliberal system: they grow old quickly after only 20 years producing for the global market. A female worker said:

"Now, the majority of workers were very confused and concerned about the [impacts] of the new social insurance law, as well as fearing about being laid off when companies need to shore up their profits ruthlessly. We go on strike because we don't think that this policy is appropriate for poor workers. There are many reasons why we want to retire early: no one wants to stick around heavy/physically strenuous work for a long time. After reaching 40 years of age, most workers think about withdrawing

social insurance payments to return to our villages to make a living. If we have to wait until [the official] retirement age to receive our pension: it is way too long!"

Most are migrant workers and many want to return to their home villages at about 40 years of age. A 33-year old female migrant worker from Nghe An—a north central province—said:

"We passionately want to be able to withdraw one lump-sum as per the old social insurance law [Article 55 in the 2006 social insurance law] because the old law is more appropriate for the majority of workers... When we grow old, we only want to live in our villages, and have not enough energy and health to travel to Ho Chi Minh City to wait and wait and wait for our social insurance payments."

An arduous cycle of work life robs these workers of their health prematurely. Here is why: wages are *not* livable, which necessitates workers to work overtime to make ends meet. Heavy work pressure and its fast pace exacts a toll on their health: physical exhaustion sets in when they reach their early 40s.

One 30 year-old female migrant worker said: *"With the wage of 3.48 million VND/month [about US\$ 167], every month I pay 380,000 VND [11 per cent of her salary] to the social insurance fund. If I work for 10 more years until I reach 40, I no longer have good health [enough energy] to work. At that point, I like to take out my social insurance payment in one lump-sum so I can return to my home village to open a small shop to sell sundries. But, then, if I have to wait for 15 more years [55 is the official women's retirement age] to receive a monthly pension, then what do I do in this 15-year-period in order to survive?"*

I heard and read about many similar laments of workers.

Workers do know that early withdrawal of their social insurance funds before their real retirement is a short-term benefit. But they have very few choices for their survival and that of their families. Most want to return to

their hometowns to start their own businesses there. Thus, they need to take out a lump-sum of social insurance payment, using it to set up shop. They also need to pay for family illnesses (very expensive due to a broken public healthcare system in Vietnam), to get an education or vocational training (not truly supported by an underfunded public educational system), and to invest in some means of production (such as a buffalo or farm implement, a tailoring shop, or a small plot of land for fruits and vegetables). A worker said: *"The last time I withdrew my social insurance payment—about ten million VND [about US\$ 500]—to pay for my son's hospital bills. Honestly, I regretted having to do that because I like to save it up for my old age pension, but I had no choice..."*

Another reason for early withdrawal is the lack of trust of management. There is a history of fleeing and recalcitrant owners and of the ineffective social insurance system that cannot protect them, as explained above. Workers cannot trust employers to pay into the social insurance system and question the solvency of the social insurance funds when they reach their retirement age. Rampant fleeing (mostly foreign) owners since 2010 and rising social insurance debts show that workers' concerns are legitimate.

Moreover, the rule of law does not have workers' interests at heart. Article 60 of the new social insurance law protects the interests of the state and management, not of workers.

A worker said: *"we don't like this new law because we are worried about (not having enough) foods and clothes for our family. Our salary is not enough for our family to live. We often retire early. Most of us are direct production and manufacturing workers. So when we migrated to the cities, we all want to save up some money to buy a buffalo, a cow, a piece of land... That's why we assume that the lump-sum social insurance payment is our "savings," readily available to us when we want to withdraw it. Therefore, when we heard about the new social insurance law [not allowing a lump-sum payment], we reacted by striking."*

Other workers lamented: *"Very few direct production workers [manual labor] like us can work until [the official] retirement age. When returning*

to our home villages, how can we live while waiting for our monthly pension?"

These concerns reflect the general feelings of migrant workers toiling on the factory floor of these suppliers for big corporations of consumer products such as shoes, clothes, and electronics.

Conclusion

This strike of more than 90,000 workers is different from previous strikes in that workers were able to sustain it for a week with effective and peaceful strategy (marching and blocking a major thoroughfare), which effectively pressured the state to amend its new social insurance policy.

While workers won a small victory, systemic problems remain. Workers are squeezed out of their youth for consumption in the Global North. They fought to seize some seed money for their survival, anticipating the vulnerabilities and uncertainties they will face in their old age. The public system may not be there to assist them.

Other troubling trends emerge related to young workers migrating to work in factories in metropolitan areas. First, migrant workers (mostly females) have become younger in the export processing zones (EPZs), industrial zones and joint-ventures: between 18 and 30 years of age. Second, this increase in the supply of young Vietnamese workers means that they leave school earlier, resulting in very few marketable skills upon their leaving factory work.^[15]

Long-term problems remain. The Vietnamese society ends up paying for these poor workers' social insurance and health care when they get to their retirement age. These workers are bound to face vulnerabilities, including fatigue from excessive work, poor health, lack of proper education and marketable skills, and a disconnection from the social insurance system, not of their own making.

In a sense, the Vietnamese society has been subsidising the owners/capitalists. The rule of law is in alliance with management's interests (with unpunished violations of not fulfilling social insurance responsibility to their workers) and the state's interests (due to the looming insolvency of the social insurance system), at the expense of the workers in the long term. The promised amendment only happened as a response to worker solidarity. Workers had pushed the envelope, but their gain is only short term. It remains to be seen whether the VGCL initiative to incriminate management violations has any "teeth" to replenish the badly underfunded social insurance funds to do justice to workers' hard work and contributions, for their long term well-being.

There is one bright light in this new labor development. In the literature of labor movements, I found a new twist in the case of Vietnam: cultural bonding has engendered a rise of dynamic labor movements in which workers' bargaining power and organising skills—based on direct action such as this one-week strike of more than 90,000 workers—can disrupt the flow of production, raising the vulnerability of capital.

But as responsible and conscientious consumers outside of Vietnam, how can we break this vicious cycle of poverty and exploitation, allowing the workers to move into a decent, sustainable *and* secure life? The answer lies in our conscious actions to hold the key stakeholders—in the global supply chains—responsible to these poor workers.

In particular, we need to demand *transparency databases* which can report on specific violating stakeholders who do not comply with basic labor standards. Shoe brands—such as Adidas, Nike, Converse, Timberland, New Balance and retail stores (such as Ikea)—who buy products from Pou Yuen should fulfil their *corporate social responsibility* to workers. This can be done by pressuring their vendors (such as the Pou Chen Group) who have tremendous power over their suppliers (such as Pou Yuen shoe factory in Binh Tan District and their subsidiaries in Tien Giang Province) to demand their mandatory contributions to the Vietnamese social insurance funds.

Ultimately, the brands and the vendors can re-allocate a small percentage of their profit margins to make a big difference in workers' lives: by raising

their wages to livable levels—*above* the minimum wage—and reflecting the high costs of living in the cities. It is within their power to discipline their suppliers if they fail to contribute their parts to the social insurance funds for the workers.

The state can do its part by firmly disciplining companies that shirk their social insurance contributions and expropriate workers' contributions, and by truly enforcing their rule of law to prevent fleeing owners. The unions can strengthen their bargaining and organizing skills by joining forces with local and global NGOs to truly represent worker rights and interests.

The systematic problems have severe long-term impacts on Vietnamese society. And the stakes are too high for all involved to keep the status quo.

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References:

[1] See Angie Ngoc Tran, *Ties That Bind: Cultural Identity, Class and Law in Flexible Labor Resistance in Vietnam*, Southeast Asia Program (SEAP), Cornell University Press, 2013

[2] Vietnamese workers on strike: an interview with Angie Ngoc Tran, 23 June 2014: <http://newsletter.cineresie.info/2014/06/23/vietnamese-workers-on-strike-an-interview-with-angie-tran-ngoc/>

[3] Mike Flanagan, "Factory strike exposes Vietnam worker vulnerability," *Just-Style*, April 10, 2015. He was also incorrect to claim that Article 60 limitation did not exist in the 2014 draft. Please read the rest of this article.

[4] It is cited in: "Vietnam Factory Workers in Rare Strike to Protest New Insurance Law." 2015-03-31, <http://www.rfa.org/english/news/vietnam/strike-03312015162305.html>

[5] <http://bhxhtphcm.gov.vn/chi-tiet-tin-tuc/656/tong-so-no-bhxh-ca-nuoc-la-5500-ti-dong/>

[6] <http://nld.com.vn/cong-doan/de-xuat-dua-toi-tron-dong-bhxh-vao-luat-20150408220551515.htm>

[7] D. Cuong, "Chua Lang Nghe Y Kien Cua Nguoi Lao Dong," *Tuoi Tre*, April 11, 2015. Another article in *Thanh Nien* states that in 2014 the state inspectorate team found that 100% of 1,261 enterprises inspected owed social and health insurance, amounted to over 1,440 billion VND. T.H. "100% Doanh Nghiep Duoc Thanh Tra Deu Sai Pham ve Bao Hiem Xa Hoi," *Thanh Nien*, April 9, 2015.

[8] Vietnam Factory Workers in Rare Strike to Protest New Insurance Law, 2015-03-31, <http://www.rfa.org/english/news/vietnam/strike-03312015162305.html>

[9] All workers' quotes are from various newspapers, such as *Lao Dong*, *Tuoi Tre*, *Thanh Nien*, and *Nguoi Lao Dong*.

[10] This is consistent with my overarching argument in *Ties That Bind*, 2013.

[11] On the Pou Chen Group website, it says: "In 2011, the Group established its shoe factories in Tay Ninh and Tien Giang." <http://www.pouchen.com/index.php/en/about/locations>

[12] Beverly Silver, *Forces of Labor: Workers' Movements and Globalization Since 1870*. Cambridge, New York: Cambridge University Press. 2003.

[14] There was also a strike in Ching Luh factory in Long An, but it was not reported. There were strikes in this factory in the past.

[15] Please see Angie Ngoc Tran and Irene N. J. Lund: "Globalization, industrialization, and labor markets in Vietnam," in *Journal of the Asia Pacific Economy*, Volume 20, Issue 1, 2015, Special Issue: Globalization,

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