

THE IMPORTANCE OF TRADE UNIONS IN PROTECTING THE LEGAL RIGHTS AND INTERESTS OF WORKERS

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Abstract

Trade unions are large socio-political organizations of the working class and laborers in Vietnam (collectively referred to as workers), voluntarily established under the leadership of the Communist Party of Vietnam. They are members of the political system of Vietnamese society and serve as socialist schools for workers. In this article, we will explore the role of trade unions in protecting the legal rights and interests of workers.

Keywords: Trade unions, workers, legal rights and interests.

1. Introduction

The development path of the multi-component commodity economy oriented towards socialism has unleashed the potential of the country and propelled the development of the productive forces. However, the downside of the market economy has generated many contradictions compared to the nature of socialist society. These include the trend of rich-poor disparity, the worship of money, cutthroat competition among enterprises, and the emergence of individualism within the market mechanism. This creates opportunities for some to pursue personal interests at the expense of collective and community interests, posing threats to the rights and legitimate interests of workers.

Therefore, the Party and the State have established various agencies and organizations with authority to protect the rights and legitimate interests of workers. Among them, trade unions are closely related organizations that carry out practical and effective activities to safeguard the rights of workers.

To help readers understand more about trade unions, within the scope of this article, the author will discuss the organization and activities of trade unions, focusing on the role of grassroots trade unions in enterprises in protecting the legal rights and interests of workers.

2. Definition, Nature, and Functions of Trade Unions

2.1. Definition of Trade Unions

According to Article 10 of the 1992 Constitution, trade unions are socio-political organizations of the working class and laborers, alongside state agencies, economic organizations, and social organizations responsible for caring for and protecting the rights and interests of officials, workers, employees, and other laborers. They participate in state and social management, inspect and supervise the activities of state agencies and economic organizations, and educate officials, workers, employees, and other laborers to build and defend the fatherland.

Therefore, trade unions are the largest socio-political organization of the working class and laborers. They emerge when workers become conscious of their collective strength and take care to protect their own interests. The development of trade unions is closely linked to the strength of the working class, the development of industry and technology, and the cohesion of the employer class.

2.2. Nature of Trade Unions:

First and foremost, trade unions have a class character, representing the interests of the working class. Emphasizing the class nature of trade unions is crucial for understanding their position and role in society. Trade unions are part of the political system, with their activities having both political and social significance. They are not state agencies or partisan organizations. Furthermore, trade unions are a mass organization. Unlike the state, trade unions are formed based on voluntary principles and represent workers and laborers as a collective.

The two characteristics of trade unions are closely related. If only the class nature is emphasized, the organizational aspect will be narrow and may not align with the true essence of trade unions. Conversely, if only the mass character is emphasized, it may deviate from political goals, becoming merely social clubs and losing sight of revolutionary action, which is not in line with the essence of revolutionary trade unions.

2.3. Functions of Trade Unions:

The functions of trade unions broadly express the scope, purpose, and direction of activities at all levels within the organization. These functions include:

- Protecting the legal rights and interests of workers and laborers.
- Organizing education and mobilization of workers and laborers.

- Representing workers and laborers in participating in the management of the economy and society, including state management.

From these functions, general tasks and specific tasks for each level of trade union in various fields can be identified.

3. Principles of organization and organizational system of the Vietnam Trade Union

3.1. Principles of organization and activities

The trade union organizes and operates according to the principles of democratic centralism, with the following basic contents:

The leadership bodies at all levels of the trade union are elected.

The highest decision-making authority of each level of the trade union belongs to its Congress. Between congresses, the executive body is the Executive Committee.

The Executive Committee of the trade union at all levels operates on the principles of collective leadership, individual responsibility, minority obedience to the majority, lower levels obeying higher levels, and individuals obeying the organization.

Resolutions of trade unions at all levels are passed by a majority vote and must be strictly enforced.

When newly established or merged, the higher-level trade union directly appoints a temporary Executive Committee.

The term of office of the temporary executive committee shall not exceed 12 months.

3.2. Organizational system

The trade union system in Vietnam consists of the following basic levels:

Vietnam General Confederation of Labor (VGCL).

Provincial and municipal labor federations directly under the central government and central industry trade unions.

Higher-level trade unions. These include local industry trade unions, trade unions of state-owned enterprises, labor federations at the district, town, city level under the province, trade unions of certain ministries, committees of the Party, central mass organizations, trade unions of some departments at the local level, trade unions of industrial zones, export processing zones, and equivalent levels.

Grassroots trade unions, temporary trade unions, and professional associations. These are organized into four types: grassroots trade unions, professional associations without a trade union, trade unions without a professional association; grassroots trade unions, professional associations with a trade union, trade unions without a professional association; grassroots trade unions, professional associations with a departmental trade union, departmental professional associations, followed by a trade union, professional association; grassroots trade unions with member grassroots trade unions.

4. ROLES OF TRADE UNIONS IN PROTECTING THE LEGITIMATE RIGHTS AND INTERESTS OF WORKERS

4.1. Role of Trade Unions in Collective Labor Agreement Negotiations

The collective labor agreement is an agreement between the collective of workers and the employer regarding labor conditions, rights, and obligations of both parties in the employment relationship (Article 44 of the Labor Code). According to regulations, the trade union is one of the two parties involved in negotiating collective labor agreements. The contents of collective labor agreements include commitments regarding employment, working hours, breaks, wages, bonuses, labor standards, occupational safety, labor hygiene, and social insurance for workers. The state encourages the parties to negotiate collective labor agreements with provisions more favorable to workers than those of labor laws. Collective labor agreements are legal instruments used by trade unions to protect the legitimate rights and interests of workers. Through the provisions of collective labor agreements, employers and workers in enterprises respect each other's rights, encourage and promote democracy in production and business units, and establish a legal framework to protect workers.

4.2. Role of Trade Unions in Ensuring Wages and Income for Workers

Wages are the amount of money that employers pay to workers when workers complete tasks as defined by law or agreed upon in labor contracts. The primary concern of workers when entering into employment relationships is wages and income. Article 55 of the Labor Code stipulates that workers' wages are agreed upon in labor contracts and paid based on labor productivity, quality, work efficiency, and must not be lower than the minimum wage set by the state. To ensure that grassroots trade unions in enterprises fulfill this role, Article 57 of the Labor Code stipulates that "when establishing salary scales, wage tables, and labor norms, employers must consult the opinions of the executive committee of the grassroots trade union." Thus, grassroots trade unions need to actively study the characteristics of production, technological processes, labor organization, and provide opinions to the Board of Directors for selecting reasonable salary payment methods.

4.3. Role of Trade Unions in Participating in Job Creation and Improving the Material and Spiritual Lives of Workers

Employment, livelihoods, and social policies for workers are among the top concerns of trade unions. Article 2 of the Trade Union Law states that trade unions represent and organize workers to participate in the management of

agencies, units, organizations, social and economic management, state management; within their jurisdiction, they exercise the right to inspect and supervise the activities of agencies, units according to the law. To exercise this right, trade unions have participated in monitoring labor recruitment, examining the establishment of recruitment standards, the quantity, and quality of workers needed to meet job requirements, inspecting the implementation of recruitment procedures, and labor contracts according to legal provisions to ensure the rights and interests of workers. To avoid unilateral termination of labor contracts by employers, Article 17 of the Labor Code stipulates that if the employer finds it necessary to lay off many workers due to changes in the structure or technology, they must announce the list based on the needs of the enterprise, skills, family circumstances, and other factors of each person to lay off after consulting with the executive committee of the grassroots trade union in the enterprise. Layoffs can only be conducted after informing the local labor authority. In cases where employers are allowed to unilaterally terminate labor contracts, before terminating labor contracts, employers must consult with the executive committee of the grassroots trade union.

Employers have the right to temporarily suspend the work of workers when necessary according to the law. However, before deciding to temporarily suspend the work of workers, employers must consult with the executive committee of the grassroots trade union. This confirms that the grassroots trade union is the organization of workers, representing the collective of workers and effectively protecting the rights and interests of workers.

4.4. The role of trade unions in labor discipline and handling labor discipline issues

With the large workforce, the need for unity in production, and ensuring a common labor order, employers need to establish general disciplinary regulations for the entire enterprise, known as labor discipline. Labor discipline comprises regulations regarding compliance with schedules, technology, and production management, reflected in the labor rules; enterprises with ten or more workers must have written labor rules.

Labor discipline is manifested in the enterprise's rulebook issued by the employer. However, workers are the primary subjects required to comply with these rules. Trade unions, as representatives of the collective of workers, have the right to participate in providing opinions on drafting the draft labor rules. Before issuing labor rules, employers must consult with the executive committee of the grassroots trade union in the enterprise (Article 82(2) of the Labor Code). Although employers have jurisdiction over labor discipline, handling labor discipline issues is a significant matter involving the dignity and employment of workers. Moreover, to protect the legitimate interests of workers and enhance the effectiveness of educating violators, labor law stipulates that the consideration of disciplinary measures must involve the presence of the concerned parties and the participation of the executive committee of the grassroots trade union in the enterprise. Employers are also required to provide evidence of the worker's wrongdoing before taking disciplinary action.

To protect union officials at the grassroots level in enterprises, the law stipulates that in cases where the employer terminates or unilaterally terminates the labor contract with a member of the executive committee of the grassroots trade union, agreement must be reached with the executive committee of the grassroots trade union. If termination or unilateral termination of the labor contract involves the Chairman of the executive committee of the grassroots trade union, agreement must be reached with the higher-level trade union organization.

4.5. The role of Trade Unions in ensuring occupational safety and health and social insurance:

Occupational safety and health is always a very important aspect of labor law, as it is a primary measure to improve working conditions. Within their functions and powers, trade unions inspect compliance with labor protection laws. When signs of danger to workers' lives are detected at workplaces, trade unions have the right to demand responsible parties to implement measures to ensure occupational safety.

From a legal perspective, social insurance is a provision to protect workers, utilizing contributions from both workers and employers, supported and guaranteed by the state to provide material assistance to insured individuals in case of reduced or lost average income due to illness, occupational accidents, occupational diseases, maternity, retirement according to the law, or death.

Social insurance holds great significance in the lives of workers. Therefore, grassroots trade unions, as representatives of workers conferred by law, have the right to inspect compliance with labor contracts, labor recruitment, dismissal, wages, bonuses, labor protection, social insurance, and other policies related to the rights, obligations, and interests of workers within their scope of functions.

4.6. The role of Trade Unions in participating in resolving labor disputes and strikes:

Labor disputes and strikes represent the highest reaction of workers to employers when their legitimate rights and interests are infringed upon. According to Article 158(4) of the Labor Code, representatives from trade unions and employers must participate in labor dispute resolution. This is a principle-based right, a mandatory factor that demonstrates the role of trade unions in resolving labor disputes.

A strike is an organized struggle of a group of workers within an enterprise or a structural unit of an enterprise by collectively ceasing work to demand employers to fulfill legitimate rights and interests arising from labor relations. It can be said that a strike is the most direct and powerful measure for workers to demand employers to fulfill their obligations as stipulated, especially to meet the legitimate demands of workers regarding wages, working conditions, and social security to protect their lawful rights and interests.

Collective action by workers in the form of a strike can only be conducted when labor disputes between workers and employers have been resolved according to the prescribed procedure for resolving labor disputes, but workers are still dissatisfied. According to regulations, grassroots trade unions are the only organizations with the right to initiate and lead strikes.

5. Suggestions to enhance the role of Trade Unions in protecting the legitimate rights and interests of workers:

5.1. Assessment of the current activities of grassroots trade unions

5.1.1. Strengths

The activities of grassroots trade unions in enterprises are increasingly progressing and achieving many accomplishments, demonstrated in the following aspects:

Grassroots trade unions play a pivotal role in promoting democracy, internal solidarity, and mitigating negative incidents.

Grassroots trade unions organize various cultural, arts, sports events, competitions, and workshops, which are diverse, engaging, and well-received by workers.

Labor productivity competitions and social activities are actively embraced by workers, enhancing the standing of the Trade Union organization in social life.

Efforts in recruiting new union members, establishing grassroots trade unions, setting up Women's Union clubs, and information reporting activities are commendably implemented by various levels of trade unions.

5.1.2. Limitations

Despite the aforementioned achievements, there are several limitations in the activities of trade unions, including:

The educational propaganda work of Trade Unions towards workers has not yielded high effectiveness, especially in non-state-owned enterprises; the form and content of propaganda are not truly suitable for the working conditions of the workers; the understanding of the thoughts, sentiments, and aspirations of workers is not timely.

Although labor competitions have developed, they are not evenly distributed. The competition format is not clearly defined, and the objectives and content of the competitions are vague.

The role of Trade Unions in fulfilling their functions of representation, protection, and participation in management and supervision is not consistently demonstrated.

The quality of activities in some grassroots trade unions is weak in terms of expertise, with limitations in understanding the skills of trade union activities, and trade union officials are hesitant to engage in conflicts.

The activities of some Women's Union branches are not attractive, and gender education propaganda activities are not actively supported by employers, resulting in some Women's Union clubs not performing well.

5.2. Recommendations to Enhance the Role of Trade Unions in Safeguarding the Legal Rights and Interests of Workers

Currently, there are various positive and negative factors directly and indirectly affecting the organization and activities of trade unions. In the coming years, the workforce in the non-state sector of the economy will grow rapidly. This presents a good opportunity for trade unions to greatly develop alongside the tasks of promoting industrialization and modernization of the country. However, trade union activities will also face many challenges and obstacles due to the increasingly complex labor relations. This situation places strong demands on trade union organizations for substantial innovation in both structure and activities. To effectively implement this, besides the grassroots mobilization of trade unions in enterprises, there needs to be support and agreement from state management agencies, higher-level trade unions, and especially from employers.

Based on research and practical understanding, I propose some solutions for reference to enhance the role of trade unions in safeguarding the legal rights and interests of workers, specifically:

Firstly, the higher-level Trade Union and grassroots Trade Union need to define their respective tasks; the higher-level Trade Union must be aware of the number of newly established enterprises to appoint interim Trade Union Executive Committees promptly; develop plans to mobilize workers into the Trade Union organization; build strong relationships with relevant authorities for effective coordination.

Secondly, the state needs to direct functional agencies to enhance the effectiveness of inspection and enforcement of labor laws, decisively handle violations. Especially, strengthen strict monitoring and inspection of labor safety and hygiene issues in enterprises, inspection activities must be regular and effective, avoiding being merely superficial or formalistic.

Thirdly, state management agencies on labor need to improve and enhance the quality of collective labor agreement registration work, internal labor regulations of enterprises.

Fourthly, state labor management agencies and Labor Confederations at all levels regularly organize training sessions, examinations, and certification of understanding of labor laws for business owners, business directors, Trade Union Chairpersons at grassroots level, and those responsible for organization within enterprises; simultaneously, require employers to commit to providing conditions for workers to study labor laws.

Fifthly, in the program of enhancing the qualifications of the cadre and civil servant team, the government should allocate a reasonable proportion to Trade Union officials to ensure that they have sufficient capacity and qualifications to meet the requirements of the new situation.

Sixthly, it is necessary to build cooperative relationships between Trade Unions and employers. Grassroots Trade Unions, through their practical activities, should encourage workers to work productively, consciously protect and preserve enterprise assets, save materials and resources, genuinely focus on educational activities within the workforce to achieve production efficiency. In their relationship with the Board of Directors, the Executive Committee of the grassroots Trade Union must earn the respect of business owners.

Seventhly, regulations on administrative penalties for violations of Trade Union organization and activities according to Government Decree No. 113/2004/ND-CP dated April 16, 2004, are considered lenient by the author, therefore, stricter enforcement measures are needed.

Eighthly, a challenging issue for non-state-owned Trade Unions is operational funding. Regulations on budget allocations for grassroots Trade Unions outside of state-owned enterprises are often difficult to implement. Therefore, stricter measures should be stipulated for cases of evasion or late submission of Trade Union funds.

Ninthly, there should be policies to ensure economic benefits for grassroots Trade Union officials to encourage their active participation. Specific regulations on salary levels, allowances, and other benefits for grassroots Trade Union officials should be formulated to align rights with responsibilities.

Tenthly, specific disciplinary measures should be included in the Trade Union Law, with specific sanctions for each type of violation. Article 18 of the Trade Union Law only provides general provisions for violators of this law, depending on the severity, leading to inconsistencies in disciplinary action and administrative penalties, or criminal liability.

Eleventhly, the current process of organizing strikes is considered to involve too many steps, specifically, before initiating a strike, the Executive Committee of the grassroots Trade Union must obtain the opinion of the workforce, submit demands to the employer, send notifications to the provincial labor authority and the provincial labor federation, only then can a strike be initiated. This complex procedure undermines the trust of workers in the outcome of the strike while their rights are being violated. Therefore, it is necessary to review and amend the regulations of the Labor Code regarding strikes towards simplicity and feasibility to be more suitable for practice.

Twelfthly, annual regular meetings should be organized between the Prime Minister, the President of the Vietnam General Confederation of Labor, and the Presidents of grassroots Trade Unions for grassroots Trade Union officials to have the opportunity to present their difficulties and challenges in Trade Union work at the grassroots level.

6. Conclusion

Based on the research on the role of trade unions in protecting the legitimate rights and interests of workers, several key points can be summarized as follows:

- Trade unions are socio-political organizations that care for and provide support to workers. Therefore, trade unions need to engage in practical activities to improve workers' material lives, protect their rights and interests, enhance awareness and spirit of solidarity, mutual assistance in times of difficulty to stabilize family life. At the same time, trade unions are concerned with the cultural and spiritual life of workers.
- Trade unions promote the democratic participation of workers.
- Trade unions educate workers about labor laws, trade union laws, and social insurance, while also organizing campaigns to encourage workers to participate in cultural, skills training, and capacity-building activities.
- Trade unions need to establish trust with businesses, while businesses should support trade union activities. Trade union activities should ensure benefits for both workers and businesses.
- Strengthening grassroots trade unions is crucial. Building a strong trade union requires implementing a comprehensive range of measures from the grassroots level upwards, avoiding superficiality. It's necessary to improve weaker grassroots trade unions, organize training programs, and develop the capacity of grassroots trade union officials.
- Innovating the content and methods of trade union activities in enterprises should focus on representing and protecting the legitimate rights and interests of workers, resolving labor disputes, promoting legal awareness, national consciousness, labor discipline, class consciousness, unity, and fulfilling civic duties. Launching mass movements to fight against corruption, waste, violations of labor laws, and violations of trade union rights should also be prioritized.

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