

Participation in Representative Organizations of Employees under the Current Laws of Viet Nam

Dao Xuan Hoi*

Law Faculty, University of Labour and Social Affairs, Hanoi city, Vietnam

Ngo Sy Trung

National Academy of Public Administration, Hanoi city, Vietnam

*Corresponding Author: Dao Xuan Hoi

Abstract: The participation in representative organizations of employees stems from the employees' rights to negotiate and organize, including many fundamental rights, such as the right to freedom of association, generalized from the standards prescribed in the Convention No. 87 (1948) and Convention No. 98 (1949) of the International Labor Organization. This study covers the theories and practical participation in representative organizations of employees under current laws of Viet Nam. Based on the confirmed research conclusions, the author discusses and makes recommendations regarding the participation in representative organizations of employees in the enterprises, aiming at completing the laws and protecting employees' interests in Viet Nam.

Keywords: Labor; Employees; Labor laws; Trade Union; Viet Nam.

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INTRODUCTION

Viet Nam population reached 100.3 million in 2023; the proportion of the working-age population (15-59 years old) accounted for 62.2% [PN, 2023], indicating a large labor force, and has become a major resource for the country's development. The national statistics agency and experts assessed that Viet Nam population is experiencing strong demographic changes with a number of outstanding characteristics, that is, the population is in the period of gold population structure, which is a favorable condition to realize the country's strategic goals in the coming years.

Joining the representative organizations of employees at grassroots level in accordance with Vietnamese law is currently an issue of great concern, because labor relations at the grassroots play an important role in protecting employees' rights and interests, and ensuring a fair working environment. Joining an employees' representative organization will provide employees at grassroots level with an official representative body to protect their rights and interests, while also strengthening their bargaining power and representation in issues related to working conditions, remuneration, and other rights and interests. In addition, being members of the representative organizations, employees can easily capture and effectively cope with rapid changes in the work environment, especially in the context of increasingly popular technology application and automation. However, from the management perspective, government agencies and businesses need scientific collaboration, researches and timely adjustment of regulations and implementation methods to always maintain the satisfaction and meet the needs of employees when joining representative organizations in the workplace.

Given the above-mentioned practical condition and meaning, the author conducted a research on the topic of participation in representative organizations of employees. From a theoretical and practical perspectives, the research on participation in employees' representative organizations provides scientific information to develop policies and measures to balance employees' rights and interests and the development of production facilities, while ensuring stable and harmonious labor relations. In addition, the research also identifies prevailing laws and regulations on joining employees' representative organizations at grassroots level to ensure legality and compliance with labor laws.

RESEARCH OVERVIEW

Participation in an employees' representative organization means all of an employee's actions to become a member of an existing employees' representative organization at grassroots level/in the enterprise. This is a common approach and concept mentioned and used in social and labor researches and management work.

From the theoretical perspective, the act of participating in an employees' representative organization is diverse in forms and manifestations. This representative organization can be established at the grassroots level, i.e. in the enterprise, to represent employees in labor and employment matters [Thin, et al., 2018]. Employees can join an existing representative organization, such as an internal trade union or an internal employees' organization in an enterprise. Joining an existing organization offers employees with a strong and effective representation to protect their rights and interests. In terms of connotation, joining an existing internal employees' representative organization consists of organizational cognition, participation and adaptation.

The organizational cognition does not only occur when employees join existing trade unions, but in a general sense, when they join organizations that represent them [McShane, S.L.,1986]. However, this act is demonstrated more clearly in the case where employees want to join existing trade unions. This act includes being proud of the trade union organizations, wanting to participate in trade union activities, and caring about issues of the trade union organizations [Cohen, A.,1993]. This could be affected by the multi-trade union issue or the single-trade union issue. According to Fullagar, C. (1986), employees can be aware of the roles and importance of a specific representative organization or another legally established representative organization. Fullagar, C. et al. (1989) confirmed that employees could join an existing trade union or another trade union; ensuring that organizational cognitive behavior was not limited to a unique representative organization.

Regarding the participation in an organization, awareness of the importance of the organization affects the participation in a representative organization of employees. Employees have absolute freedom to choose to join any representative organization available in the enterprise [ILO, 2017]. However, in the process of joining a representative organization, employees need to avoid joining many representative organizations of employees at the same time. Besides, the rampant development of representative organizations can result in negative competition and affect the rights and interests of employees. This would challenge the fulfillment of the common goals of representative organizations and exacerbate the risk of conflict among these organizations. Therefore, employees need to consider and cooperate in choosing and joining an appropriate representative organization, which will facilitate the protection of their shared rights and interests as well as strengthen the solidarity within each representative organization.

Regarding the adaptation to the representative organization: When employees establish or join a trade union organization, they are responsible to adapt to that organization. However, this does not mean that employees are limited in choosing a trade union structure and in taking part in the process of developing that structure [Sverke, M. et al.,1995]. These adaptive behaviors may include identifying the organizational structure and components of the trade union, as well as deciding on the selection of a trade union in a specific workplace or trade union by profession, or an organization that unites employees from different workplaces and cities. This enables employees to join trade unions that suit their needs and desires, while facilitating the development of a strong and effective trade union. The interaction between employees and trade unions in the joint adaptation and development will create conditions to best protect and ensure employees' rights and interests.

PRACTICAL PARTICIPATION IN EMPLOYEES' REPRESENTATIVE ORGANIZATIONS IN VIET NAM AND RESEARCH TOPIC

The act of joining an employees' representative organizations at grassroots level is mentioned in the International Covenant on Civil and Political Rights (ICCPR) [UN, 1966a] and the International Covenant on Economic, Social and Cultural Rights (ICESCR) [UN, 1966b]. These two Conventions are often referred to as the International Code of Human Rights. Viet Nam joined both of these Conventions on September 24, 1982. Joining an employees' representative organization is a right guaranteed by the provisions of the ICCPR and ICESCR. Therefore, research on the participation in employees' representative organizations in Viet Nam is essential to clearly understand this right, and propose contents

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for law improvements and supports for state agencies, businesses and employees in the current and future context.

In recent years, the participation in employees' representative organizations has been mainly reflected through the participation in grassroots trade unions under the Vietnam General Confederation of Labor. The awareness of the roles and benefits of the trade unions is crucial to the participation in the trade unions. However, many national studies have indicated employees' insufficient awareness of the benefits of joining a trade union. Many employees believe that joining a trade union brings benefits in cases of difficulties, and in collective activities; A few employees believe that the trade union is a bridge connecting businesses with employees [Thin. et al., 2018]. The total number of members of trade unions has increased, but not significantly. According to the Report of the Vietnam General Confederation of Labor, in 2007, the total number of trade union members was 6 million, accounting for 13.3% of the total work force; in 2016, the total number of trade union members was 6,568,495 people, of which the number of trade union members in foreign-invested enterprises was 1.5 times greater than that in private enterprises [Hoa, N. et al., 2020]. The increase in trade union membership in foreign-invested enterprises tends to be higher than other private enterprises. At the same time, trade union participation is also increasing in some provinces, such as Dong Nai and Ha Nam [Thin. et al., 2018], demonstrating an improvement in employees' awareness and behavior towards joining a trade union.

It can be seen that, even though there have been some achievements in the growth of membership in employees' representative organizations in Viet Nam, these are pretty modest compared to the number of active businesses. Some possible reasons are as follows:

- Regarding practical operations, there remains a lack of communication activities to provide information about the roles of employees' representative organizations at grassroots level such as seminars, discussions, and counselling sessions, especially the use of modern internet-based communication channels. In addition, internal communication in many enterprises about trade union activities remain limited; Trainings and coaching for both trade union officials and workers on membership development skills as well as operation of employees' representative organizations at grassroots level have yet been focused. Moreover, it is still a fact that the association of representative organizations, especially employees' representative organizations at grassroots level and senior level still has limitations; and the facilitation of trade union activities at times has not received businesses' attention.
- Regarding the legal system, Viet Nam's Labor Code [VNA, 2019] prescribes regulations on employees' representative organizations in the enterprises, but there are no documents specifically regulating the organization and activities of employees' representative organizations in the enterprises. In addition, ensuring an independent financial and operating mechanism of the employees' representative organization at the grassroots is yet to be really clear.

From the above-mentioned practice, the author discusses and makes recommendations to complete the laws and improve the effectiveness of the participation in representative organizations of employees at grassroots level.

- Firstly, in terms of organization and implementation, it is necessary to promote communication about the roles of employees' organizations so that workers in the enterprises are aware of the importance of joining employees' representative organizations i.e. for the better protection of their rights and interests. Promoting communication about the roles of employees' representative organizations is essential to developing widespread awareness and understanding, and reflecting effective contribution to the protection of employees' rights and interests in the enterprises. In order to raise awareness and educate employees about the role of employees' organizations, the following communication measures can be deployed:
 - 1) Organize seminars, workshops or counselling sessions: Provide employees with specific information about the roles and benefits of joining an employees' representative organization. Especially, should clearly explain how representative organizations can protect workers' rights and interests, as well as promote collective bargaining with businesses.
 - 2) Use communication channels: Use communication channels such as newsletters, magazines, websites or social networks to share information related to employees' representative organizations. Articles, infographics, videos or success stories from employees who received protection thanks to representative organizations can help increase awareness and requests from other members to join.
 - 3) Provide trainings and coaching: Organize trainings and coaching on the benefits and legalities of joining an employees' representative organization. Ensure employees have enough information to understand their rights and responsibilities in joining and contributing to employees'

representative organizations.

- 4) Promote links with other representative organizations and operational support from businesses: partner with other representative organizations such as trade unions, social organizations and professional organizations to strengthen the rights and importance of employees' representative organizations. This solidarity and interaction will strengthen the role of the organization and generate a greater motivation effect. Enterprises also need to create conditions for the smooth operation of grassroots trade unions as well as grassroots employees' representative organizations.
 - 5) Use internal communication: Where an employees' representative organization is available in an enterprise, it is necessary to create internal communication channels such as conferences, meetings, emails and internal messages to clearly disseminate documents and communicate about the roles and rights of the employees' representative organization to employees in the enterprise.
- Secondly, in terms of laws, it is necessary to ensure the independent operation of the employees' representative organizations from the employers, especially financial independence. Ensure that the employees' representative organizations are the employees' own organizations rather than "extended-arm" organizations of the employers; and are important to protect the rights and interests of employees, and to ensure the fairness and independence in labor relations. To ensure the independent operation of employees' organizations from the employers, especially financially independent, a number of key measures can be applied:
- 1) Put in place a legal mechanism for employees' representative organizations to have their own financial management system: The laws should prescribe provisions enabling an employees' representative organization to establish its own separate financial management system, ensuring that incomes and expenses are reliably tracked. This includes setting up separate financial accounts for the organization and monitoring financial transactions.
 - 2) Have legal regulations that allow the self-management of financial resources: Employees' representative organizations need to have the right to self-manage their own financial resources without being overly dependent on financial resources from the employers. This can be achieved by generating independent financial resources from members' contributions. This helps enhance the independence and finance of the representative organizations.
 - 3) Strengthen monitoring and inspection: Put in place monitoring and inspection mechanisms to ensure the independent and transparent operation of employees' representative organizations. Probably develop financial inspection processes, conduct independent audits or establish a board of supervisors to ensure compliance with financial regulations and rules.

CONCLUSIONS

From a theoretical and practical perspectives, joining an employees' representative organization will provide employees at grassroots level with an official representative body to protect their rights and interests, while also strengthening their bargaining power and representation in issues related to working conditions, remuneration, and other rights and interests. As members of the representative organizations, employees can easily capture and effectively cope with rapid changes in the working environment, especially in the context of increasingly popular technology application and automation. However membership in employees representative organizations in Viet Nam remains modest compared to the number of active businesses. This is due to the lack of communication activities to provide information about the roles of employees' representative organizations at grassroots level; and lack of specific legal documents on the organization and operation of employees' representative organizations in the enterprises. Therefore, there should be more researches on and attention paid to the promotion of communication, and the development and completion of laws on employees' representative organizations in Viet Nam in the current context.

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