

**THE GAPS BETWEEN WRITTEN LAW AND PRACTICE:  
A CASE STUDY OF VIETNAMESE LABOUR LAW ON CRAFT WORKERS**

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**ABSTRACT**

The development of Vietnamese craft industries such as sea-grass, bamboo/rattan and paper making has absorbed a number of labours who have been working as different actors including material suppliers, outsourced workers, handicraft producers, and workers in cooperatives and enterprises. Vietnamese government has promulgated a number of laws and policies relating to labour issues, of which Cooperative Law and Enterprise Law focus on rural income improvement and job opportunity creation while the Labour Law concentrates on workers working in cooperatives and enterprises rather than home-workers and outsourced labours those who work at home. This paper bases on quantitative and qualitative data which have been collected in the sea-grass value chain to analyze the gaps existing between the written Labour law and practice. As a result, we find out that almost all self-employed workers and outsourced labours who mainly constituted a labour force of handicraft sector have not received support from Labour Law and other supported policies.

Keywords: Labour Law, Craft worker, Value Chain, Sea-grass

**1. Rationality of the Research**

Craft sectors have played an important role in poverty reduction and income improvement of rural people in many provinces in Northern Vietnam including Nghe An, Thanh Hoa, Hoa Binh and Phu Tho. The development of craft industries including bamboo/rattan, sericulture, sea-grass, paper making, and lacquer has absorbed a number of labours who have been working as different actors including material suppliers, outsourced workers, handicraft producers, and workers in cooperatives and enterprises. The economic

functions of these actors as well as the relationships among them will be defined in the section of “definition of terms”.

The Vietnamese government has promulgated a number of laws and policies relevant to the revival and development of handicraft industries in rural areas. These include the Labour Law 2012, Cooperative Law, and Enterprise Law, and so on. While Cooperative Law and Enterprise Law focus on rural income improvement and job opportunity creation, the Labour Law concentrates on workers in cooperatives and enterprises which have registered as businesses under the Enterprise Law rather than homeworkers and outsourced labours those who work at home. As a consequence, labours working in different nodes of the same value chain have been affected differently by laws and policies. Together with Labour Law, so many government’s decrees and circulars have been issued in order to regulate working conditions, labour relations, minimum wage rate etc. However, there are gaps existing between written laws and policies and practice. This paper will analyze gaps in two aspects, which are: (i) a big labour force of craft industry (homeworkers) are not covered by Labour law and (ii) several cooperatives, enterprises and companies in craft industry which are covered by Labour law still break the law in many cases. For this reason, it is very important to find out real situations of labours relations and working conditions in different nodes of the value chain in order to make relevant recommendations on law as well as policy improvement to policy makers.

## **2. Research Objectives and Research Questions**

*The objectives of the research are as follows:*

- (1) To review Vietnamese laws and policies relating to the revival and development of handicraft sector and of labour standards;
- (2) To find out economic situation of all sectors evolving in sea-grass value chain;
- (3) To investigate working conditions and labour relations in each node of sea-grass value chain;
- (4) To discover the differences between labour standards in paper and in practice in order to make relevant recommendations to the policy makers in the field of labour standards.

*To reach the research objectives, the following research questions should be taken into account:*

- (1) How does Vietnamese Labour Law cover workers in general?
- (2) What are economic situations of all sectors evolving in craft value chain of sea-grass?
- (3) How do labour relations act in each node of each value chain such as: hours of work, place of work, training, wage, working condition, etc?
- (4) For the labour standards covering workers in craft sector, what are the differences between being in paper and being in practice?

### **3. Methodology**

#### **3.1 Definition of Terms**

As mentioned above, there are a number of actors involved in the craft value chain including material suppliers, outsourced workers, handicraft producers, and workers in cooperatives and enterprises. They are differentiated by economic functions in the value chain, by working conditions, by labour relations, and by the coverage of the Labour law.

##### *Material Suppliers*

Material suppliers are households who provide main input for production. In this paper, the term material supply households can be used interchangeably. They are material growers or collectors in the study value chain. They may be farmers who merely produce raw materials and in some cases, they produce both raw material and craft products.

##### *Outsourced Workers*

The term “outsourced workers” used in this paper means people who produce craft products at home but they have no their own factories. They mostly buy raw or semi-processed materials from the cooperatives, enterprises, companies or family factories, produce final craft products at home then sell them back at agreeable prices. Since they are working at home, labourers are not only persons of age; children and elders are also involved in production.

##### *Handicraft Producers*

Handicraft producers are those who self-supply or buy raw material from others, produce at their family factories then sell the final products to local traders/collectors, cooperatives, enterprises and companies. Similar to material suppliers, the term productive households will be interchangeably used. Different from outsourced workers, craft producers

have to invest both variable and fixed capitals in production process. The craft producers either utilize family labours or use outsourced/hired workers.

*Cooperatives/Enterprises/Companies*

Cooperatives, enterprises and companies working in the value chains of handicraft industry are economic organizations which operate based on the Law on Cooperative, Law on Enterprise and Labour law.

**3.2 Research Site Selection and Sampling**

The Vietnamese craft industries including bamboo/rattan, sericulture, sea-grass, paper making, and lacquer. Due to the limited time, this research focuses only on the sea-grass value, therefore, the research team decided to choose Thanh Hoa province as research site. Thanh Hoa is a coastal province that is most well-known by sea-grass production in the Centre region of Vietnam. In Thanh Hoa, we selected Nga Tan commune to do the survey of 5 material households, 5 material collectors and 5 mat producers in the sea-grass value chain. Besides, we also choose Can Lieu cooperative and Hoang Long Company in Nga Son district to observe their working conditions as well as labour relations.

**3.3 Data Collection**

Primary data is collected by different methods and techniques including interview based on semi-structural questionnaires, in-depth interview based on checklist, group discussion and participatory observation. The following table shows how different methods and techniques of data collection are used.

**Table 1: Data collection methods**

Actors in VCs	Necessary information	Techniques
1. Material household	<p><b>For self-employed worker and outsourcing labour:</b></p> <ul style="list-style-type: none"> <li>- Income from material supply</li> <li>- Labour engage in material production (age, gender, educational level, main occupation)</li> <li>- Working hour for material supply</li> <li>- Vocational training</li> </ul>	Semi-structural Interview (questionnaire-based)

Actors in VCs	Necessary information	Techniques
	<ul style="list-style-type: none"> <li>- The way in which they sell material</li> <li>- Selling based on contract or not?</li> <li>- If contract, do they have to follow the rules of the buyer</li> <li>- Price satisfaction</li> <li>- Working conditions</li> <li>- Perception/awareness of labour code</li> </ul>	Observation
2.Production household	<p><b>For self-employed worker and outsourcing labour:</b></p> <ul style="list-style-type: none"> <li>- Income from handicraft production</li> <li>- Labour engage in handicraft production (age, gender, educational level, main occupation)</li> <li>- Working hour</li> <li>- Vocational training</li> <li>- Working condition</li> <li>- The way in which they sell product</li> <li>- Selling based on contract or not?</li> <li>- If contract, do they have to follow the rules of the buyer</li> <li>- Price satisfaction</li> <li>- Perception/awareness of labour code</li> </ul>	Semi-structural Interview (questionnaire-based)  Observation
3.Collector	<ul style="list-style-type: none"> <li>- Income from material/product trading</li> <li>- Labour engage in trading (age, gender, educational level, main occupation)</li> <li>- Working hour</li> <li>- Vocational training</li> <li>- Working condition</li> <li>- The way in which they buy and sell material/product</li> </ul>	Semi-structural Interview (questionnaire-based)

Actors in VCs	Necessary information	Techniques
	<ul style="list-style-type: none"> <li>- Buying/Selling based on contract or not?</li> <li>- Do they follow the rules of the buyer</li> <li>- Price satisfaction</li> <li>- Perception/awareness of labour code</li> <li>- Relationship with sellers and buyers: neighbourhood, relative, friend, acquaintance, others</li> </ul>	
<p>4.Cooperative &amp; 5. Enterprise</p>	<p><b>For manager:</b></p> <ul style="list-style-type: none"> <li>- Annual turnover/profit</li> <li>- Number/structure of workers</li> <li>- Infrastructure for production and trading</li> <li>- Perception/awareness of labour code/CoC</li> <li>- How to recruit/sign contract/pay remuneration</li> <li>- Opinion of changing labour code</li> </ul> <p><b>For workers:</b></p> <ul style="list-style-type: none"> <li>- Labour engage in handicraft production (age, gender, educational level, main occupation)</li> <li>- Working hour</li> <li>- Wage rate agreement/ wage rate satisfaction</li> <li>- Labour contract or not?</li> <li>- Capital contribution or not?</li> <li>- Vocational training</li> <li>- Working condition: work-place/machine and equipment/labour safety (equipment/clothing/insurance...)</li> <li>- Perception/awareness of labour code</li> </ul>	<p>In-depth Interview (checklist-based)</p> <p>Semi-structural Interview (questionnaire based)</p> <p>Group discussion</p>

### **3.4 Data Processing and Analysis**

Collected data is synthesized based on both quantitative and qualitative methods in order to find out the differences between written law and practice as well as the differences of law implementation among actors in the sea-grass value chain.

## **4 Real Situations of Working Conditions and Labour Relations in the Sea-grass Value Chain**

### **4.1 Overview of the Sea-grass Value Chain**

Labour issues of the sea-grass value chain were investigated mainly through the sea-grass farm households in Nga Tan commune, and sea-grass collectors, cooperative and enterprise in Nga Son district, Thanh Hoa province. At present, Nga Tan commune has a total of 1674 households and almost all cultivate sea-grass. However, the number of people in Nga Tan who engage in sea-grass industry has been decreased since the economic efficiency of sea-grass industry is currently quite low due mainly to the salt water intrusion and partly to various diseases and pests.

#### ***4.1.1 Sea-grass Growers or Farmers***

The sea-grass value chain starts with sea-grass cultivation. In Nga Tan and other nearby communes, sea-grass is traditionally the only crop cultivated by farm households. At the time of cultivating sea-grass, the farmers usually hires a land preparation service, buys fertilizers and uses their own sea-grass seeds (from the old field). Once cultivated, sea-grass can be harvested annually for several years, usually 3-5 years then it needs to be replanted due to degeneration. After harvest, the sea-grass strands are split into the smaller sizes that are then dried for storage. Farmers can do that work themselves by using the splitting machines. Then they can sell the dried sea-grass strands to the local collectors with the price that was set through discussions between farmers and local collectors, or farmers can make the twisted cords from the strands, then sell them to the local collectors.

#### ***4.1.2 Local Collectors***

There are several small collectors of sea-grass products in Nga Tan as well as in other sea-grass producing communes in Nga Son district. Those local collectors usually buy sea-grass strands and twisted cords from farm households both inside and outside their communes. Some local collectors also have a workshop for mat weaving and cord twisting. They hire farmers to do this work. The local collectors usually sell sea-grass strands and

twisted cords to bigger collectors or to some sea-grass enterprises while they often sell the mats to the traders in other provinces.

#### ***4.1.3 Sea-grass Cooperatives/Enterprises***

There are several sea-grass cooperatives/enterprises in Nga Son district like Can Lieu, Hoang Long, Viet Trang, and Son Phu. Those cooperatives/enterprises buy the sea-grass strands and twisted cords and other craft products from farmers and local collectors. Some companies such as Hoang Long Company produce the various craft products from sea-grass through making contracts with farm households and local collectors. Those companies export their various products to China, America, Japan, Brazil, and also to domestic markets (for weaving mats).

#### ***4.1.4 Craftsmen***

There are various handicraft products from sea-grass such as mat weaving, twisted cords, bags, etc. Some sea-grass growers are craftsmen as they produce mats and twisted cords from their own sea-grass. Other craftsmen can join craftworks as mat weavers and cords twisters in the workshop of some local sea-grass collectors. Many craftsmen are farmers in Nga Son who made the contracts with sea-grass companies like Hoang Long to make various craft products upon the request by companies. The companies provide the technical support services to the farmers or craftsmen such as short training courses for making new products when necessary.

### **4.2 Working Conditions and Labour Relations in the Value Chain**

The working conditions in this paper are analyzed and discussed in five aspects including (i) safe equipment; (ii) productive equipment; (iii) labour ages; (iv) working hours; (v) training and insurance provision. The labour relations will be discussed in the fields of (i) wage rate; (ii) labour contract; (iii) individual and collective bargaining; (iv) overtime payment; (v) social welfare; and (vi) roles of trade union.

#### ***4.2.1 Material Suppliers***

It was recognized that most of material suppliers of sea-grass sector are also handicraft producers. A common feature of material suppliers is their working space. All of them have to work outdoors in the sunshine, in the mud and in the water. All respondents believed that their working conditions were so hard that only labours with good health and strength could perform properly. Thus, child and elder labours were rarely found in the field of material

production. Even though, we still saw some elders as well as children working in the sea-grass field. A part from physical difficulty, the material producers confirmed that chemical hazards faced in their work where they are exposed to chemical inputs including fertilizer, herbicide and pesticides. Most of producers did not use any personnel protective equipment. Sea-grass producers simply protected themselves by raincoats, mufflers, glasses, and gloves when they sprayed pesticides.

Farmers' working hours of material producers is varied in accordance to the sector and season. Commonly, sea-grass cultivators had longest working hours per day, which is about 10 to 12 hours.

Aside from cultivation, sea-grass material suppliers have to split harvested grasses into smaller strands then twist into strings. The splitting stage is carried out by a machine which endangers to the workers. It was reported by a surveyed household in Nga Tan commune that a hired worker there was lost his five fingers when he worked as a sea-grass splitter. There was not any government's support or compensation for this labour accident. The owner was only responsible for hospital expenses and had small financial support.

Although material suppliers have to work in dangerous and hazardous environment, very few people have bought health and social insurance voluntarily. Both secondary and interviewed information from research sites showed that no sea-grass growers bought voluntary health by the Law on Health Insurance and voluntary social insurance by the Labour law.

Interviewed data from five material producing households of the sea-grass value chain showed that none of them have joined in any training course relating to material production. The sea-grass growers produced by their experience which was accumulated from production process, other material suppliers confirmed that they could learn from other villagers.

The surveyed data showed that there was not any contract and regulation which was made between the growers and the buyers, the prices were determined for particular grades of products based on oral agreement between them. However, the disadvantages always leaned to the material suppliers because they were working in the monopsony market. There were a number of material suppliers while the buyers were much fewer. Further, there was not any organization which could help material suppliers, mostly farmers, to make a collective bargaining.

#### ***4.2.2 Handicraft Producers***

These handicraft households operated production processes based on both family and hired labours. Hired workers are people who work at the owners' shop floor or at their home in order to get the wage rate. Almost all hired workers work as casual labours those who come to work when they finish their farm-works, rather than regular labours those who devote all their working time to handicraft production.

There are about 20 households are making sedge mats in Nga Tan commune. They are both sea-grass collectors and mat producers. All of them are large scale producers. As a result, they have to hire local labours to work at their workshop and to lease out some stages of production process to outsourced labours sometimes. Mr. Hieu is one of mat making workshop owners in Nga Tan commune. The workshop is not big enough with few windows, few lamps, and no fan. Working hours at Mr. Hieu's workshop is very flexible. People can themselves decide the time to start, to have a break as well as to leave. However, according to a hired labour, the workers usually work from 10 to 12 hours per days; they even work on Saturday, Sunday, and other Holidays. These casual hired workers are usually paid based on piece-work. Averagely, they are paid 40 thousand VND per mat for which a worker has to spend about 10 hours to weave.

Almost all hired workers at Mr. Hieu's workshop knew how to making mats before going to work so that they did not need any kind of training. Mr Hieu does not care about whether hired labour bought insurance or not. However, he has known that the workshop owner is not allowed to utilize child labours.

#### ***4.2.3 Outsourced Workers***

Outsourced workers are very popular in the value chain of sea-grass. The common way in which enterprises/cooperatives/households have leased some kinds of work to their outsourced labours is that the owners sell materials to the workers then buy final products from the workers again. In the sea-grass value chain, there are two types of outsourced workers, which are: those who work for other family workshops and those who work for cooperatives/enterprises.

Mrs. Hue is an outsourced worker of mat making. She has worked for Mr. Hieu's workshop for some years already. However, she does not work as a regular outsourced worker, but casual. As working at home, Mrs. Hue cannot calculate how many hours she usually works a day. Approximately, she spends 10 hours on mat making a day and 15 days a month. For Hue, her working condition is good because she can work indoors with full light

and fan. Similar to many people in Nga Tan commune, Hue has never attended any training course on mat making. She learnt how to grow sea-grasses as well as how to make mats from her parents and her grandparents. Mrs. Hue has never thought about a voluntary social insurance, but she and her family members are provided health insurance by government because they are poor.

Unlike Hue, Mr. Hung is one of three thousands outsourced workers who have been working for Hoang Long Company. The outsourced workers buy materials from Hoang Long Company at agreed prices, weave at home based on the ordered styles then sell final products to company again. As decorative art weaving is mostly manual work, the outsourced workers do not need any kind of machine, except for some simple tools.

Sedge weaving is done indoors, so there is not any problem related to working conditions with the workers. However, the elders and children are sometimes observed to participate in productive since the outsourced households try to utilize their family labours in order to improve their income.

When getting the orders of new product styles, the company also holds training courses for its outsourced workers. As the numbers of outsourced workers are too big and they live in different locations, the company's instructors cannot provide lectures to everyone. Therefore, the trainees are usually selected from each commune or village. These trained workers will instruct the others later.

Similar to the outsourced workers, Hung and his family labours have never calculated how many hours they often devote to sedge weaving per day. When the company needs the will work longer and vice versa. They do not use any kind of labour protective equipment. Further, they have never thought about investment in voluntary social insurance.

#### ***4.2.4 Sea-grass Cooperative***

As Can Lieu cooperative's production process is mostly done by outsourced workers those who bought and brought materials to do at home, its office and shop floor, therefore, are small. The shop floor of Can Lieu cooperative allows about 30 workers working together. Anyone can individually decide to work at the cooperative's shop floor. Most of works have been done manually so that, productive equipment is so simple. Most of interviewed workers supposed that they did not need to use personnel protective equipment. According to respondents, their working hours were extremely flexible and depended on cooperative's contract with other companies. When cooperative many orders from its customers, both

regular and outsourced workers have to work 30 days a month. Workers just worked 10 or 15 days a month sometimes, if the cooperative received few orders. Regular workers work 8 hours per day averagely.

Most of regular workers and several outsourced workers have not bought voluntary health and social insurance. All of them are of age labours while outsourced workers are mostly children and elders.

In Can Lieu cooperative, the owners have not been signed labour contracts with their regular workers as regulated in the Labour law. The labour contracts as well as commercial contracts have never been signed between the cooperative and the outsourced workers, too. All the workers working for Can Lieu cooperative are owner's relatives and neighbours. Hence, they work together based on social rather than economic relations. Additionally, people have been working mostly as outsourced workers, so labour contracts cannot make sense in such case. The wage rates of both regular and outsourced workers have been determined based on piece-work. Thus, the wage rates are frequently varied in accordance to the types and styles of products. Normally, an of age labour can earn 30 thousands VND per working day while the elder and the child labour merely get 10 to 15 thousands VND per working day.

Although the outsourced workers can make an agreement with the cooperative owner on material as well as product prices in order to improve their wage rate, the product quality is not negotiated because it is entirely determined by cooperative owner and can result in rejection of product by the owner. Therefore, both regular and outsourced workers have been put in a disadvantage. There is not any trade union in rural community in general and in the cooperative in particular, workers cannot bargain one by one.

#### ***4.2.5 Sea-grass Enterprise***

In this research we have worked with Hoang Long Company which has operated in the value chain of sea-grass. The company has to comply with Vietnam Enterprise Law. Regarding to labour issues, it could be said that the companies and enterprises are actors who have to conform to Labour Law strictly.

In the scope of sea-grass value chain, Hoang Long Company is representative for those producing sedge decorative arts. Located in the land area of 16,500 square meters, the company is equipped with a big shop floor, three warehouses and a material kiln. There are merely 50 regular workers working at the company's workshop and mainly responsible for

final product cleaning, drying, and packing. As a result, the work there is not hard, dangerous and hazardous.

The workers have to work 8 hours per day and seven days a week. They are also allowed to have holidays in accordance to the Labour Law. Besides, the company also allows its employees to leave when farming sector is in the pick season. In the morning, the workers work from 7:00 to 11:00 AM while in the afternoon, they have to work from 1:30 to 5:30 PM. A worker will be prevented to enter the workshop if he/she is late over 30 minutes. When the company got many orders at the same time, the workers were persuaded to work overtime. The wage rate of overtime work is always equal to 1.5 time of usual one. All workers in Hoang Long Company are in the ages from 20 to 55 years old. The company recruits neither child labourers nor the disabled.

All workers working at the shop floor have been instructed by a senior staff when they have been recruited. The training duration is varied from a half of month to two months. During the apprenticeship, new workers are paid at lower wage rate. Aside from skill training, some workers were sometimes sent to the training courses on labour safety, social insurance and regulation on strike which were held by Thanh Hoa Department of Labour, Invalid and Social Affairs.

Hoang Long is one of very few companies has bought social and health insurance for its workers. However, about 20 among 50 regular workers have been supported social and health insurance by the company. All of them are workers who have signed long-term labour contracts with the company. The premium is equal to 20 per cent of the minimum wage of 830 thousands VND per month, of which the workers must share five per cent while the company has to pay the remaining 15 per cent. The workers who have not bought social and health insurance confirmed that almost all employees who have been bought insurance by the company were the director's siblings and relatives.

### **4.3 Law and Policies: Overview and Comparison**

Besides Labour law which was the first time promulgated and implemented in 2012, there is a proliferation of government's decrees and decisions as well as MOLISA's circulars dealing with labour issues in Vietnam. This section reviews key policies on labour which have been issued after the Labour law 2012 so far. As this research focuses on the gaps between written law and practice, policy review will pay attention on five subsections, which are: Worker Health and Safety; Wages, benefits and working hours; Child labour; and Labour

association in order to find out the level of law coverage as well as law compliance in practice.

#### ***4.3.1 Policies on Worker Health and Safety***

Regard to worker health and safety, Labour law and other policies paid attention to three issues, including health and safety training, use of personnel protective equipment, and internal workplace air quality, noise, and light.

##### *Health and Safety Training and Instructions*

According to the Article 60 of Labour law, “employers shall make annual plans and allocate funds for the training and organization of training and fostering to raise qualifications and skills of laborers working for them; Train employees before moving to another job for themselves”.

Although the regulations of health and safety training and instructions of Labour law and policies apply to “all workers, and organizations or individuals utilizing labour on the basis of a labour contract” including cooperatives, enterprises and companies (except for outsourced workers), the practical data from the fieldwork witnessed that these regulations have merely been implemented by Hoang Long Company. Other enterprises and cooperatives did not pay attention to health and safety training. Thus, they did not have any activity relating to safety training and instructions for their employees.

##### *Use of Personnel Protective Equipment*

The personnel protective equipment has been shown clearly in the Article 136, 137 and 138 of Labour law as well as in the chapter three of Decree No.45/2013/ND-CP. According to the Law, “in a work place which contains dangerous or toxic elements and has a high risk of work-related accident, an employer must equip such place with suitable technical and medical facilities and protective equipment to ensure a timely response to any breakdown or occupational accident which may occur” (Article 138). Moreover, “employees who work in dangerous or toxic jobs must be provided with sufficient personal protective facilities. The employer must ensure that all personal protective facilities meet the quality standards and criteria stipulated by law”.

Similar to the regulations health and safety instructions, the regulations of personnel protective equipment also apply to cooperatives, enterprises and companies. However, the field information demonstrated that only Hoang Long Company provided their employees

with labour protective equipment. Even though, almost all workers did not use such equipment strictly during their working time.

To summarize, all regulations of worker health and safety in Labour law and other policies promulgated by Vietnamese government are suitable to international standards. However, Labour law only regulates to all individuals and organizations use labors based on contract, apprentices and domestic servants, except for outsourced workers who work at home in the cottage industry (Article 179 and Article 185). As a consequence, a number of labours who are working in the handicraft sectors are excluded from the Law. Unlike Labour law, almost all decrees, circulars and decisions issued by government and Ministry Labour, Invalid and Social Affairs (MOLISA) targeted at all types of labour and all individuals and organizations employ hired labours.

#### ***4.3.2 Labour contract and Working-hours***

Labour contract and working hours have been paid attention not only by Labour law, but also by a number of decrees, circulars and decisions which have been issued by government and MOLISA. This section will draw the articles which regulate contract, working hours and overtime.

##### *Labour Contract*

Labour contract has been clearly regulated in chapter three of Vietnamese Labour law. In this chapter, there are several key articles which mention:; (i) A written contract must be signed between an employer and an employee, except for the cases in which the employee shall work temporarily less than 3 months (Articles 16); (ii) A labour contract must contain the following main provisions: work to be performed, working hours and rest breaks, wages, location of job, duration of contract, conditions on occupational safety and hygiene; social insurance for employee; and traing to improve skill (Article 23).

The field data showed that there was not any commercial contract signed between the material suppliers/handicraft producers and the buyers. The prices were determined for particular grades of products based on oral agreement between them. Labour contract did not exist in cooperative, but it does for 20 employees of Hoang Long Company.

##### *Working Hours, Working Overtime*

Working hours have been shown in chapter 7 of the Labor law (the Article 104, 105 and 106). According to the Law, “working hours shall not exceed eight hours per day or forty

eight hours per week”. “An employer and an employee may agree on additional working hours provided that the number of normal and additional hours worked is no more than 12 hours a day or two hundred (200) hours annually, except in a number of special cases where the number of additional hours worked is no more than three hundred (300) hours annually”. Similar to other articles of Labour law, the regulations of hours, including overtime payment mentioned below have been also implemented for all individuals and organizations used labours based on contract. Thus, the outsourced labours are still excluded, but do apply to employees of cooperatives.

### ***4.3.3 Wages and Benefits***

#### *Minimum Wage*

In 2016, Decree No. 153/2016/ND-CP was promulgated to regulate the minimum wage for four regions. This decree must be complied with by enterprises, companies, cooperatives, productive teams, family farms, households, and other organizations which use hired labours. According to Decree No. 153/2016/ND-CP, the minimum wage has been regulated is 3,750,000 VND per month for region one; 3,320,000 VND per month for region two; 2,900,000 VND per month for region three; and 2,580,000 VND per month for region four. In comparison with the regulated minimum wage, all the workers in the sea-grass value chain could earn more. However, the income level is still very low in comparison with the cash need in rural areas.

#### *Regular Payments*

The regulations of regular payments could be seen in the Chapter 6 of Labour law. According to the Law, an employer can decide the way of wage payment based on time (hours, days, weeks, or months), on the numbers of products, or on piece-work in Article 94 and Article 95. However, the employer must maintain the way of wage payment in certain duration. Further, the employees must be notified the way of wage payment.

#### *Overtime payment*

According to Decree No.05/2015/ND-CP and Circular 23/2015/TT-BLDTBXH, “an employee will be considered as employee’s overtime working if they work more than the time which are mentioned in the Article 104 of the Labor law”. Decree No.05 and Circular No.23 also cover “all individuals and organizations use labors including family farms, households and cooperatives”.

Employees who work overtime must be paid based on the wage rates which have been calculated for their current works as follows:

- (a) On normal days, at a rate of at least one hundred and fifty (150) percent;
- (b) On weekly days off, at a rate of at least two hundred (200) percent;
- (c) On holidays and paid leave days, at a rate of at least three hundred (300) percent.

Almost all employees in the surveyed cooperative and company had overtime working which was less than 200 hours per year. All cooperative and company decided the overtime payment at extremely low level. Every overtime hour has been paid about five or seven thousands VND. Even some home workers work long hours, but receive no premium on their piece rate.

#### *One Day off in Seven, Leaves, Breaks*

According to the Article 110 of Labour law, an employee is allowed to one day every week at least (in twenty four consecutive hours). An employer can arrange for the weekly day off on Sunday or on another day. If it is impossible to arrange a weekly day off for the employees, the employer must allow the employees to have at least four days off in a month. Apart from regulating “day off”, Labour law also regulated employee’s leaves including annual leave, leave for personal reasons, and maternity leave.

The regulations of “one day off in seven”, leaves and break could not be applied to material suppliers, handicraft producers and outsourced workers. The reason is the fact that those people worked at home, they have never calculate how many hours a day they worked. Hoang Long Company has conformed to the rules on “one day off in seven”, leaves and break, but the cooperative has not done this rule.

#### ***4.3.4 Social, Health and Unemployment Insurances***

Regulations on social, health, and unemployment insurances have been presented in chapter 12 of Labour law, law on health insurance, law on social insurance, and also in Decree No.44/2013/ND-CP on unemployment insurance. The Article 186 of Labour law regulates that “Employers and laborers must participate in compulsory social insurance, compulsory health insurance and unemployment insurance”.According to Decision 959 QD/BHXH, the employer and the employee must make contributions to social insurance funds as follows

- (i) The employer shall contribute a sum equivalent to fifteen (18) percent of the total balance of the wages fund;
- (ii) Each employee shall contribute eight per cent of his wage;
- (iii) The State shall contribute and assist with additional funds to ensure the implementation of social insurance regimes for employees.”

According to this Law, employees entitled to participate in compulsory social insurance are those who work under contracts of indefinite term or contracts of a term of three months and/or over, whereas employers participating in compulsory social insurance include entrepreneurs, cooperatives, business individuals, cooperative groups, other organizations and individuals hiring, employing and paying wages to employees. People who are in working-age, but do not work under any types of contract can participate in voluntary social insurance.

The Law on health insurance which has been promulgated by the National Assembly in 2009 regulated who are entitled to participate in health insurance and this Law has been supported by the Decree No.105/2014/ND-CP. According to this Law, employees working under indefinite-term labor contracts or labor contracts of full three-month or longer term according to the labor law and business managers who enjoy salaries or remunerations under the salary and remuneration law are allowed to participate in health insurance. Similar to the Law on social insurance, this Law defined employers who are responsible for making health insurance contributions as enterprises, cooperatives, individual business households and other economic organizations employing ten and over employees. According to the Decree No.105/2014/ND-CP, the monthly premium rate applicable to employees equals up to 4,5% of their monthly salary or remuneration, in which the employer will pay two thirds (3%) and the employee one-third (1.5%) of the amount.

Regarding to social, health and unemployment insurance, the field data showed that none of material suppliers, handicraft producers and outsourced workers has bought voluntarily. The reason is the fact that they did not pay attention to insurance on one hand, their income is not high enough to invest in insurance on the other hand. Employees in Can Lieu cooperative have not gotten any support from the employers to buy any insurance while Hoang Long Company shared premium with their employees in different ways.

#### ***4.3.5 Child Labour***

The Article 3 of Labour law regulated that “an employee shall be a person of at least fifteen years of age who is able to work and has entered into a labour contract”. Further,

Articles 163, 164, 165 of the Law and Circular No.11/2013/TT-BLDTBXH issued by MOLISA meticulously regulated all types of work from which child labours must be prevented. Through the fieldwork, we have recognized that child labours did not appear in the workshop of cooperative and company. However, several child labours have involved in sedge cord twisting.

#### **4.3.6 Association**

This section focuses on reviewing of labour rights of participation in trade union and of collective bargaining. The Article 189 of Labour law regulated that “the employee has the right to found, join and work for a trade union according to the Trade Union Law, in order to protect his/her legitimate rights and interests. The employee is entitled to the community welfare benefits and takes part in the management of the business according to the rules of the business and the prescriptions of law”.

Regard to collective bargaining, in chapter 5 (the Article 63 and 64 of Labour law as well as Decree No.60/2013/NĐ-CP defined that “a collective labor accord is a written agreement between the labor collective and the employer on the conditions for labor and use of labor; and the rights, interests and obligations of both parties in their employment relations”.

In our observation of the sea-grass value chain, Trade Union has been established in neither Can Lieu cooperative nor Hoang Long Company. In addition, collective bargaining does not exist in this value chain due to the low income from agricultural production so that both regular and outsourced workers accept their wage paid by the owners of cooperative and enterprise.

To recapitulate, there are a number of policies relating to labour issues in handicraft industry development have been promulgated by Vietnamese government in recent decades. As mentioned in the previous section, laws and policies can be those pay attention to employees who are working in cooperative and enterprise rather than in individual household. As a consequence, Labour law and other supported policies have not been implemented in almost all self-employed workers and outsourced labours who mainly constituted a labour force of handicraft sector. Moreover, Labour law and other policies on labour issues have been inadequately implemented in cooperatives, enterprises and other economic organizations.

## **5. Conclusions and Policy Recommendations for Labours in Handicraft Sector**

### **5.1 Conclusions**

(1) There are a number of policies supporting to development of handicraft sector. However, these policies have paid attention to economic aspect rather than to social and environmental ones. Thus, it is not easy to find a special government's policy on labours who work as material suppliers (farmers), small producers, and outsourced labours.

(2) The laws and policies on labour issues have focused on the employees who are working in cooperatives, enterprises and companies rather than in individual households. Thus, almost all self-employed workers and outsourced labours working at home who mainly constituted a labour force of handicraft sector have not received support from Labour law and other supported policies.

(3) The regulations of working conditions in Labour Law and policies have made no sense in the case of material producers (farmers), handicraft self-workers and outsourced workers. The field data showed that all these people had to work in the poor conditions either in the muddy field or in the cottage workshop.

(4) The working conditions in the enterprise are better than in the households and cooperative. But, the labour protective equipment has not been paid adequately attention in all surveyed actors of sea-grass value chain.

(5) The material producers (farmers), handicraft self-workers and outsourced workers have considered craft making industry as an auxiliary livelihood strategy rather than the work which could bring them prosperity. As a result, they seemed to accept the current wage rate though many of them perceived that it was relatively low and unstable.

(6) All surveyed cooperative and company have operated based on the outsourced workers who produced in their households rather than in the workplace. The owners have not signed labour contracts with both outsourced and regular workers. The wage rate, working hours and other labour issues have been determined based on oral agreements between the owners and the workers. However, in many cases the owners solely made decisions regardless the workers' opinion. Further, the trade union was not established in any cooperative and enterprise.

(7) Except for very few workers in Hoang Long Company, all material suppliers, handicraft self-workers, outsourced workers and regular workers in the enterprise/cooperative

have no idea of social/health/unemployment insurance. Some of them cannot afford because of low income while the others are not willing to buy.

(8) Most of the workers have been instructed by occupational transmittance at the workshop while some key employees were sent to the formal training courses. When the workers were in the apprenticeship, they were remunerated at much lower wage rate in comparison with the formal ones.

(9) While the owners of cooperative/enterprise were well aware of Labour Law and labour policies, the workers' understandings were really limited. A number of respondents did not know anything related to Labour law, whereas some of them just knew something related to minimum wage and working hours.

## ***5.2 Policy Recommendations***

Based on the result of law/policy review and the field data, this research primarily draw recommendations on Labour law and policies as following:

(1) It was recognized that all the surveyed cooperative and company have not signed labour contracts with both regular long-term and casual workers. The local labour inspectors might know well, but there was not any punishment. Therefore, *the national labour inspect system needs to be improved. The workers need to be empowered in negotiation of wage rate and working conditions.*

(2) Although the current labour law has regulated on workers' right protection, many workers who worked in the surveyed enterprise got the sack because they joined the strike. There was no organization, especially trade union, protecting workers in such cases. Hence, *trade union establishment needs to be encouraged by MOLISA since the time when a new enterprise or company registers.*

(4) According to the Law on Social Insurance, all these workers might buy voluntary insurance, but very few material and handicraft producers, outsourced workers and workers in the enterprise/cooperative have invested because the minimum premium of voluntary social insurance was much higher than their effort. In many respondents' opinion, *the minimum premium of voluntary social insurance should be lowered.*

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