



BetterWork

Annual Report 2019
An Industry And
Compliance Review
Vietnam

REPORTING PERIOD
January 2017 - June 2018



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Summary Findings

This report draws on the findings of assessments conducted in 331 factories in Vietnam between 01 January 2017 and 30 June 2018. It presents a snapshot of non-compliance rates in a range of areas linked to working conditions and fundamental rights at work, and also provides factory-led insights into the key drivers of non-compliance, based on Better Work's assessment and advisory work with enterprises.

The report also contains a thematic analysis chapter, with this year's focus on Gender. This chapter uses Better Work compliance findings together with qualitative and quantitative information from a range of authoritative sources to build a picture of the gender situation in the garment industry in Vietnam today. It considers that must be overcome to ensure full and equal access to rights and opportunities for women and men throughout the sector.

Assessment results from factories covered in this report are largely consistent with the findings of previous Better Work reports, with non-compliance most heavily concentrated in the working conditions clusters, particularly Occupational Safety and Health and Contracts and Human Resources. In terms of core labour standards, collective bargaining and management interference remain the foremost compliance challenges for factories. In addition, the synthesis compliance information during this period shows that factories under Better Work Programme have made considerable improvements in almost all of the issues being assessed.

ILO CORE LABOUR STANDARDS

Child Labour

Cases of child labour in Better Work Vietnam factories are few and far between, and usually involve either workers that are just below the legal age of employment, or those who are old enough to work but are subject to specific legal rules on their working conditions as juveniles. In this regard, a key concern is

the lack of oversight and protection of workers under the age of 18, which remains a problem for a significant minority of factories. Firms that have poor verification and monitoring systems for young workers often end up overlooking other aspects of their working conditions, such as the fact under 18s should not be working more than 8 hours per day and 40 hours per week.

Analysis of recent child labour cases also suggests particular blind spots emerging from the recruitment of temporary workers by production managers out of the purview of HR staff and monitoring of subcontracting firms like catering suppliers, who provide outsourced services on the factory premises. Without adequate due diligence and monitoring of the employment practices, factories may leave themselves exposed to major risks that undermine their efforts to eliminate child labour and other labour violations across their operations.

Forced Labour

Forced labour is rarely found in Better Work factories. In the current reporting period, there was no robust evidence to establish a case of forced labour in the assessed factories. When assessing forced labour, Better Work looks at coercion, including issues such as restrictions on workers' freedom of movement, forced overtime, and whether workers are able to terminate their employment with reasonable notice. While the use of forced overtime has been found in previous years, such practices were not uncovered during the most recent observation period.

Discrimination

The most common form of discrimination in garment factories in Vietnam is gender based, but uncovering and verifying the full extent of the problem remains a formidable task. Whilst cases of sex-preference in recruitment are typically uncovered fairly easily, issues

like sexual harassment remain largely hidden, with efforts to bring it out of the shadows hindered by low awareness (among workers and managers alike) and a culture of fear among victims. Meanwhile, although few factories are found openly flouting rules on maternity rights and protection, it remains clear that some factories continue to employ covert techniques to avoid incurring the ostensible “costs” of employing pregnant workers. This includes using pregnancy tests to screen out pregnant workers at the recruitment stage and denying new mothers full access to bonuses and salary increases after returning from maternity leave.

One form of discrimination that has recently become apparent is the practice by the employers of developing policies and regulations that negatively impact women who have taken time away from work for their maternity purposes, such as maternity leave, prenatal check or daily breastfeeding break. Excluding leave that is only granted to women from the calculation of bonuses (such as or wage increments is considered discriminatory, because only women are adversely affected by this practice.

Freedom of Association and Collective Bargaining

Although there is still a gap between the national law and international labour standards regarding freedom of association, positive developments towards alignment of factory practices with this internationally recognized right have been observed during the period in the garment sector. Management interference in grassroots trade unions remains widespread; however, it is far less prevalent –in Better Work factories- today than it was five years ago, and use of more pernicious tactics like intimidation and harassment of union officials remain remarkably rare (and absent in the current reporting period).

Similarly, the share of factories found non-compliant on collective bargaining has fallen in the current reporting period, although it remains the leading compliance challenge in this cluster. Factories continue to fall short in areas such as consultation and approval (of collective agreements), sharing CBA information with workers, and implementing the agreements in full. In many ways, this reflects the still nascent

bargaining culture and generally low understanding of its value among garment manufacturing enterprises in Vietnam.

WORKING CONDITIONS

Compensation

Over the years, Better Work has observed that compliance in this area is generally higher than in the other working conditions clusters, i.e. occupational safety and health, working time and contracts. The same pattern is observed during this period. At the basic level, it’s positive that all factories paid worker salaries on time, and almost all have ensured workers’ rights to the minimum wage. Whilst the share of noncompliant factories has dropped as compared to last year, violations on social insurance (making contributions to social insurance funds in full and on time) and overtime payments still remain common.

The leading challenge for compliance in this cluster remains keeping one accurate payroll record. Non-compliance is observed in 35 percent of the assessed factories. Failure to comply with this standard risks the integrity of the factory’s payment system and hence, usually is considered as a critical issue by brands. While there has been improvement over the years, Better Work still observed that in some cases, the issue poses a major risk to the partnership between factories and brands.

Contracts and Human Resources

Better Work factories generally respect national law concerning employment contracts. More than 90 percent of the assessed factories ensure that all of their workers have an employment contract. However, there are still challenges in translating the legal requirements into viable practices at factory level. A significant number of the factories (42 percent) face difficulties in ensuring that their labour contracts specify all of the legally required terms and conditions. In addition, 28 percent of factories also faced difficulties in calculating severance allowance because they have been unable to accurately track the

employment periods in which the workers have not been enrolled in unemployment insurance, such as probationary, training, maternity leave or sick leave of more than 14 days to correctly calculate the severance allowance.

Almost one third of all observed factories have not followed the procedural requirements of the law when organizing dialogue at the workplace. However, most of the observed factories understand the importance of regular worker-management dialogue to maintaining harmonious industrial relations. They organize some form of dialogue or exchange of information at the workplace.

There is not much evidence that factories apply disciplinary measures in an illegal manner or that workers are subject to mistreatment at the workplace. The non-compliance rates in these questions are 7 percent and 4 percent, respectively. In 14 factories, workers reported verbal harassment or humiliating treatment from the management, usually from their line managers or production managers.

Occupational Safety & Health (OSH)

Similar to previous years, the Occupational Safety and Health cluster is home to the highest number of noncompliance findings. This reflects the complexities and associated risks of garment and footwear production, and the wide ranging OSH regulations set out in Vietnamese law for these types of workplaces. At question level, violations are spread quite widely with no issue having higher than 50 percent of factories non-compliant. However, challenges converge in 4 clusters, namely Worker Protection, OSH Management System, Emergency Preparedness and Hazardous Substances, with the aggregated headline non-compliance standing at 93, 82, 74 and 68 percent, respectively.

The most common challenge is for factories is to establish a functioning OSH unit. Under the new OSH Law and Decrees, factories have to appoint staff with relevant technical education or experience to be in charge of safety and health. During the observed period, half of the factories have not met this legal

requirement.

Fire safety and emergency preparedness continues to be an important concern for the garment and footwear industry, given the prevalence of flammable materials and the vast number of workers present in a production workshop. While most of the factories have installed fire detection and alarm systems, as approved by the local fire police, many have not regularly inspected and maintained to ensure the functionality of the system. This remains a compliance challenge for 35 percent of the assessed factories. Meanwhile, though still a major concern, factories have performed better in keeping escape routes and exits unobstructed, with the non-compliance rate standing at 31 percent, a 20 percentage point decline as compared to the previous year.

Working Time

The garment industry in Vietnam has long been characterized by excessive working time. For the most part, overtime is voluntary. However, breaches to overtime limits are a leading cause of non-compliance in this cluster. In fact, 77 percent of assessed factories do not comply with the monthly limit of 30 hours, and 69 percent do not comply with the annual limit of 300 hours. While in some cases, excessive overtime reflects the internal productivity and production planning weaknesses, Better Work also observes that factories may resign themselves to a certain level of noncompliance (eg. 60 working hours per week, including overtime and regular hours), which is tolerated by their partner brands.

More positively, the vast majority of assessed factories have ensured statutory leave for workers, including those particularly for women. Most workers in the assessed factories are considered as performing hazardous jobs and are entitled to 14 days of annual leave. Fourteen percent of factories failed to comply with this requirement, mostly linked to overlooking legal requirements. Less than 10 percent of factories are found non-compliant in providing 1 hour off per day for breastfeeding workers or 30 minutes of menstruation rest per day.

BETTER WORK VIETNAM AT A GLANCE¹



562
Factories



782,328
Workers
reached



1,771
Assessment
Visits



7,692
Advisory
Visits



42,075
People trained
(workers,
managers,
factory staff)



Section I: Introduction

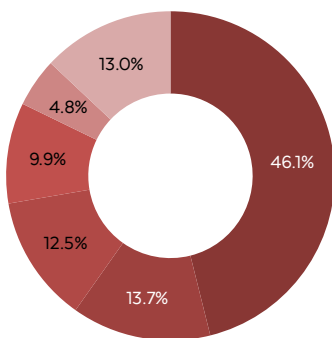
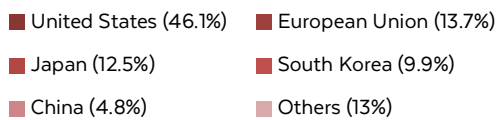
INDUSTRY & POLICY DEVELOPMENTS

Vietnam's apparel industry accounts for about 15 percent of the country's total exports, reaching over USD 36 billion in 2018. The country now ranks among the top-five garment exporters globally, with the vast majority of its products going to the United States, the European Union and Japan. The sector employs approximately 2.7 million people, and supports millions of others through remittances sent to workers' families around the country.

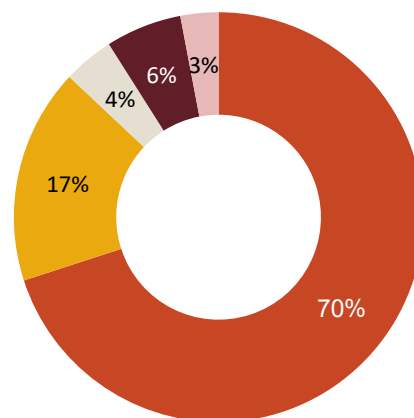
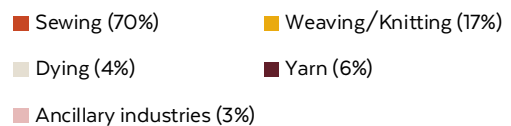
Foreign-owned companies dominate the export sector for apparel (Korea and Taiwan are the biggest investors), but there are thousands of smaller local companies producing both for the domestic market and as subcontractors for larger exporting firms. Of the more than 6,000 garment firms active today, around 70 percent are sewing operations -the vast majority of which are producing at the Cut-Make-Trim stage of production.⁴

Industry Profile

Main Export Market in 2018



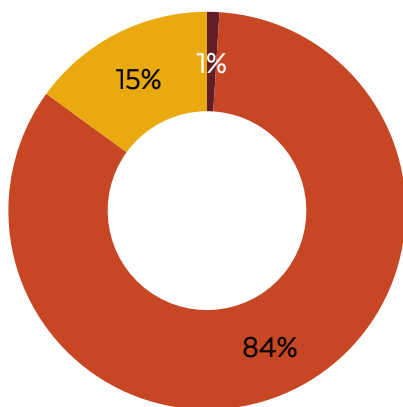
Key Production Functions



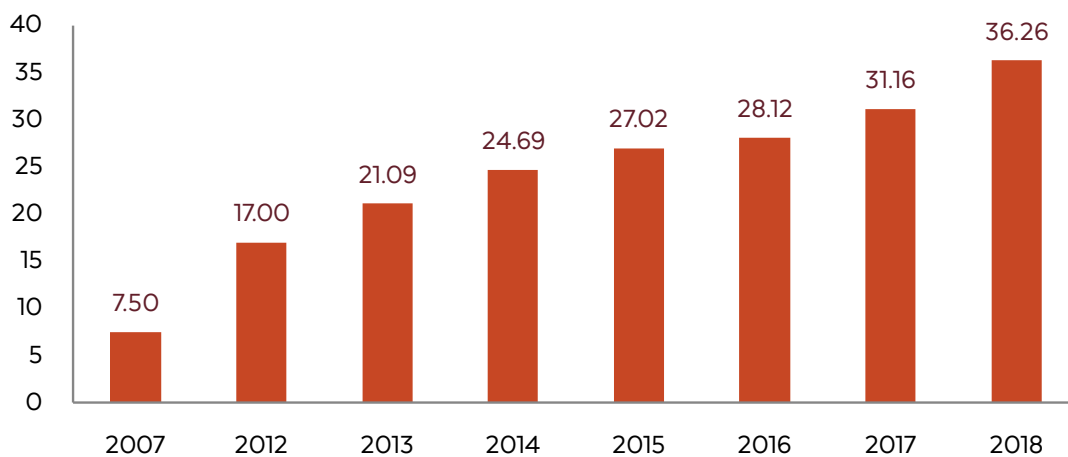
Enterprise Ownership Structure

(Number of enterprises: ~ 6,000
(incl. Textiles)

■ State-owned (1%) ■ Private (84%) ■ FDI (15%) ■



Export Value (USD billion)



Trade

After almost two decades of rapid and sustained growth, the industry in Vietnam remains on track for continued expansion in the medium term, despite wage competition from other garment producers and the withdrawal of the US from the much anticipated Trans-Pacific Partnership (TPP) agreement.

The industry is still expected to gain substantial benefits from the trade agreements concluded with Korea (VKFTA - effectuated since December 2016), EU (EVFTA - concluded in December 2015), Comprehensive and Progressive Agreement for Trans-Pacific Partnership (which comprises the original 11 TPP member countries, minus- CPTPP (effectuated for Vietnam as of 14 January 2019), and, in the short term, from the Sino-US trade tension. Whilst smaller in terms of its share of world trade, the replacement CPTPP will nevertheless strengthen Vietnam's export prospects vis-à-vis key markets such as Japan and Canada. According to the World Bank, the resulting boost to the domestic economy could range from 1.1 percent to 3.5 percent of GDP by 2030². Reforms in a range of areas, from customs procedures and intellectual property to labour and environmental standards, will be critical if Vietnam is to take full advantage of the trade deals.

Policy Context

With a view to promoting further convergence between national law and international labour standards, the Vietnamese government has also set out a roadmap for further labour reforms. In the coming years these reforms will not just expand rights and protections for workers, but also help the country to reap the full benefits of the upcoming trade agreements (where labour provisions require domestic policy adjustments). The most prominent activity would be the revision of the Labour Code 2012, expected to be completed by late 2019. Following this major legal work, the Government is also committed to ratifying and enforcing three outstanding ILO Core Conventions from the core list of eight, namely C105 (Forced Labour); C98 (Right to Organise and Collective Bargaining and C87 (Freedom of Association and

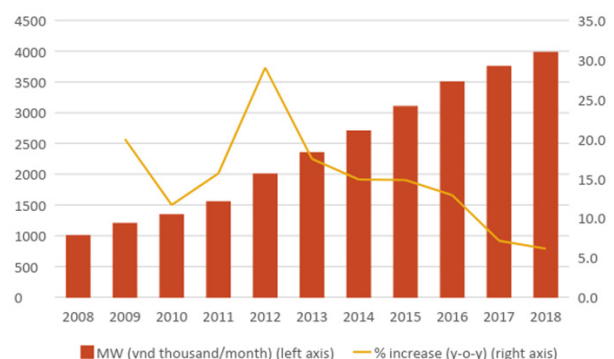
Right to Organise).

After adjusting the legal framework, Vietnam will face a number of implementation challenges, both in terms specifying the operational guidelines for the law for businesses (i.e. decrees and circulars) and in promoting enterprise and industry compliance through a combination of incentives and enforcement (i.e. labour inspection). Better Work is well placed to assist this process both by continuing to offer direct services to factories (i.e. its advice, training and assessment activities) and by translating its substantial industry experience and knowledge of industry best practices into practical, evidence-based guidance for policymakers.

Minimum Wage

In November 2018, the Government issued the Decree No. 157/2018/ND-CP, which reveals an increase the minimum wage by 5.3 percent in 2019. The minimum wage increase rate has slowed down to 6.5 percent in 2018 and 7.3 percent in 2017.

CHART 1. MINIMUM WAGE GROWTH, VIETNAM 2008-2018



BETTER WORK VIETNAM

Better Work Vietnam (BWV) was launched in 2009, with the aim of supporting the growth and competitiveness of the garment industry, a key driver of poverty reduction and socio-economic development of the country, by promoting decent working conditions and respect for national laws and international labour standards – conditions which are now critical requirements in global apparel sourcing and important guarantors of long term industry sustainability.

The programme began providing core services – assessments, advisory and training – in 2009, and by now has supported more than 550 factories employing over 780,000 workers³. Upon joining BW, factories are assisted to set up a bipartite committee to conduct a self diagnosis of their compliance system and make initial improvements. After this period, an un-announced assessment is organized, consisting of a two-day visit and includes document reviews, factory observations and interviews with workers, supervisors and managers. Building on these assessments, BWV then provides further advisory and training for factories to improve working conditions and drive business results in a sustainable manner. This integrated improvement approach allows factories to work with the programme to identify issues and develop joint solutions based on the foundations of social dialogue (between workers and management), ownership, accountability and transparency.

Programme Expansion

Starting with 49 factories in 2009, the Better Work programme in Vietnam has expanded rapidly, reaching some 550 factories by late 2018 – or 30 percent of export factories in the country. Moreover, with the programme now reaching more than 780,000 workers, this means that one in every five garment workers in Vietnam are employed in a Better Work factory⁴. The programme has also expanded its geographical scope to 22 provinces, as well as adding 18 footwear factories to its membership.

CHART 2. BWV PROGRAMME EXPANSION, 2009-2018

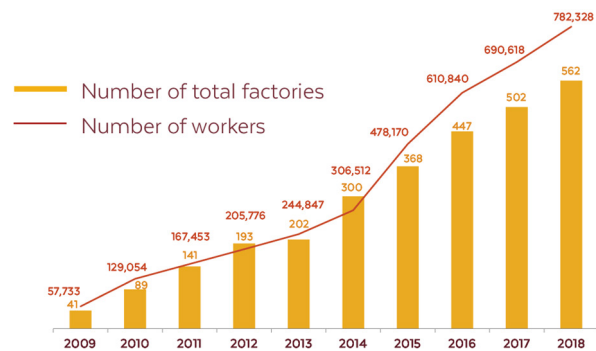
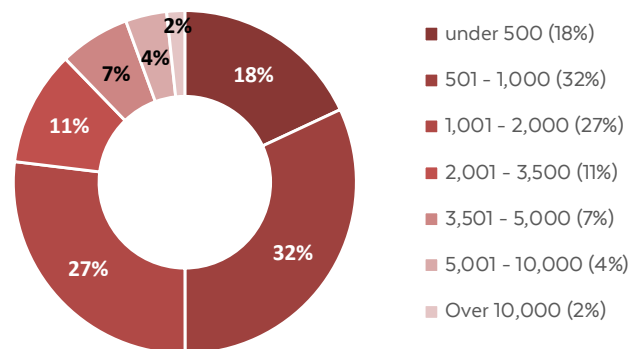


CHART 3. WORKFORCE SIZE (BWV FACTORIES)



In line with its Third Phase Strategy (see below), Better Work Vietnam will continue on a path of managed expansion in the period 2018 to 2022, with an ambition to expand its industry footprint and reach at least a million workers under its membership. Through strategic partnerships with the national stakeholders, specialized ILO projects and international brands,) the program will also start working further down the supply chain with Tier 2 factories (suppliers or subcontractors of tier 1 factories), helping them to enhance their position in global production networks through improvements to working conditions and business competitiveness.

Better Work Country Strategy (2017-2022)

Now into its third strategic phase (2017-2022), the Better Work Vietnam programme has a wealth of experience, tools and good practices which it can draw upon to expand its influence and positive impact across the industry. As part of this effort, the programme will invest resources in what it knows work best –and have greatest impact– at factory level, whilst also seeking to reach a critical mass of influenced enterprises that can start to transform the business culture across the sector. Alongside this, the third phase will also see a deeper practical role for national stakeholders (the Government, Trade Union and Employer Organization) in promoting and implementing the Better Work model in Vietnam, as well as in institutionalizing its results and lessons in national laws and policy making.

By 2022, Better Work Vietnam aims to have accelerated improvements in working conditions and business competitiveness in the garment industry, thus improving the lives and work of more than 1 million workers. Ultimately, Better Work hopes to see Vietnam emerge as a leading global hub for ethical sourcing, and a place where its apparel sector is recognized not just for its quality and competitiveness but its commitment to sustainability and social responsibility.

Public reporting

Since 2017, Better Work Vietnam has been publicly disclosing factory level compliance performance on 26 issues covered in its compliance assessment. Part of a global initiative (across Better Work programmes) that builds on the earlier success of this approach in Cambodia, public reporting promotes progress towards a more transparent and compliant garment sector –something that is increasingly demanded by consumers, brands and other industry stakeholders worldwide.

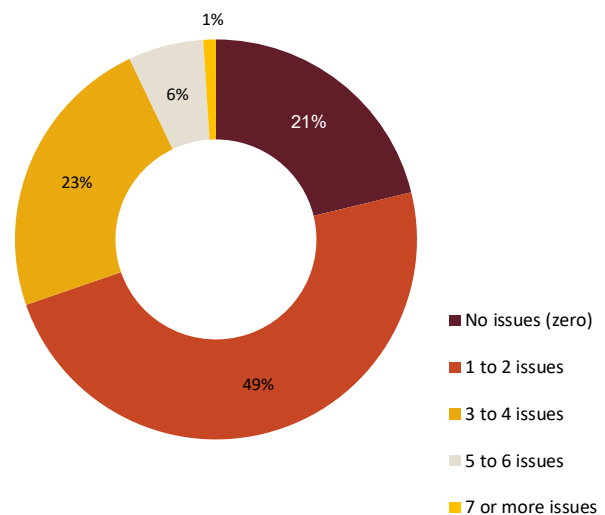
Issues covered by public reporting include critical fire safety and occupational safety and health protections, compensation, employment contract, as well as social dialogue mechanisms and international core labour

standards issues such as discrimination, forced labour and child labour, and freedom of association and collective bargaining (particularly, certain aspects of management interference in the trade union)⁵.

Compliance data is published on Better Work's Transparency Portal, which is available through its public website. By disclosing both compliant and non-compliant factories together, the Portal helps to ensure a balanced view of the industry and prevent a minority of poor performing enterprises damaging the image of the sector at large (and the better performing firms within it). The initiative also enables brands to reward high compliance factories (with larger or more sustained orders, for example) and allows governments to more effectively channel their resources toward low performing factories.

By 31 December 2018, Better Work Vietnam disclosed data on a total of 320 factories, of which just over a fifth were fully compliant with all 26 issues (their names are still published on the Transparency Portal with a colour identifier). A significant majority (71 percent) of factories have 2 or less publicly reported violations, most of which relate to occupational safety and health. Less than 7 percent have 5 or more issues, the highest being 9, recorded in one factory.

CHART 4. NUMBER OF NC ISSUES UNDER PUBLIC REPORTING



Taking 2016 as the baseline prior to the launch of the Transparency Portal, Better Work data shows that by the end of the observed period (June 2018), non-compliance on key public reporting issues has fallen, sometimes quite significantly. This includes a more than 50 percent reduction in violations concerning blocked or inaccessible emergency exits and hazardous chemical exposure, and more than 10 percent declines in fire safety violations (detection and alarm systems) and management involvement in the trade union. Challenges remain evident too, however, particularly on collective bargaining (almost 1 in 10 factories fail to fully implement their collective agreement, up from 3.5 percent in 2016) and OSH Units (44 percent of factories don't have a functioning OSH unit, up from 30 percent in 2016).

Differentiating high performing factories

Since 2017, Better Work has been implementing a global initiative to differentiate factories with proven high performance and provide them with a unique service package that both rewards their success and provides tailored support for further improvement. The initiative is aimed at helping the programme better meet the needs of different types of factories and target its interventions for greater industry impact.

Differentiation criteria cover four essential pillars of the factory's improvement process: compliance, social dialogue, management systems, and learning. Upon meeting an objective performance criteria across these areas, factories will be verified and awarded "Stage II" status in the Better Work programme, which entitles them to a range of benefits and additional services above and beyond the regular Better Work service package. This includes more targeted advisory services, the option to reduce assessments from once a year to every other year, provided that they continue to meet all of the required criteria; exclusive access to special projects and publications, and enhanced visibility to buyers, including access to networking events.

In 2018, Better Work Vietnam announced its first member factory to reach Stage II status, which

recognizes the company's efforts to embed decent work and sustainable improvements across its business. Thuan Phuong Garments has achieved a high level of performance across the four key pillars of sustainable business, with high levels of compliance matched with effective management systems and a sustained commitment to learning and social dialogue. With the first factory proceeding to stage 2, there is growing interest from buyers, vendors and motivation for factories to join the cohort of emerging leaders. Better Work hopes that in 2019, more factories will join stage 2, which can inspire and spur business changes across the wider industry.

Managing Persistent Non-Compliance

On 22 May 2018, Better Work Vietnam signed a protocol with the Inspectorate of Ministry of Labour, Invalids, and Social Affairs (MoLISA) aimed at driving improvements among persistently non-compliant (PNC) factories. Under the protocol, the programme will coordinate with the labour inspectorate to implement targeted enforcement and remediation procedures with factories that are either unable or unwilling to improve on certain key issues over three consecutive assessments (four or more publicly reported issues in each assessment)⁶.

Although it remains too early to fully assess the impact of this initiative on factory-level behavior, initial indications suggest that the risk of becoming "persistently non-compliant" has been a spur to improvement among the lowest performing factories. Indeed, while it was calculated at its launch that 50 factories were at-risk of becoming PNC, by October 2018 none of them had met the criteria for such. This is either because they have not yet been tracked over two consecutive cycles (36 factories), or they made sufficient improvement to be removed from the list before the second or final alert (11 factories), or they left the Better Work programme altogether (3 factories).

Supporting improvement through training

In 2016, Better Work country programmes launched a bundled service package which saw the integration of training alongside assessment and advisory services under the standard factory service cycle. In Vietnam, all factories are therefore entitled to 15 inclusive training days per year as part of their package, with the option to purchase additional training depending on need.

In 2018, BWV delivered 122 courses (82 public and 40 in-factory courses) to more than 4,060 factory personnel – mostly compliance and HR teams, but also including managers and workers depending on the topic. Reflecting the wider gender balance in the industry, 77 percent of training participants were female. In addition, BWV also introduced a new 3-part training programme on Industrial Relations, comprising modules on social dialogue, grievance handling, and collective bargaining, as well as an advanced course on compensation and benefits and a new training on the prevention of sexual harassment in the workplace.

To create further capacity building opportunities, BWV organized 19 industry seminars in 2018, with nearly 800 participants from 468 factories attended. The topics include health and safety, child labour, human resource management and industrial relations. During the seminars, participants share their factory's practice, lessons learnt through different exercises and learning activities. In addition, industry experts were invited to lead the seminars and provided in input to the seminars' contents. Better Work staff also joined the facilitation team to provide their practical knowledge and experience gained from factory advisory and assessment.

Deepening Brand collaboration

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implement targeted enforcement and remediation. Since 2016 Better Work Vietnam has expanded its supply chain outreach to include vendors and intermediaries, which often play a key role in sourcing decisions and with it, compliance performance in the factories. BWV has held several local business forums and also rolled out Better Work Academy to local buyer teams in Vietnam, in the aim to enhance knowledge and understanding of the Better Work model and approach among brand personnel.

Building Capacity of Industry Stakeholders

Better Work Academy

Aimed primarily at committed brands and vendors in the apparel sector, the recently launched Better Work Academy provides training and advisory services to corporate teams at the global and local levels, building their capacity to implement Better Work methodologies across their supply chain.

The Academy helps brands to adjust towards a more sustainable improvement approach for their supplier factories. It enables social compliance and sourcing teams to learn about – and replicate – the programme's advisory approaches, facilitating more effective workplace cooperation and dialogue, and creating an enabling environment to address the root causes of non-compliance.

The Academy is a roughly two-year program that can be tailored to participants' specific needs. Training is delivered in separate four-day modules. eLearning, virtual coaching, and in-factory shadowing are delivered in between the in-person sessions. In Vietnam, this partnership has already seen us collaborate with Gap to align their training programmes and build capacity of Gap staff to deliver key workplace training modules to suppliers.

Building Bridges

Based on the Better Work Academy model, the Building Bridges initiative is a global forum for learning and collaboration among representatives of trade unions, industry associations and governments at the

national level. Using a specially designed learning curriculum which builds in lessons learned from Better Work, the initiative provides a platform for participants to boost their skills and “build bridges” between their organizations –something which is critical in advancing sustainable improvements to compliance, working conditions and enterprise competitiveness within and beyond the garment sector.

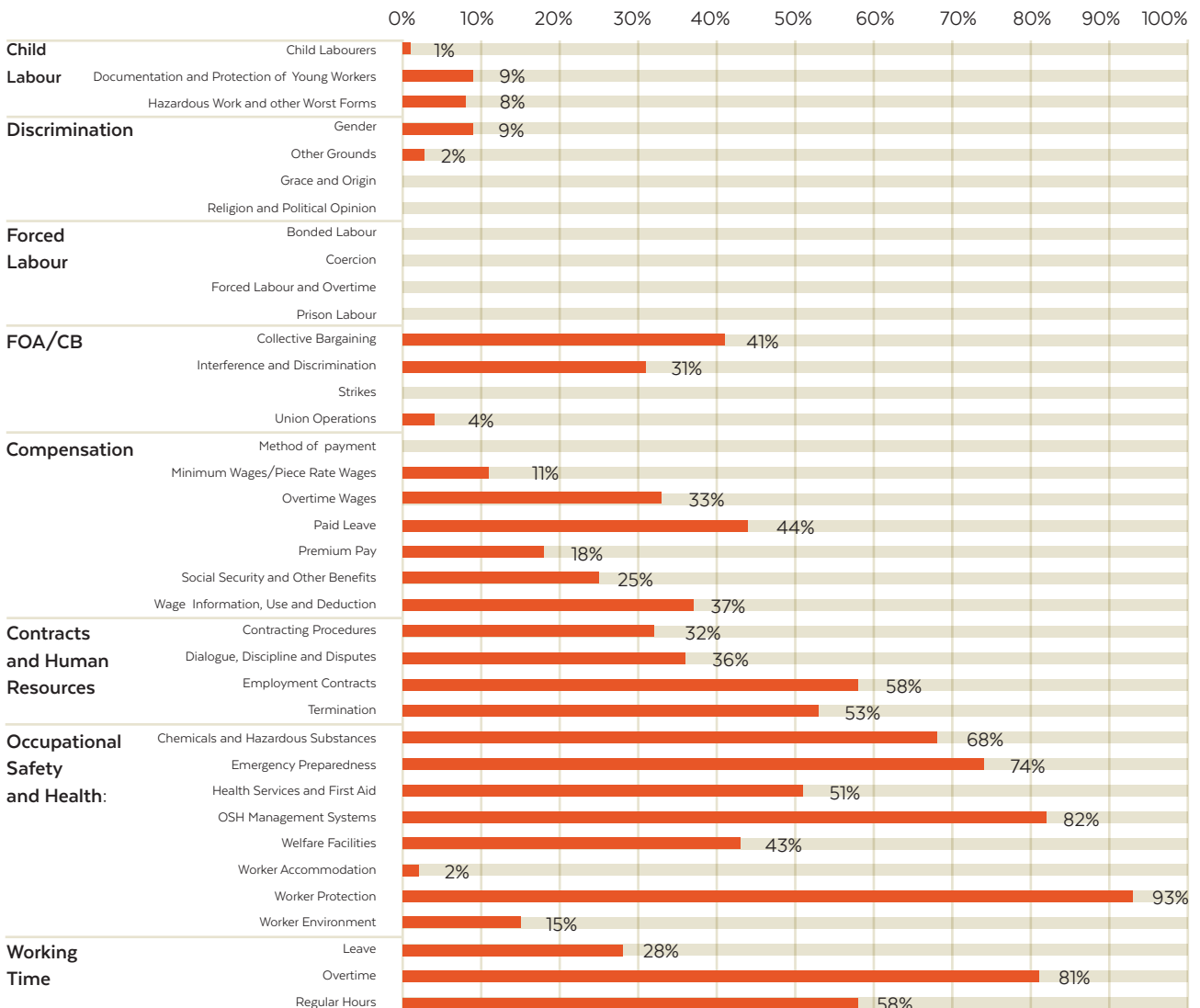
Project Advisory Committee

The programme’s tripartite Project Advisory Committee (PAC) continues to play a key role in building support from stakeholders, identifying challenges and building consensus around solutions. As is customary, Better Work Vietnam has held two PAC meetings in 2018, to exchange information and discuss challenges and opportunities both at the strategic and operational levels.

Section II: Findings

COMPLIANCE SITUATION

Figure 1 below shows non-compliance rates in 331 Better Work factories assessed between January 2017 and June 2018.



■ non-compliance rate (n=331 factory assessments)

DETAILED FINDINGS

The overall trend is encouraging and suggests a general improvement of the compliance performance among the observed factories. Compared to the previous reports, the headline non-compliance rates have reduced across almost all compliance groupings. There are, however, some exceptions with weaker compliance reported, most notably in OSH management systems and gender based discrimination. While the former can be largely attributed to changing assessment standards following new OSH regulations, the latter is influenced by the renewed efforts Better Work has adopted to uncover and resolve more subtle forms of gender discrimination at work.

Compliance is generally high among core labour standards clusters, meanwhile, with the exception of freedom of association and collective bargaining, wherein many factories (still) fail to follow legal bargaining procedures and ensure that union operations are free from management involvement. None of the assessed factories under this report violated legal requirements on timely salary payments or resolution of strikes, or were found to have resorted to forced labour. Most violations are found under the national law clusters –i.e. occupational safety and health, working time and contracts- with particularly high concentrations on worker protection, overtime and OSH management systems (which represent the top 3-NC areas in this report).

Child Labour

By law, workers in Vietnam can enter employment or work at the age of 15, and this applies to all types of work in a garment factory setting. Workers aged between 15 and 18 years are considered juvenile workers, and can perform jobs which “do not jeopardize (their) health, safety or morals”. As such, the law prohibits certain types of work for juveniles, whilst specifying limits on their working time (8 hours a day and 40 hours a week, meaning no overtime) and requiring that companies keep special records of

young workers they employ.

In the reference period, two cases of child labour (i.e. workers under 15) were found: one involving a teenager working for a catering service sub-contractor (working in a Better Work factory), and another involving two teenagers recruited as temporary sewing assistants four months short of their 15th birthdays. Both cases were handled in accordance with the programme’s “Zero Tolerance Protocol” which involves immediate reporting to MOLISA (Department for the Child and Labour Inspectorate), followed by investigation and a process of remediation whereby the factory agrees to pay for the child’s return to education and guarantees him/her a job upon reaching the legal age of employment, and makes improvements in their system to prevent future recurrence.

Similarly, three cases were found of under-18s engaged in hazardous (i.e. prohibited) forms of work for subcontracting suppliers. Such issues stem from inadequate age verification systems and poor oversight of supplier compliance by lead factories – something which in these cases led to an assignment of young workers in hazardous work roles.

While the incidences of child labourers or young persons performing hazardous work remain scarce among Better Work factories (accounting for less than 1 percent of the total number of factories in the sample), the risk remains ever-present. Approximately 7 percent of factories do not have a reliable system to verify workers’ ages upon recruitment, while 6 percent do not establish adequate records of workers under the age of 18. These lapses appear particularly common for temporary workers, and can also lead to further violations under the child labour cluster, such as the use of excessive working time for young workers⁸.

IN FOCUS 1: CHILD LABOURERS

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Have you found any workers under the age of 15?	2	1%

IN FOCUS 2: HAZARDOUS WORK AND OTHER WORST FORMS

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Do workers who are under age 18 work overtime, at night, or allow to work more hours than allowed by law?	28	8%
Are any workers who are under age 18 doing work that is hazardous by nature?	2	1%
ny workers under age 18 subjected to the unconditional worst forms of child labour?	0	0%

IN FOCUS 3: DOCUMENTATION AND PROTECTION OF YOUNG WORKERS

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer have a reliable system in place to verify the age of workers prior to hiring?	24	7%
Does the employer keep a record of workers under 18 years of age?	21	6%

Forced Labour

No case of forced labour was found in the reporting period. When assessing forced labour, Better Work looks at whether factories restricted workers' movements around the workplace, especially in and out of the premises, and whether they used other coercive tactics to keep workers at work (e.g. threats of violence, intimidation, disciplinary

measures, withholding of wages, keeping personal identity documents, and the like). Better Work also looks at whether workers are free to terminate their employment during or at the end of their contracts, and whether overtime is extracted from workers under duress. During this reporting period, Better Work did not find sufficient evidence to cite non-compliance on these issues.

Discrimination

Better Work reports cases of discrimination based on the grounds of gender, race and origin, religion and political opinions and other grounds, such as disability, HIV/AIDS status, and age, during recruitment, employment (regarding conditions of work, pay, and promotion opportunities) and termination. Given the racial, religious and political homogeneity of the Vietnamese factory workforce, discrimination on these grounds is extremely rare and was not found in this reporting period.

Conversely, gender based discrimination remains a significant concern for the industry, not least because much of it remains hidden in the shadows and is highly difficult to uncover. Better Work finds that understanding of the issues is generally weak among both managers and workers, and misplaced assumptions and stereotypes –for example, about pregnant workers being a lag on productivity- remain

commonplace. These issues are explored in more detail in Chapter 3.

In total, 31 factories (9 percent) were found to be discriminating on grounds of gender, most commonly by indicating a preferred sex in vacancy notices or internal recruitment procedures (17 cases), by testing pregnancy status during recruitment (using quick sticks), and by requiring workers to sign non-pregnancy clauses as a condition for contract renewal.

Meanwhile, 6 factories were cited with non-compliance for changing worker bonuses during pregnancy or deferring salary increases due to workers being on maternity leave. Many factories justify this on the grounds that due to their reduced work time requirements⁹, pregnant and nursing workers disrupt production flows and damage overall productivity for their whole line.

IN FOCUS 4: DISCRIMINATION ON THE GROUND OF GENDER

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Is an applicant's gender or marital status a factor in hiring decisions?	14	4%
Does the employer require pregnancy tests or use of contraceptives as a condition of employment?	12	4%
Is the gender or marital status of a worker a factor in decisions regarding pay?	4	1%
Do job announcements refer to the applicant's gender or marital status?	2	1%
Does the employer change the employment status, position, wages, benefits or seniority of workers during maternity leave?	2	1%
Does the employer terminate workers due to the worker's pregnancy, maternity leave, or breast-feeding of a child under 12 months of age or force them to resign?	2	1%
Is the gender or marital status of a worker a factor in employer decisions regarding termination or retirement of workers?	1	0%
Are workers subject to sexual harassment?	0	0%

One form of discrimination that has recently become apparent is the practice by employers of developing policies and regulations that negatively impact women who have taken time away from work for during pregnancy or maternity. For example, production targets are equal for both male and female workers, while the latter are legally entitled to reduced working hours from the 7th month of pregnancy onwards, or when breastfeeding a child of less than 1 year old; attendance allowance is forfeited if women take leave for prenatal checks; 13th month salary and wage increments are tied to actual attendance, and do not factor in 6 months of maternity leave. These practices have contributed significantly to the gender pay gap during motherhood, and are considered discriminatory. While not yet citing these practices as non-compliant because these issues have only recently been brought to the attention of employers, Better Work Vietnam has made concerted efforts, through sensitization workshops, industry seminars and direct advisory sessions with management and workers in affected factories to raise awareness and drive behavioral change.

Sexual harassment at work is a serious form of gender based discrimination and a major area of concern for Better Work. Although reliable statistical information is scarce in Vietnam, anecdotal reports and external research suggest that sexual harassment is a more widespread issue than commonly acknowledged, both in the garment sector and society at large. However, the nature and setting of a Better Work assessment make it extremely difficult to investigate and verify sexual harassment at the workplace. In the reference period, no case of sexual harassment was reported.

Better Work Vietnam takes a preventive approach to addressing sexual harassment in its member factories. Over the years, the programme has partnered with leading brands to organize training and outreach activities to boost awareness among workers and managers, as well as working with ILO and its tripartite constituents on national and industry level policies and good practices to support

prevention and remediation. In the Better Work advisory cycle, factory management are advised on how to develop policies and procedures to manage harassment, drawing on the 2015 Code of Conduct developed by ILO and MOLISA and social partners¹⁰. Further discussion on this and the wider topic of gender equality in the garment sector can be found in Chapter 2.3, later in this report.

Freedom of Association and Collective Bargaining

FREEDOM OF ASSOCIATION

Better Work assessment standards on freedom of association are based on ILO Conventions No. 87 (Freedom of Association and Protection of the Right to Organise Convention, 1948) and No. 98 (Right to Organise and Collective Bargaining Convention, 1949). Under these Conventions, workers are granted rights to freely elect their representatives and organize union activities free of employer interference. This includes cases of managers (or their representatives) serving in Union Executive Committees¹¹.

During the reference period, almost a third of assessed factories (31 percent, or 101 factories) did not comply with this principle. The violation usually stems from a senior management staff (often a general, HR, production, or financial manager) serving on the Union Executive Committee. Such dual decision making roles - in management and in the trade union - can pose a conflict of interest and reduce the union's autonomy in making decisions in the true interest of the workers.

Over the years, Better Work has encouraged factories to develop roadmaps to remove management from the trade union, and as a result there has been a gradual but significant decline in senior management staff holding union executive positions. However, it has also been observed that while senior managers have stepped back, employers have often retained decision-making influence in more subtle forms, such as signing off on union expenditures, maintaining

control over union funds, or endorsing union rules. More positively though, severe union-busting activities such as intimidating, punishing or terminating workers and officials for union membership are extremely rare and no such cases were found in the current reference period.

All of these issues are included in the afore mentioned modular training programme on Industrial Relations that targets union and management representatives, which is being rolled out in BWV factories, with follow-up during the advisory service.

IN FOCUS 5: INTERFERENCE AND DISCRIMINATION

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Is the employer involved in union decision making, the formation of the constitution and rules, in union activities, administration, finances or elections?	101	31%
Are workers free to meet without management present?	5	2%
Has the employer tried to interfere with, manipulate, or control the union(s)?	4	1%
Does the employer consider a job applicant's union membership or union activities when hiring?	0	0%
Does the employer punish workers for joining a union or engaging in union activities?	0	0%
Does the employer threaten, intimidate, or harass workers who join a union or engage in union activities?	0	0%
Has the employer terminated a union official without the written agreement of the union board or the higher-level union?	0	0%
Has the employer terminated workers or not renewed their contract due to the workers' union membership or activities?	0	0%

COLLECTIVE BARGAINING

By law, employers in Vietnam are required to consult unions on certain issues relating to workers' rights or obligations, to negotiate in good faith for collective bargaining agreements and follow certain procedures on collective bargaining¹². Assessment questions under this compliance point are largely rooted in these legal provisions.

In the reference period, 41 percent of factories failed in some way to comply with legal requirements on collective bargaining. Based on the non-compliance share by individual questions, two major weaknesses are identified: inadequate consultation between employers and unions and absence of an adequate vote to approve the collective bargaining agreement (CBA). In addition, many factories do not make the CBA publicly available for workers or have failed to implement all the provisions of the CBA.

A quarter of the assessed factories (80 out of 331) did not consult workers on at least one of the issues required by law, such as the OSH plan, PPE regulations, internal work rules, salary scale and work norms, bonus regulations, discipline of workers or the annual leave schedule. Compared to the 9th Annual Report (2017), this share is down by almost 20 percentage points –something which reflects the growing tendency –observed by Better Work– for unions to engage in representative activities above and beyond their traditional welfare roles (e.g. taking care of workers when they have life-cycle events, such as wedding, funerals or organizing social events). At the same time, limitations are still clear from the fact that almost a fifth of factories (18 percent) were not able to prove that at least 50 percent of workers had voted to approve their CBA.

While collective bargaining often results in more favourable terms and conditions for workers, implementation of the resulting agreements remains problematic in many factories. Almost all factories observed for this report (98 percent) have one CBA in force at the time of the assessment, and the vast majority contain provisions for benefits or protections that go beyond the law, such as a 13th month salary

and/or additional bonuses and allowances for attendance, transport, housing, public holidays and family events.

Only 4 percent of factory CBAs do not prescribe any higher benefit or protection level than those afforded by law, or contain provisions which don't comply with the law. However, larger minorities of factories fail to deliver commitments made in the CBA (8 percent) or make the CBA publicly available to their workers (8 percent). In both cases, factory neglect serves to undermine worker empowerment and awareness of the rights and entitlements enshrined in these agreements.

In order to further support social partners in developing more mature collective bargaining practices, Better Work Vietnam is introducing a third Industrial Relations' training module in 2019 that supports union and employer representatives with opportunities to share experiences and develop skills to improve the quality of the bargaining process to address both workers and employers' interests, as well as tools and advice to improve CBA implementation.

IN FOCUS 6: COLLECTIVE BARGAINING

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer consult with unions where legally required?	80	24%
Has the collective agreement in force been approved by more than 50% of workers covered?	61	18%
Has the employer implemented all provisions of the collective agreement(s) in force?	26	8%
Has the employer made the collective bargaining agreement publically available to all workers?	25	8%
If there is a collective agreement, does it provide more favorable terms and conditions for workers than the law?	13	4%

UNION OPERATION

In terms of union operations, the factory management are generally supportive. Most workers interviewed by Better Work have a general (albeit often simplistic or limited) understanding of their rights and obligations when joining union and in the vast majority of cases, do not appear to have faced employer pressure to join or refrain from joining a union. In 2 percent of factories, BWV finds evidence that joining a union was not entirely free; something which typically stems from new workers

being automatically made union members by HR staff after moving from probationary to a fixed term contract. In these cases, workers are rarely given an explanation of the rights and responsibilities of union membership.

Almost all factories (98 percent) allow paid time off for union officials (as required by law) and allow unions to use workplace facilities such as meeting rooms for union business. Better Work finds no evidence of employers restricting union access to workers at the workplace.

IN FOCUS 7: UNION OPERATION

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer require workers to join a union?	8	2%
Does the employer provide the trade union with the necessary facilities and time to enable it to carry out its activities?	5	2%
Do union representatives have access to the workers in the workplace?	0	0%

Compensation

Assessment questions in this Compensation Cluster are arranged in seven compliance points covering minimum and piece rate wages, overtime wages, premium pay, methods of payment, wage information and deduction, paid leave, and social security and other benefits¹³. Similar to previous years, Better Work observes that compliance in this area is generally higher than in the other working conditions clusters (occupational safety and health, working time and contracts). However, whilst at the basic level it's positive that all factories paid worker salaries on time in the observation period, it's also a concern that compliance remains often weak on social insurance, payroll records, overtime payment and compulsory social insurance contributions.

MINIMUM WAGE

The minimum wage in Vietnam is defined by regions and on a monthly basis, and applies to both regular and temporary full time workers performing simple work and under normal conditions. On top of the regional minimum wage, employers are also required to pay 7 percent extra for workers who have specific skills or qualifications, and 5 percent for those performing jobs under hazardous conditions.

In general, Better Work factories comply well with minimum wage rules, with 96 percent of firms paying at least the legal minimum to their full time and regular workers. Failure to comply usually results from minor technical oversights, such as applying incorrect salary calculation formulas, or miscalculating the minimum wage compensation for piece rate workers in months with less than 26 days. In addition, very few factories fail to comply with the skills and hazardous allowance rules (NC rates of 2 percent and 3 percent, respectively), while temporary workers are also paid as required in the vast majority of cases.

In addition, a number of other factories made mistakes in calculating the piece rate wage when piece rate earnings exceed the minimum wage (3 percent), failed to pay probationary workers at

least 85 percent of the wage paid for the same job (1 percent), or failed to pay apprentices correctly in accordance with the apprentice contract (1 percent). Together, these violations generate an aggregate –or headline– non-compliance rate for this compliance point of 14 percent.

IN FOCUS 8: MINIMUM WAGE / PIECE RATE WAGE

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer pay at least the legal minimum wage for ordinary hours of work to regular full time workers who perform the simple work under normal conditions?	14	4%
Does the employer pay piece rate workers correctly for ordinary hours of work when their piece rate earnings exceed minimum wage?	10	3%
Does the employer pay at least 7% higher than the applicable legal minimum wage for ordinary hours of work to workers who have received vocational training?	7	3%
Does the employer pay at least the applicable legal minimum wage for ordinary hours of work to temporary workers?	7	3%
Does the employer pay at least 85% of the wage paid to other workers for the same job for ordinary hours of work to probationary workers?	3	1%
Does the employer pay apprentices the wage agreed to by the parties?	2	1%

PREMIUM PAY

Since 2015, Vietnam introduced the legal requirement that all wage-based allowances, for example, a seniority, position or responsibility allowance, which are pre-determined and stated in the employment contract shall be incorporated into the calculation of wage based benefits, such as social insurance payments, overtime and paid leave. During the observed period, 16 percent of factories failed to comply with this requirement. This usually involves hazardous work, seniority or responsibility allowances for certain categories of workers in the factory. While the compliance rate in this issue is generally high, it is also worth noting that there are quite a number of other allowances or bonuses, paid in addition to the monthly salary and on a regularly basis, which have not yet been considered as wage based allowances to be incorporated into the calculation of social insurance, paid leave, including those based on output or performance, such as productivity

allowance, attendance allowance, or internal work rule compliance bonus.

OVERTIME PAY

Using the 9th Annual Report (2017) as a reference point, it appears that non-compliance on overtime pay rules has fallen significantly. In 2018, this remains a challenge for 33 percent of the observed factories .

At the question level, the most common challenge is incorrect payment for overtime hours on regular working days (with 85 factories found non-compliant), although compliance rates today are far better than they were in 2017¹⁴. Likewise, non-compliance with overtime pay on weekly rest days fell by almost a half, from 23 percent to 14 percent. In this period, very few factories made mistakes in calculating overtime pay at night or on public holidays.

There are a number of common reasons why assessors often struggle to confirm whether factories correctly pay workers for overtime on regular working days or on their weekly rest days. One stems from the widespread practice of double book-keeping, where employers hide excessive overtime hours and payment records, often out of fear of being sanctioned by buyers. In such cases, Better Work assessors often lack the evidence needed to verify the reliability of overtime payments.

Another common scenario arises when certain groups of workers come to work earlier and leave later than the regular hours, and those hours are not counted or paid as overtime. This typically includes boiler workers arriving early to warm up the steam boiler, warehouse workers going to work to supervise container loading and unloading, and mechanics starting early to prepare factory electrical systems.

IN FOCUS 9: OVERTIME WAGES

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer pay workers correctly for all ordinary overtime hours worked?	85	26%
Does the employer pay workers correctly for all overtime hours worked on weekly rest days?	46	14%
Does the employer pay workers correctly for all overtime hours worked at night?	17	5%
Does the employer pay workers correctly for all overtime hours worked on public holidays?	3	1%

WAGE PAYMENT, INFORMATION AND DEDUCTION

Almost all of the observed factories pay salary on time during the observed period and do not deduct worker salary other than the legally allowed amounts. The factories also duly inform workers about their salary, including their wage, allowances and benefits, overtime payment and deductions, usually in writing in the form of a payslip or copy of payroll to get workers agreement before the payment is made. The high compliance with these basic terms and conditions of work has been consistently observed among Better Work factories in previous reports. Only 5 percent of the assessed factories failed to inform workers about their wage and deductions. The common scenario is that factories do not have a clear regulation in writing for some bonuses and allowances applied. When workers are not qualified to receive these allowances in full, they do not understand why their allowances have been deducted.

The biggest compliance challenge for factories in this grouping is keeping one accurate payroll record, most commonly known as the double-book keeping. This practice is found in 35 percent of the factories during the observed period. This also represents one major and complex challenge for supply chain stakeholders to resolve.

There are different reasons why factories make

multiple sets of payroll record. The most common purpose is to hide excessive overtime, eg. overtime hours beyond the legal limit of 4 hours per day, 30 hours per month or 300 hours per year or Sunday overtime. Another common scenario is, due to various production or organizational reasons, the employer arranges overtime beyond the legal limit eg. to deal with urgent production, or to fulfil orders that exceed their regular production capacity. However, the payroll record has been falsified to hide these excessive overtime hours. A similar situation is when factories want to hide temporary workers, overtime hours of young workers, pregnant and nursing workers, or inaccurate salary calculation. This practice seriously risks the integrity of the salary payment system, and is generally viewed as a critical issue by brands.

Over the years, with the joint efforts of Better Work, supply chain partners, Better Work observes a trend of improved transparency in the payment system. Though the non-compliance rate is still significant, the practice is applied less to hide overtime hours of general production workers but of supporting workers, such as, boiler workers going to work on Sunday to maintain the boiler (this can only be done when there is no production operation going on), or warehouse workers going to work outside regular hours to support urgent loading or unloading of production materials.

IN FOCUS 10: WAGE INFORMATION, USE AND DEDUCTION

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer keep only one accurate payroll record?	115	35%
Does the employer properly inform workers about wage payments and deductions?	16	5%
Does the employer comply with national laws regarding wage deductions?	3	1%
Does the employer pay wages on time and pay interest in case of late payment?	1	0%

PAID LEAVE

Under Paid Leave, Better Work records cases in which factories fail to meet legal requirements on leave paid by the employer, like annual leave and personal leave, public holidays, rest breaks for pregnant and nursing workers, and by social insurance funds, such as maternity and paternity payment and sickness benefits.

Non-compliance rates remain significant in this area: of the 144 factories found non-compliant in this compliance point, the biggest challenge is the failure of firms to submit claims for maternity and sickness benefits to the social insurance agency within 10 days of workers making the claims. Factories often attribute this to human resource constraints, citing a preference to collect worker claims continuously but only submit them on a monthly basis, instead of at least 3 times a month as required by law.

Another reason why factories could only submit insurance claims once a month in bulk is that in practice, firms typically pay social insurance contributions late (normally in the second half of the following month, instead of in the same month as the law requires). Therefore, it is uncertain that the workers, whose claims arises in the same month, are still insured. As a result, the local social insurance agency cannot receive and process claims that arises in the same month before they receive the insurance contributions from factories. In this regards, BW continues to advise the factory in developing an insurance procedure, which indicates the supporting documents needed and a clear timeline for different benefits, and communicating this procedure to all staff and workers for implementation; and at the same time, ensuring that the employer is committed to pay monthly social insurance in a timely manner.

Regarding leave paid by the employer, failure to correctly pay for paid annual leave is the most common issue, with the NC rate under this question standing at 16 percent. Although the non-compliance rate is not high, a number of factories still do not correctly calculate the payment for unused annual leave when they hire temporary workers, applying

the wrong average 6 month salary or in other cases, applying 12 annual leave days for workers performing hazardous work, instead of the statutory 14 days.

Almost all of the observed factories (at least 97 percent) have ensured that workers covered by compulsory social insurance are paid for the insurance benefits, such as maternity, paternity, sickness, prenatal care benefits. In a similar manner, in almost all cases (at least 93 percent) of statutory leaves (other than annual leave), such as public holidays, work stoppage, menstruation rest and breastfeeding break, which are randomly checked during the assessment, the workers are paid correctly for their time off from work. These numbers also highlight that the rights of female workers to compensation for their leaves associated with their child bearing and rearing responsibilities, provided in Vietnamese Labour Law, are upheld by the vast majority of factories under Better Work Programme.

Over the years, with the joint efforts of Better Work, supply chain partners, Better Work observes a trend of improved transparency in the payment system. Though the non-compliance rate is still significant, the practice is applied less to hide overtime hours of general production workers but of supporting workers, such as, boiler workers going to work on Sunday to maintain the boiler (this can only be done when there is no production operation going on), or warehouse workers going to work outside regular hours to support urgent loading or unloading of production materials.

IN FOCUS 11: PAID LEAVE

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer submit claims for sick leave and maternity leave to the social insurance agency within 10 days?	101	31%
Does the employer pay workers correctly for legally required annual leave?	52	16%
Does the employer pay workers during work stoppages as required by law?	23	7%
Do entitled workers receive full average monthly wages and maternity allowance of two month's minimum wage?	11	3%
Does the employer pay workers for legally mandated paid public holidays?	9	3%
Does the employer pay for paternity leave when required?	7	2%
Do workers receive correct payment during sick leave and other types of leave that are covered by social insurance?	6	2%
Does the employer pay women workers for 30 minutes rest per day during their periods?	5	2%
Does the employer pay workers correctly for personal leave?	5	2%
Do pregnant workers receive correct payment when they take time off for prenatal care?	4	1%
Does the employer pay workers for one hour breastfeeding break per day?	4	1%

SOCIAL SECURITY AND OTHER BENEFITS

During the observed period, roughly one fourth of factories have not complied with one of the legal requirements on social insurance. Most of the violations converge on the failure to pay compulsory social insurance contributions on time, as requested by the local social insurance agency or failure to enroll all eligible workers (i.e. those who have an employment contract with a duration from 1 month or more) into the compulsory social insurance scheme. Where the overdue contribution is more than 2 months or failure to register eligible

pregnant workers in the compulsory social insurance, resulting in female workers not receiving their entitled maternity benefits, the case will also lead to non-compliant in the question on maternity benefit and then be publicly reported in Better Work Transparency portal. During the observed period, around 2 percent of factories have been reported, due to this reason.

IN FOCUS 12: SOCIAL SECURITY AND OTHER BENEFITS

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer collect and forward workers' contributions and pay the legally required employer contributions to social, health and unemployment insurance funds on time?	65	20%
Does the employer comply with requirements when workers have occupational accidents and diseases?	19	6%
Does the employer pay workers who are not covered by compulsory social insurance the employer's contribution for social, health and unemployment insurance?	15	5%

Contracts and Human Resources

Under this cluster, Better Work monitors compliance to requirements under Vietnamese labour law on employment contracts, labour discipline, handling grievance, dialogue at the workplace as well as on termination of the employment relationship. While BW factories generally respect national law concerning signing of employment contracts, a significant number of the factories still face difficulties in following legal requirements on the contract content, as well as organizing dialogue at the workplace and in termination of the employment contract.

EMPLOYMENT CONTRACTS AND CONTRACTING PROCEDURES

The vast majority of observed factories (91 percent) have ensured that their production workers have a valid employment contract signed directly by the workers, and workers receive a copy of the employment contract and understand the terms and conditions of work (93 percent). They also have followed legal contracting procedures, such as on the limit of probationary period, the maximum number of fixed term contracts signed. The single most significant challenge for factories under these compliance points is ensuring the employment

contracts containing all of the contents and keeping them updated, as required by the Decree 05/2015/ND-CP that took effect as of 2015. 140 factories out of 331 observed factories, accounting for 42 percent, have not been able to comply with this legal requirement.

Since April 2017, Better Work assessment tool groups all non-compliance pertaining to non-production workers in all national law clusters under one question. In the observed period, 60 factories have non-compliance in this question, often regarding shift work or compensation of security staff, canteen staff or janitors. While this non-compliant factories only accounts for 18 percent of the assessed factories, the number may underestimate the violations against non-production workers. It has also been observed that the factory signs economic or service contracts with a third party service provider to provide support services at the factory. In these cases, due to the unavailability of documents and the representative of the actual employer, Better Work assessors will not verify compliance pertaining these workers.

IN FOCUS 13: EMPLOYMENT CONTRACTS

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Do the employment contracts specify the terms and conditions of employment?	140	42%
Do the internal work rules comply with national law?	78	24%
Do all persons who perform work for the factory, both on the premises and offsite, have a contract?	30	9%
Do workers understand the terms and conditions of employment?	24	7%

IN FOCUS 14: CONTRACTING PROCEDURES

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Have you found non-compliance with legal requirements for compensation, contracts, OSH, and/or working time pertaining to non-production workers and/or subcontracted workers?	60	18%
Does the employer comply with requirements for temporary transfers of workers to new work?	24	7%
Does the employer comply with limits on the period of employment for probationary workers?	21	6%
Does the employer sign more than two consecutive fixed term contracts with workers?	8	2%
Does the employer comply with national law concerning dispatched workers at the workplace?	4	1%

DIALOGUE, DISCIPLINE AND DISPUTE

A significant source of non-compliance under this cluster comes from the failure to conduct dialogue at the workplace, in accordance with the legal requirement. Almost factories have conducted dialogues at the workplace in one form or another. However, almost one third of all observed factories have not followed the procedural requirements of the law. For example, the dialogue members from worker side are appointed and have not been elected at the annual labour conference, the dialogue minutes have not been communicated to all workers by posting at

a visible place, the substance of dialogue focuses on production issues, and does not cover mandatory issues, as the law requires.

On the other hand, there is not much evidence that factories apply disciplinary measures in an illegal manner or workers subject to mistreatment at the workplace. The non-compliance rates in these questions are 7 percent and 4 percent, respectively. In 14 factories, workers reported verbal harassment or humiliating treatment from the management, usually from their line managers.

IN FOCUS 15: DIALOGUE, DISCIPLINE AND DISPUTE

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does dialogue at the workplace take place in compliance with legal requirement?	98	30%
Do disciplinary measures comply with legal requirements?	23	7%
Have any workers been bullied, harassed or subject to humiliating treatment?	14	4%

TERMINATION OF EMPLOYMENT CONTRACT

During the observed period, factories in the Better Work Programme have made improvements in following legal requirements on termination of employment contracts, including legal termination procedures, payment of outstanding benefits, such as salary, unused annual leave and severance allowance, if any. While in 2017, 71 percent of the observed factories failed to comply with this legal requirements, in 2018, only 53 percent of the observed factories faced this challenge.

However, a significant number of factories (28 percent) still faced difficulties in calculating severance allowance because they have not been able to trace down the employment periods in which the workers have not been enrolled in unemployment insurance, such as probationary, training, sick leave

or maternity leave of more than 14 days. In addition, the management staff of these factories also reported that they find it cumbersome to send up to 3 notices in writing to request workers who are absent from work without informing them, before they can issue the formal dismissal decision. This has led to 22 percent of factories committing this violation. One fifth of the factories also failed to settle all of the payments within 7 working days after the termination. Factories who apply a piece rate salary system, or pay workers an allowance based on monthly production line output usually have to wait until the end of the month to calculate the outstanding payments for workers, and therefore, usually pay resigned workers on the payday in the following month, instead of within 7 working days as prescribed by the law.

IN FOCUS 16: TERMINATION

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer comply with requirements regarding severance pay and job-loss allowance?	94	28%
Do workers have an opportunity to defend themselves before they are terminated based on their conduct or performance?	74	22%
Does the employer settle all the payments within seven working days after termination of the labour contract?	66	20%
Does the employer compensate workers for unused paid annual leave when they resign or are terminated?	41	12%
Do resigned or terminated workers receive correct wage for all days worked and other termination benefits required by law?	25	8%

Occupational Safety and Health (OSH)

The Occupational Safety and Health (OSH) cluster is the largest in the Better Work assessment. It covers 64 questions across eight compliance point groupings, including emergency preparedness, chemicals and hazardous substances, OSH management systems, and worker protection. It is partly due to this scope that the OSH cluster is home to the highest concentration of non-compliance findings (both now and historically); however, it also reflects the complexities and associated risks of garment and footwear production, and the wide ranging OSH protections set out in Vietnamese law for these types of workplaces.

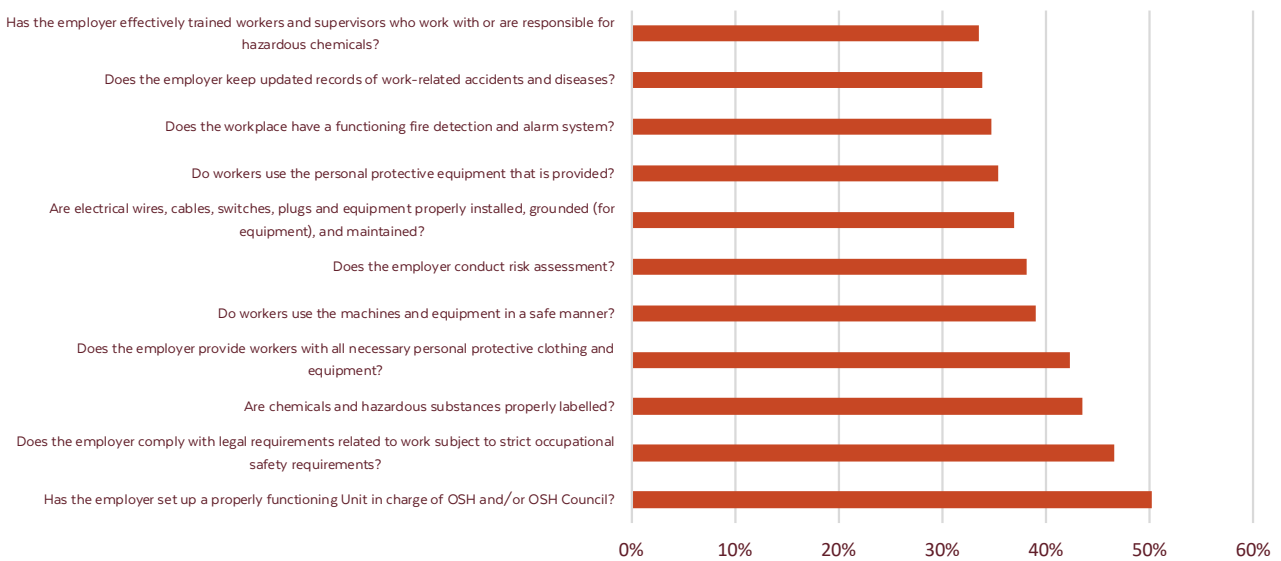
At the outset, it's interesting to note that among the 64 OSH questions, only 20 have non-compliance rates above 20 percent, while no single issue has a non-compliance rate of more than 50 percent. The leading issue in this regard is the absence of a functioning OSH unit, which affects half of Better Work factories in Vietnam, and is linked primarily to having too few members (for the size of the factory) and/or members with substandard qualifications to fulfil their mandates in these bodies¹⁵.

8 OSH compliance points (64 questions):

- **Chemicals & Hazardous Substances:** 7 questions
- **Emergency Preparedness:** 11 questions
- **Health Services and First Aid:** 6 questions
- **OSH Management Systems:** 8 questions
- **Welfare Facilities:** 5 question

Among the 20 leading OSH non-compliance issues (i.e. the OSH assessment questions with the highest NC rates), three-quarters come from just three compliance points: Worker Protection, Chemicals and Hazardous Substances, and OSH Management. While in previous years, Emergency Preparedness was often a leading source of compliance risk in this field, recent positive efforts by factories have reduced the prevalence of these violations (it now accounts for just 15 percent of the top 20 OSH violations).

FIGURE 2. LEADING NC ISSUES, OSH (NON-COMPLIANCE RATES, %)



WORKER PROTECTION

In the area of worker protection, many factories continue to pay inadequate attention to the specific OSH requirements of certain types of work, which requires strict OSH regulations, such as working at height and working with cutting, pressing and drying machines, all of which require workers to be trained and certified. Similarly, inadequate provision of and low usage of personal protective equipment (such as gloves, goggles and carbon masks), as well as unsafe use of machinery (for example, workers removing or adjusting eye and needle guards to enhance visibility at the sewing machine) remains widespread. These high noncompliance rates are a product both of employer neglect and low worker awareness (e.g. of the benefits of protecting their own safety and their personal responsibility to ensure it). During the observed period, 47 percent, 35 percent and 39 percent of factories have been out of compliance regarding work subject to strict OSH requirements, use of PPE and safe operation of machinery, respectively.

Electrical safety is also a persistent concern: it remains still too common to see poorly installed and maintained electrical wires, switches and plugs in garment factory workplaces (37 percent of factories found non-compliant), and Better Work continues to advise factories on how to develop systematic solutions to prevent and manage these risks.

HAZARDOUS CHEMICAL MANAGEMENT

Recent years have seen significant improvements in compliance in key aspects of chemical and hazardous substance use, especially on monitoring risks and limiting exposure, which is a publicly reported issue¹⁶. However, issues under this grouping are still a key source of violations under the OSH cluster, most commonly due to poor chemical labelling (44 percent) and storage, (33 percent), and inadequate training of those working with these substances. (34 percent). Inadequate inventory and record keeping for chemicals are also a weakness for more than a quarter of factories.

OSH MANAGEMENT SYSTEM

Developing an effective OSH management system can be one of the most consequential actions a factory can take to improve business performance, protect workers, and reduce overall non-compliance across the OSH cluster. However, using previous 9th Annual Report as an indicative (albeit not strictly comparable) reference, the latest data suggests some backsliding in this area, with 82 percent of factories now non-compliant, a 20 percentage point increase as compared to the previous observed period. Whilst year-on-year swings in OSH compliance performance are not unusual, the main reason for this fluctuation is that since 2017, the assessment standards have been revised to incorporate new legal requirements under the OSH Law and Decrees.

Exploring further the OSH management compliance point, it is clear that weaknesses remain in terms of having designated OSH staff and functional units to tackle safety and health issues. As noted earlier, failure to establish a functioning OSH unit is the most widespread violation both in this compliance point and the OSH cluster more generally (i.e. among all 64 OSH related questions). In the past, it was not uncommon to see in a garment factory that an office staff member, holding a degree in social science or linguistics performing the function of administrative staff or compliance staff, and at the same time being in charge of OSH related tasks in a garment factory. This is because the employer has not paid due attention to and generally associate OSH tasks with compliance with buyer codes of conduct. As required by the new OSH Law, the OSH officers have to meet certain criteria on educational background and/or experience. Therefore, the synthesis information from assessment reports shows that a half of the observed factories have failed to set up a functioning OSH unit.

Similarly, Vietnamese law also requires factories to establish an OSH collaborator's network, which more than a quarter of factories still fail to do adequately. Staffed by direct workers (all of whom should be selected by workers and trained and paid to perform their duties), these networks are designed to support overall OSH compliance across the factory. When

they are weak or absent, Better Work often sees that it can contribute to other related violations, such as unsafe use of machinery and the failure to ensure full PPE use among workers (both of which fall under the remit and responsibility of the OSH collaborators' network).

Recognizing that improvements in this area can act as a catalyst for wider improvements in OSH performance in the long run (e.g. across the OSH cluster), Better Work continues to invest significant time and resources in training and advising factories on the merits of a systems based approach to workplace health and safety, including training OSH staff and empowering workplace OSH bodies, strengthening risk assessment practices, and improving tracking and monitoring of work related accidents and diseases¹⁷.

FIRE SAFETY AND EMERGENCY PREPAREDNESS

Inadequate fire detection and alarm systems (35 percent) are also key compliance challenge for factories, although Better Work does see a growing awareness of the issue following both recent high profile industrial fires and a concerted focus on this issue through the programme's advisory, training and industry seminar series (some of which have focused on good practice sharing in this area). While most of the factories have installed a fire detection and alarm system, as approved by the local fire police, many have not regularly inspected and maintained the system. As a result, in many cases, when tested on the assessment days, the system did not work properly. In order to bring non-compliance rates down further, factories will need to focus more frequent and diligent checks and maintenance to ensure continuous functionality.

The garment industry is very labour intensive and uses flammable materials. Therefore, one of the most common day-to-day OSH hazards found in factories is the obstruction of exits and escape routes. In the previous report of 2017, this publicly reported issue affected just over half of Better Work enterprises in the sample. As observed during this period, only

31 percent of the observed factories were found non-compliant. The common challenge is due to careless storage of production materials and machineries (especially during peak seasons) along the emergency escape routes and sometimes doorways. Instances of locked exits are relatively rare.

Working Time

REGULAR WORKING TIME

Better Work examines regular working time across five questions, of which three show virtually full

compliance: those pertaining to the length of the standard work day/week, shift work requirements, and contractual weekly rest day.

The two main issues that continue to weigh on industry performance in this area are inaccurate working time records and poor application of daily break periods. Whilst the former is mostly driven by the double-book keeping practice or the omission of certain extra periods worked by key personnel (such as boiler operators¹⁸), the latter is linked to factories not including short breaks during regular working hours.

IN FOCUS 17: REGULAR HOURS

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Do the working time records reflect the hours actually worked?	131	40%
Does the employer comply with daily break periods?	120	36%
Does the employer comply with shift work requirements?	3	1%
Does the employer give workers at least one day off per week?	1	0%
Do regular working hours exceed 10 hours per day, or 48 hours per week?	0	0%

OVERTIME

The garment industry in Vietnam has long been characterized by excessive working time. Despite improvements as compared to the previous observed period, this trend still continues, where breaches to overtime limits are a major non-compliance in this cluster. Vietnamese law sets limits on daily, monthly and annual overtime limits, and among Better Work factories it is the latter two that cause the most compliance violations. While almost two thirds of factories now comply with the daily limit of four hours per day (just 37 percent were non-compliant),

most factories do not comply with either the monthly limit of 30 hours (77 percent non-compliance) or the annual limit of 300 hours (69 percent non-compliance)¹⁹.

Due to the prevalence of Sunday work, four in ten factories fail to provide at least four days of rest per month to at least some of their workers. However, this situation is also improving when compared to the previous report, which showed 55 percent of factories failed to comply with this requirement.

More rare but still a concern is the three percent of factories that fail to make overtime voluntary (down

from 5 percent in 2017). In most cases, this relates to overtime being “automatically” applied to workers without their personal written consent – something that is illegal regardless of their implicit consent or retroactive acceptance (most workers appreciate the opportunity to work reasonable levels of overtime due to the additional income it provides).

IN FOCUS 18: OVERTIME

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer comply with monthly limits on overtime hours worked?	254	77%
Does the employer comply with yearly limits on overtime hours worked?	227	69%
Does the employer ensure that workers have on average at least 4 rest days per month when weekly rest is not possible?	134	40%
Does the employer comply with daily limits on overtime hours worked?	121	37%
Is overtime work voluntary?	11	3%

LEAVE

As noted in previous reports, compliance with requirements regarding statutory leave is generally high among Better Work factories. Almost all of the observed factories provide workers with legally required annual leave (12 days for regular workers, and 14 days for worker performing hazardous work). However, 14 percent of factories are still non-compliant, with this most commonly linked to failure to round-up the number of entitled annual leave days when it has a decimal of 0.5 or more, and mis-calculating the entitled annual leave days due to excluding some qualified leave in the calculation, such as probationary period or maternity leave.

There are also several compliance issues that relate specifically to the rights of women workers. Nine percent of factories failed to provide time

off for breastfeeding, for example, while the same proportion also failed to provide a 30 minute menstruation break for female workers. As Better Work has noted previously, these issues typically stem from a combination of low worker awareness (that they are entitled to these breaks) and managers viewing breaks as disruptive to their production and productivity. It is also observed in a number of cases that workers understand their rights, but accept to work during their breastfeeding break in returns for overtime payment for these hours.

More positively, Better Work finds very few instances of factories denying workers time off for prenatal visits (three percent, or 11 factories), although it is still common to observe pregnant workers taking prenatal check on their weekly rest days and at private maternity care facilities rather than during their working hours.

IN FOCUS 19: LEAVE

QUESTIONS	# OF FACTORIES FOUND NC (OUT OF 331)	NC RATE BY QUESTION
Does the employer provide required annual leave to workers?	45	14%
Does the employer provide required time off for breastfeeding breaks?*	30	9%
Does the employer allow workers to take 30 minutes rest during their period?*	29	9%
Are pregnant workers provided with time off for prenatal visits?*	11	3
Does the employer comply with the entitlement to paternity leave?*	5	2%
Does the employer comply with the entitlement to maternity leave?*	0	0%

THEMATIC FOCUS: GENDERS**Introduction**

Better Work Vietnam is committed to promoting gender equality throughout the Vietnamese garment industry. In line with Better Work's Gender Strategy for Vietnam (2018-2022), this thematic section draws upon data both from within the programme (compliance assessments and longitudinal impact studies, for example) and authoritative secondary data sources to build a comprehensive picture of the gender context in the Vietnamese garment industry, and the issues that will need to be addressed in the coming years to improve gender outcomes in the sector, and with it, drive business efficiencies and new sources of competitiveness.

Gender Dynamics in the Garment Industry**WORKFORCE PROFILE**

More than eighty percent of the production workforce in Vietnam's garment and footwear factories are

women - a share that is much higher than the average for the manufacturing sector and the economy as a whole. Most are young migrants from the countryside, who travel to more urbanized areas in search of higher wages and more stable employment. Large internal migration flows from the central and northern regions to the rapidly industrializing south (in and around Ho Chi Minh City) began to gather pace in the mid-1990s, and have since spread to other urban centres where garment and other manufacturing industries have clustered.

While the age profile of workers in the sector show little disparity between men and women (the average age of female workers is 25.9 years, while for men it is 25.5 years), women typically have fewer years of education behind them - 8.9 years on average, as opposed to 9.5 years for men²⁰. Perhaps owing to their age and migration status, just over half of female workers are married (54 percent) and just under half have children (44 percent). Most have worked less than 3 years in their current factory.

Most factories in Vietnam do not provide worker dormitories, meaning workers usually live with colleagues or family members in private rented

accommodation (small single room studios, typically) near their workplace. Similarly, few factories provide transport so most workers commute to work by bus or motorcycle.

LABOUR STANDARDS AND WORKING CONDITIONS

The working conditions of female-dominated factory jobs have been widely documented and include low wages, absence of social security, weak promotion prospects, and vulnerability to sexual harassment. This section presents an overview of the gender dynamics and challenges present in garment factory workplaces today.

Discrimination

Women are normally recruited for production positions such as sewing, cutting, ironing and packing. Although the law strictly prohibits gender based discrimination during recruitment, many factories are known to hold an implicit preference for male or female workers for certain positions in the factory, such as female applicants for sewing positions, male for cutting or ironing positions.

Better Work data shows that other forms of gender based discrimination, such as termination of pregnant workers, are rare. However, anecdotal evidence suggests that enterprises continue to circumvent the law in more subtle ways: for example, by requiring workers' verbal agreement to contractual no-pregnancy clauses or conducting informal physical tests designed to screen out pregnant candidates. Owing to underreporting and difficulties in verifying cases, official data may not give a complete picture of these trends.

Workers report very low levels of concerns with sexual harassment, although this is likely influenced by both permissive social attitudes (many female workers consider verbal harassment or sexual "jokes" as acceptable, for example) and a generally low awareness of discrimination in all its forms. Despite the absence of concrete data, authoritative observers—including the ILO and Ministry of Labour— contend

96 percent of factories do not cite gender as a factor in recruitment announcements*

Latest compliance data: Jan 2017 – Jun 2018

that the issue is likely to be far more prevalent than currently perceived or acknowledged. Anecdotal evidence from Better Work also suggests this, with EAs hearing reports of female workers being harassed at work by more senior male colleagues²¹.

Opportunities for career advancement are scarce for both male and female workers in the sector, and as such, few women believe their gender has a specific or deciding influence over their promotion chances. Becoming a line leader or production supervisor remains the most realistic avenue of advancement for most female workers, since promotions to this level usually come from the (female-dominated) sewing lines. However, even at these levels, women continue to be under-represented relative to their share in total employment (they make up 80 percent of total production workers but less than 80 percent of supervisors)²².

Against this backdrop, and with a widespread perception that the industry is a "young person's game", many women harbour long term plans to leave the industry and establish their own businesses, often in their home town. Despite this, the age distribution in the industry remains broad, with women in their late teens often working alongside those in their early 40s or older.

Working Time

Conditions at work for women workers in the garment sector can be partially understood through data on labour compliance. Data compiled annually by Better Work shows that a large majority of factories do not meet legal requirements on overtime, especially monthly and annual limits (77 percent still

fail to meet monthly limits and 69 percent exceed annual limits). Although most overtime work is found to be voluntary, and indeed many workers state an open preference for overtime to boost their incomes, small numbers of factories still make overtime automatic or compulsory (which is illegal). In a small number of cases, workers are also denied the legal minimum of four days' rest per month. These dynamics can have a profound impact on the work-life balance of female workers, their mental and physical wellbeing, and the reproductive and family choices they make. Evidence from Better Work Vietnam indicates that women are more likely to report higher mental and physical health symptoms compared to men (including fatigue, headache, stomach pain and sadness)²³.

Maternity Protection

Fortunately, relatively progressive laws and high levels of compliance in the maternal and reproductive health arena provide important support to women in the garment sector, including pregnant workers and breastfeeding mothers. The vast majority of Better Work factories provide payment for menstruation and breastfeeding breaks, prenatal visits, and maternity leave, although many factories still fail to settle maternity claims within the legally required timeframe²⁴. The programme also finds that most factories maintain the employment status, position, wages, benefits and seniority of workers during and after their maternity leave.

Despite 32 percent of women reporting having at least one child with less than five years of age, in

many factories they face obstacles to receiving full and prompt payment for maternity leave²⁵. Indeed, late payment of maternity leave claims is one of the leading drivers of non-compliance in the "paid leave" section of the Better Work assessment. This is typically due to factories submitting claims to the insurance agency on a monthly basis, rather than within 10 working days as required by law. In other areas, such as payments for breastfeeding breaks and prenatal care, compliance rates are high, meaning most women – in Better Work factories at least – receive what they're entitled to under the law.

Pay

According to ILO research, women in the garment, textiles and footwear sector in Vietnam earn 17 percent less than their male counterparts – a disparity that is narrower than in India, Pakistan and Thailand, but larger than in Cambodia and Indonesia. Similarly, women in the sector are more than twice as likely as men to be caught in low pay, i.e. earning less than two-thirds of the median wage. While a significant part of overall gender pay gap can be explained by factors such as age, education and location, the ILO notes that discrimination on the basis of gender is also likely to be a contributing factor.

Evidence from Better Work Vietnam suggests average hourly take-home pay reported by women is 0.19 USD lower than for men. There is evidence to suggest women face indirect discrimination during motherhood, through the exclusion of maternity related leave (6 month maternity leave, prenatal checks, pregnancy and breast feeding rest) in the calculation of wage rises, output-based and attendance based bonuses and seniority payments²⁶. As such, mothers of newborn children have been found to receive lower amounts than their peers (both male and female), which is discriminatory by definition, since it only affects women. As firms become more mature in their participation to the programme, independent research finds a strong and persistent pattern reducing the gender differential in pay. At the time of the fourth assessment, female

Most factories comply with maternity leave and related payments (menstrual, pregnancy and nursing breaks*)

Latest compliance data: Jan 2017 – Jun 2018

On average, female garment workers in Vietnam still earn 17 percent less than males for the same work*

Latest compliance data: Jan 2017 – Jun 2018

workers' average hourly pay is 0.43 USD higher than it was at baseline, eliminating about 85 percent of the pay gap present in the first assessment. The data also indicates that pay increased specifically for women with children, suggesting exposure to Better Work Vietnam positively affected gender disparities, specifically for women with greater childrearing responsibilities²⁷.

Voice and Representation

Unionization rates in the garment sector are higher than in the private sector more generally. Among Better Work factories in particular, more than 80 percent of the workforce belongs to a grassroots (enterprise level) trade union. However, weaknesses and imbalances still persist both in terms of women's representation in the union leadership and the types of gender issues that are taken up and advocated for by the union.

In Better Work factories, women make up around half of all trade union chairpersons; however, outside the factories the gender imbalance is more pronounced. Although more than half of vice-chairpersons in district, industrial zone and provincial level unions (in Better Work areas) are also female, almost all chairpersons are still male. Moreover, in terms of responsiveness to specific gender concerns, the trade union's focus remains limited to issues of compliance with the benefits and entitlements components of the law (such as whether or not women work appropriate hours during pregnancy or receive correct maternity leave payments) rather than more nuanced and complex issues of gender-based discrimination and harassment and violence in the workplace. In

general this stems from a lack of understanding and awareness of these issues at both rank and file levels of the union, as well as among employers and workers more widely.

Childcare

Although Vietnam has fairly robust legal protections for maternity rights, a lack of quality, affordable childcare is a significant barrier to labour market participation and gender equality for female workers²⁸.

The vast majority of BW factories provides childcare allowance for workers who have a child of less than 6 years old²⁹. However, unlike some other countries, onsite childcare facilities such as kindergartens and day-care centres are rare in Vietnamese factories (whether foreign or domestically owned), despite government attempts to incentivize provision through business tax relief³⁰. Indeed, while research has shown that workplace provisions such as these can actually enhance labour recruitment and strengthen worker retention rates, Better Work estimates that only more than 1 percent of its member factories provide any form of childcare for their employees.

With quality private care often unaffordable and public facilities overstretched (and also beset with quality concerns), many workers turn to more trusted support networks among family and friends to help raise young children³¹. Such support is especially valuable after the mother's maternity leave comes to an end (when a child is 6 months old), since children cannot usually be admitted to kindergarten until they

Only 1 percent of Better Work factories in Vietnam have on-site childcare provisions*

Source: internal BWV records

are 18 months old. For migrant workers with no immediate family nearby, parents are often called up to the city or children are sent to hometowns to be taken care of during this period³². It is also not uncommon for workers to resort to informal and unlicensed childcare centres or resign altogether until their children reach kindergarten age.

Conditions for working parents inside factories also directly impact their children, particularly in relation to low wages, long working hours and improper nutrition.

Compliance Focus: Gender Issues

Better Work Vietnam has 24 “gender-tagged” questions in its assessment, pertaining to issues that have direct or indirect implications for gender rights and equality in the sector. These tags cover a range of themes including gender based discrimination, pay and benefits, working time, and gender-specific safety and health risks.

The leading cause of non-compliance among gender-marked issues in Vietnam is the failure to protect pregnant and nursing workers against health and safety risks. Twelve percent of factories assessed in this reporting period violate the law in this area, mostly because they fail to provide one paid hour off work per day to heavily pregnant workers (i.e. 7 months and beyond)³³. Non-compliant factories often argue that having pregnant workers leave their line earlier than their colleagues is incompatible with lean production methods and can harm overall productivity. Some employers also fall out of compliance because they allow expecting and nursing mothers to work with harmful chemicals and dyes.

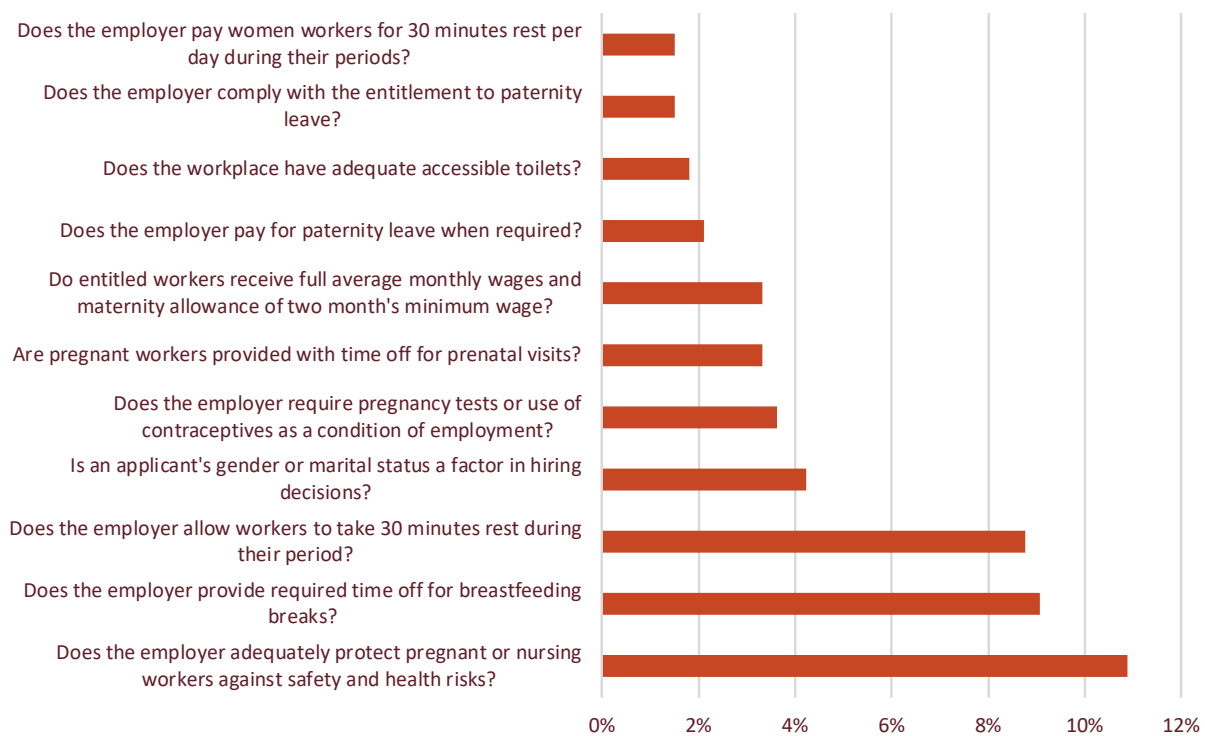
Failure to provide time off for breastfeeding and menstruation breaks are another barrier to gender equality in the sector, each affecting 9 percent of factories respectively. Moreover, whilst the practice of stating gender preference in recruitment adverts has declined significantly in the last decade (and now currently stands at 0.6 percent), a small minority

of factories (4 percent) still make gender or marital status (which includes pregnancy status) a factor in hiring decisions.

Omitted from Chart 1 are a range of other gender-marked questions for which the non-compliance rate is zero or negligible. These include the use of gender as a factor determining termination, promotion, and conditions of work, the prevalence of workplace sexual harassment, and the protection of the right to maternity leave.

In several cases, these findings represent genuine progress towards greater gender equality in the garment sector. The fact that nearly all factories provide fully paid maternity leave and include the maternity period when counting “continuous service” (for calculation of seniority and other payments) are cases in point in this regard. In other areas however, an absence of non-compliance can raise other concerns, such as with sexual harassment, which is plagued by underreporting, and termination of pregnant workers, for which low non-compliance can mask other more subtle efforts to coerce pregnant workers to leave of their own accord.

FIGURE 3. LEADING NON-COMPLIANCE ISSUES: GENDER³⁴



Better Work Responses

In 2018 Better Work launched a new Gender Strategy (2018-2022) designed to tackle gender based violence and discrimination, strengthen worker voice and representation, support skills development, and reduce the gender pay gap in the garment industry. It aims to achieve this both by leveraging -and strengthening the gender focus of- its core services, and by forging new partnerships to extend reach and impact in the gender sphere.

Better Work Vietnam's Gender Strategy organizes its planned activities under four main priorities:



Discrimination

Preventing sexual harassment; tackling contractual discrimination (e.g. recruitment and occupational segregation); bridging the gender wage gap



Paid Work & Care

Sexual and reproductive health and rights (including pregnancy related healthcare and nutrition); maternity protection; breastfeeding; childcare



Voice & Representation

Representation of women workers in factories' committees (including Better Work's worker - management committees) and trade unions, union federations, and employer organizations; voice in collective bargaining processes



Leadership & Skill Development

Career opportunities in factories (e.g. line supervisors and management positions); leadership positions in governments, trade unions and employers organizations; financial literacy and household budget planning

ACTIONS TO DATE (UNTIL NOVEMBER 2018)

Better Work's recent gender interventions in Vietnam have been organized around the aforementioned four priorities in its Gender Strategy. With the exception of a few components which pre-date the strategy, most of this work remains in its infancy, meaning it is not possible to report on results and/or impact at this stage. In such instances (where work remains either ongoing or in the pipeline), we report provisional findings and experiences, combined with expected outcomes that can be measured with greater certainty in subsequent editions of this Annual Report.

Discrimination

To improve the responsiveness of its factory assessments to gender issues and help enterprise advisors identify and verify hard-to-uncover issues like (gender based) discrimination, Better Work Vietnam has recently revised its compliance guidelines in line with gender equality principles (known as its Compliance Assessment Tool, CAT). This has also been accompanied with an improvement in the traceability of gender-related questions, which will enhance the programme's ability to track and analyse data trends over time, and with it, propose solutions in the advisory and improvement process. Beginning in April 2019, Better Work will rely on a more effective way of categorizing data on gender-related questions related to women's Voice & Representation, Leadership & Skills Development, Paid Work & Care, and Discrimination.

To build factory awareness and capacity in this area, Better Work has also upgraded and expanded key training courses that address workplace discrimination, most notably its Sexual Harassment Prevention (SHP) course, which is now offered to both factory staff (management and key personnel such as HR and compliance teams) and workers in tailored formats. While the worker course aims principally to sensitize workers to the issues and highlight avenues for reporting and recourse, the staff course focuses on more holistic awareness raising, together with skills for developing preventative

workplace policies, drawing also on the ILO's 2015 Code of Conduct on Sexual Harassment in the Workplace. In support of these courses, Better Work has also developed a suite of awareness raising tools including a poster and video animation series for factories.

In the first 10 months of 2018, BWV delivered 14 courses on sexual harassment, including 12 worker-specific courses, attended by 1320 participants. In 2019 the programme will continue its SHP courses with the support of key brands, several of whom aim to rollout preventative training across their entire supply chains in Vietnam³⁵.

Components on gender equality and gender based discrimination have now been written into two other Better Work courses, on Supervisory Skills and Management Skills for Middle Managers. This is particularly important since these courses target individuals who can be change agents on the factory floor, strengthening vigilance, translating policies into practice (and communicating them with workers), and creating a safe and effective environment for victim reporting.

At the advocacy level, Better Work has been working to support the ILO's influencing agenda for the upcoming Labour Code revision, expected to be completed at the end of 2019. One of the key areas for improvement in the current law is the definition of sexual harassment, and associated provisions, such as the discipline of perpetrators or the concept of "the workplace" – something which makes it both hard to enforce and easier to ignore at the enterprise level. As the UN's specialized agency on labour, the ILO is working with the Government and its social partners to strengthen gender provisions in the new law, including greater clarity on the definition of discrimination, improved equal pay protections, and the removal of outdated restrictions on the employment of women (see 5.1. below, on the Legal Reform Agenda).

Paid Work and Care

Better Work aims to build partnerships to expand workers' access to maternal and reproductive health services and affordable childcare, which research has shown can deliver important benefits not just for workers but for businesses too. IFC research has illustrated cases whereby the provision of onsite childcare, for example, has helped businesses recruit and retain quality staff, whilst reducing the disruption and costs associated with high labour turnover (a critical challenge in the Vietnamese garment industry)³⁶.

An upcoming gender mapping exercise -to identify potential organizational partners- will offer more instruction on the nature of upcoming interventions in this area, but the ultimate objectives over the course of this gender strategy are to improve awareness of and access to affordable childcare and related maternal health services. In the case of child care in particular, this could be achieved both by expanded on-site provision (e.g. in-factory childcare facilities) or greater financial support to workers to access them externally (e.g. in the regulated public and private sectors).

Voice & Representation

The PICC forms the backbone of Better Work's improvement model and the primary vehicle through which it promotes worker voice and representation. Whilst most committees are majority female in their composition (reflecting the female dominated workforce), this does not always mean women have equal voice in PICC discussions and decision-making; nor that specific gender concerns are given adequate consideration. The same can also apply to the grassroots trade union, where representation in physical numbers does not always translate into equal consideration of female views or adequate attention to gender-specific issues like maternal health and sexual harassment.

In 2018, Better Work Vietnam started work to revise and re-launch gender-sensitive PICC training for factories (both managers and trade union and worker

representatives), based on earlier training delivered by the NGO Apheda (Union Aid Abroad). As well as promoting fair representation of male and female voices in the PICC, a key objective of this new course will be to equip members with the knowledge and skills needed to give gender issues greater recognition and prominence in related improvement activities. At the same time, with external support Better Work will also seek to mainstream gender principles into other training courses, so that factories receive higher quality instruction and guidance on how to promote gender equality across their business, and more of them conduct their own internal training on these issues in the years ahead.

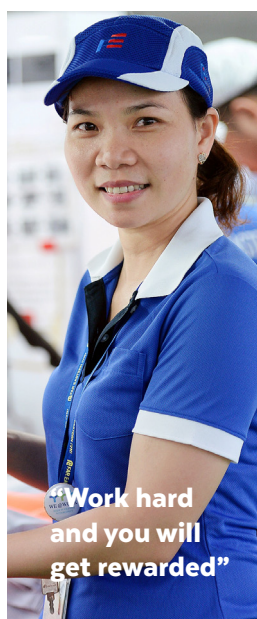
Leadership & Skills Development

The Leadership and Skills Development component of the Gender Strategy covers a range of support and interventions aimed at creating opportunities for workers, and particularly women workers, to enhance their skills and assume leadership positions in their factories -be they in terms of formal career progression or greater prominence in trade unions, workplace committees and other decision-making bodies.

In 2019, BWV will launch a combination of worker-oriented capacity building and wider advocacy and communications efforts, to boost worker skills and showcase the personal and business benefits of supporting emerging leaders in the workplace. Below is an example of a recent case study series showcasing such leadership, which BWV hopes to expand on in 2019³⁷. Through this work, Better Work hopes to see more female workers assuming PICC and trade union leadership positions in the coming years, as well as more factories taking independent action, both to create leadership opportunities for workers, and to challenge traditional gender stereotypes which can constrict workers' chances for progression in the sector.

To expand learning opportunities for workers and support a new generation of female factory leaders, Better Work will collaborate with IFC to roll out the flagship GEAR programme in Vietnam in 2019.

GEAR -which stands for Gender Equality and Returns- offers career-progression opportunities for female sewing operators by training them in the soft and technical skills necessary to take on supervisory roles, whilst also training factory managers on how to select, promote and support female talent. Although the gender imbalance among supervisors in Vietnam remains less severe than in some comparable countries, women remain a minority in other leadership roles, including wider management positions. This is something the GEAR programme will aim to address through targeted and job-specific training curricula for workers with leadership potential.



Duyen | Senior Production Manager | Binh Duong

After starting work as a sewing worker 14 years ago, Duyen now supervises nearly 1,400 workers at a factory in Binh Duong, north of HCMC.

Seeing her potential and work ethic, managers steadily promoted her, first to supervisor, then to deputy manager, manager and finally, to senior manager.

Also in 2019, BWV will explore the potential for establishing a network of female leaders in its factories, whilst forging partnerships with brands and non-governmental organizations to support capacity building and leadership skills development for female workers.

LEGAL REFORM

Men and women in Vietnam are participating in the workforce in almost equal numbers - 71 percent of women and 81 percent of men. Moreover, with high literacy and education levels (70 percent of working women have at least a high-school diploma), women constitute a highly skilled population and a key productive asset for the economy.

In 2018, UN Women and the Australian Government launched an advocacy campaign around proposed gender reforms to the Labour Code in Vietnam. In it, they identified 5 priorities for revision, including harmonising the retirement age, strengthening provisions on sexual harassment and gender-based violence, equal pay for equal work, removal of prohibited occupations for women, and promoting shared family responsibilities. These priorities were endorsed by a number of other international organizations, including the ILO.

Equal Pay for Equal Work: The ILO Global wage report 2018/2019 shows that the gender wage pay gap stands at 16 percent³⁸. For many women, this is the equivalent of receiving 1-2 month's salary less in a year compared to their male peers. In the garment, textile and footwear industry in Vietnam, it is estimated that women earn 17 percent less than their male counterparts³⁹. The ILO and others are advocating for stronger provisions in the law to advance the aim of equal pay for work of equal value.

Harmonizing the retirement age. The legal retirement age for women in Vietnam is 55, five years earlier than men. Experts argue that equalizing the retirement age will not only boost women's lifetime earnings and opportunities for promotion and training (which they may be denied if approaching retirement age), but also strengthen the nation's social security fund. This is perhaps all the more appropriate given that women tend to live longer than men in Vietnam, meaning that they typically benefit from social security assistance for comparably longer than their male counterparts.

Protecting against sexual harassment and

violence. Gender-based violence and harassment in the workplace are health and safety issues that can not only harm the victim but also undermine wider worker wellbeing and business performance. However, under the current Labour Law, the definition of sexual harassment remains vague and hard to enforce. A similar picture is true for domestic violence, which aside from its physical and mental impacts, has also been linked to lower earnings among victims and financial losses for

firms and the economy. Under the next labour code revision, UN Women and others have called for stronger protections for victims, including an entitlement to take paid leave when experiencing domestic violence.

Remove of prohibited occupations for women.

Under the current labour law, there are 38 types of job that are prohibited among women and a further 39 that are prohibited for pregnant women and new mothers⁴⁰. Although intended to protect women, the law may constrain their opportunities and productive potential in the labour market, whilst also putting Vietnam out of step with many of its neighbours, where women are free to work in occupations like seafaring, mining and construction. Rather than seeking to define jobs that are unsuitable for women, reform advocates argue that the law should instead seek to ensure that all workplaces are accessible and safe for both women and men.

Section III: Conclusions

During the period 2017-2018, the compliance situation among the Better Work factories has seen significant improvement, as compared to the previous annual report. The common challenges are generally consistent with those of previous years. Compliance is generally high among core labour standards clusters, including child labour, forced labour and discrimination, with the exception of freedom of association and collective bargaining, wherein a significant number of factories still fail to ensure that union operations are free from management involvement. Most violations are found under the national law issues, with particularly high non-compliance in the areas of worker protection, overtime and OSH management systems. Despite improvement in the period, transparency and integrity in the payment and time record system still poses a risk to the supply chain partnership.

Resolving these perpetual challenges requires efforts of all stakeholders in the supply chain. To this end, Better Work Vietnam has cooperated closely with national agencies and industry partners through initiatives, for example, the Public Reporting, Protocols for Zero Tolerance Issues and Persistently Non-Compliant factories, and Building Bridges Academy. In 2019, the Programme will continue its efforts to leverage on its experience and best practices to expand the programme's impact across the sector (beyond BW factories).

In terms of core services for garment factories, Better Work has also strengthened capacity building activities, such as training courses and industry seminars to support sustainable improvements. The 3 module training programme on industrial relations has been introduced, which aims at addressing the root causes of non-compliance relating to social dialogue, grievance handling, and collective bargaining. In addition, the Supervisory Skills Training (SST) has yielded concrete results both in terms of workplace relations (i.e. fewer conflicts between workers and

supervisors) and worker productivity, as supported by recent independent research⁴¹.

In Nov 2018 and for the first time, BWV conferred Stage II status to a factory. The step comes in recognition of the factory achieving a high level of performance across four key pillars of sustainable business: compliance, management systems, learning, and dialogue. With growing interest from brands' and vendors' to source from Stage II factories, as well as demand from leading suppliers to join this cohort, Better Work anticipates that the number of these emerging industry leaders will likely expand and serve as models for best practices to the wider industry.

International brands continue to play an important role in supporting factory improvements. Regular activities have been maintained to strengthen partnership and commitment from brands such as the brand-supplier workshops, quarterly BWV-brand updates on factory's compliance situation, and regular meetings with brands to discuss labour law issues. This strengthens synergy and creates an enabling condition for partnership in the supply chain.

With the Better Work Gender Strategy 2018-2022 being adopted, the Programme will continue to deliver on its commitment to promoting gender equality throughout the Vietnamese garment industry. During the observed period, the non-compliance rates on gender-based discrimination were less than 10 percent amongst Better Work factories. Nevertheless, anecdotal reports and external resources suggest that discriminatory practices, including sexual harassment, are more prevalent than commonly acknowledged. The most common practices recorded include screening out of pregnant workers upon recruitment, lower pay during motherhood period, making female workers to commit not getting pregnant, etc.

While some of these practices are associated with cost, the underlying causes of discrimination in the garment industry can be found in social norms and

stereotypes. To tackle this, Better Work advisory and training service for factories has focused on raising awareness of gender-based discrimination for management and workers. In consultation with wider stakeholders such as brands and social partners, the Programme also takes preventive measures, aiming at behavioral change and organizational capacity to promote gender equality. In the year to come, greater focus will be placed on presenting the business cases of investment in caring facilities, empowerment and leadership promotion for female workers. In parallel, knowledge and skills training for workers are necessary to prepare them for a stronger voice in protection of labor rights and realization of leadership positions. Better Work also aims at maximizing the partnership with public and private stakeholders that share the same vision on gender equality in the garment industry. To this end, a variety of gender mainstreaming activities are planned in the programme's influencing agenda.

ANNEX A: FACTORIES COVERED IN THIS REPORT

28.1 Joint Stock Company

3Q Vina Co., Ltd. s

A First Vina Co., Ltd.

ACV Garment and Trade Co. Ltd.

All Super Enterprise (Vietnam) Ltd.

Alliance One Apparel Co. Ltd.

AMW Vietnam Co., Ltd.

Ando International JSC

ASG Global Co., Ltd.

ASG Vina Co., Ltd.

Asia Garment Manufacturer Vietnam Co., Ltd.

Avery Dennison RBIS Vietnam

B.R.O Sun Garment Textile Vietnam Co., Ltd.

Bac Giang BGG Garment Corporation

Bac Giang LGG Garment Corporation

Bac Giang LNG Garment Corporation

Bando Vina Co., Ltd.

Bao Hung Joint Stock Company

Beeahn Viet Nam Co., Ltd.

Branch of Continent Packaging Corporation

Branch of Garment 10 Corp JSC - Hung Ha Garment
Factory

Branch of Ha Hae Vietnam Corporation in Thai Binh

Branch of Hanoi Textile and Garment JSC

Branch of Poong In Vina Co. Ltd.

Branch of Smart Elegant International Vietnam Ltd. No.2

Branch of Thuan Phuong Embroideries Garments Co.,
Ltd.- Binh Chanh FactoryBranch of Thuan Phuong Embroideries Garments Co.,
Ltd.- Thuan Phuong Long An Factory

Branch Of Yupoong Vietnam Co. Ltd.

C.M.C Vina Co., Ltd.

CCH TOP (VN) Co., Ltd.

Charm Regent (Vietnam) Co., Ltd.

Chi Dat Garment Co., Ltd.

Choi & Shin's Vina Co., Ltd.

Chuan Mei Glove Co, Ltd.

Chung Yang Vina Co.,Ltd

Chutex International (Long An) Co., Ltd.

Chutex International Co. Ltd.

Classic Fashion Apparel Industry (Vietnam) Co., Ltd.

Colltex Garment MFY Co., Ltd. (VN)

Crystal Martin (Vietnam) Co., Ltd.

D.E.M Co. Vina Co., Ltd. Pro- Sports Giao Thuy JSC

Dae Kwang Apparel Joint Stock Company

Dap Cau - Yen Phong JSC

Dap Cau Garment Corporation JSC

Dap Cau Luc Ngan JSC

Delta Starmark Garment (Vietnam) Co., Ltd.

Deuck Woo Viet Nam Co., Ltd.

Deutsche Bekleidungswerke Ltd.

Deyork Vietnam Co., Ltd.

DHA- Bac Ninh Co., Ltd.

Domex (Vietnam) Co., Ltd.

Dong- A Vina Co., Ltd.

Dong Bang Vina Co., Ltd.

Dong Nai Garment Corporation- Zone A & B

Dong Tai Viet Nam International Co., Ltd.

Dou Power (Vietnam) Co., Ltd.

Duc Giang Corporation

Dynamic Garment Import-Export Co., Ltd.

Eclat Textile Co., Ltd (Viet Nam)

Eco Tank Garment Co., Ltd.
Eco Way Knitwear Co., Ltd.
Eins Vina Co., Ltd.
Eland Vietnam – Binh Duong 2 Branch
Eland Vietnam Corp. Ltd.- Cu Chi Factory
Eland Vietnam Corp. Ltd.- Long An Branch
Eland Vietnam Corporation Ltd. - Trang Bang Branch
Emperor (VN) Co., Ltd.
Epic Designers Viet Nam Co., Ltd.
Epic Designers Viet Nam Co., Ltd. - Xuan Loc Branch
Esquel Garment Manufacturing (Vietnam) Co., Ltd.
Esquel Garment Manufacturing Vietnam - Hoa Binh Co. Ltd.
Eun-Sun Vina Embroidery Co. Ltd.
Excel Tailoring Vietnam Co. Ltd.
Far Eastern Apparel (Vietnam) Ltd.
Fashion Garment 2 Co. Ltd.- Tan Phu Branch
Fashion Garments 2 Co., Ltd.
Fashion Garments 2 Co., Ltd. - Xuan Tay Branch
Formostar Garment (Vietnam) Co. Ltd.
FTN Vietnam Co., Ltd.
Fullwealth International Garments Inc.
G & G II Garments Co., Ltd.
Gennon Vietnam Garment Manufacturing Ltd.
GG Vietnam Co., Ltd.
GG Vina Co., Ltd.
Global Sourcenet Ltd.
Grace Sun Vietnam Garment Co. Ltd.
Grand Well Co., Ltd.
Grande International Enterprise Corp Co. Ltd.
Great Global International Co., Ltd.
Great Super Enterprise Ltd. (VN)
Green Vina Co., Ltd.
H & L Apparel (Vietnam) Co., Ltd.
Ha Bac Export Garment JSC.
Ha Hae Vietnam Corporation
Ha Phong Export Garment JSC
Hai Duong Garment Stock Company No.2
Haianhtex JSC
Hana Kovi Inc.
Hannam Inc.
Hansae TG Co., Ltd.
Hansae TN Co. Ltd.
Hansae Vietnam Co. Ltd.
Hansoll Kovi Vina Co., Ltd.
Hansoll Vina Co. Ltd.
Hantex Vina Co., Ltd.
Highvina Apparel Inc.
Hoa Binh Co. Ltd.
Hoa Sen Phu Tho Garment Co. Ltd.
Hong Duong International Co., Ltd
Hong Seng Thai-Vina Co., Ltd.
Hung Long Garment & Service JSC
Hung Yen Garment Corporation JSC
I.S Vietnam Co., Ltd.
Indo-chine VN Co., Ltd.
International Samil Vina Co., Ltd.
J&D Vinako Co., Ltd.
JC INT'L Vina Co., Ltd.
Jea-Must Vietnam Co., Ltd.
Jiangsu Jing Meng Vietnam Co. Ltd.
Jin Ju Plus Vina Co., Ltd.
Joon Saigon Co., Ltd.

Jung Kwang Vietnam Co., Ltd.
 K.J Vina Co., Ltd.
 K+K Fashion Co., Ltd.
 Kanaan Saigon Co., Ltd. (The 2nd factory)
 KAP Vina Co., Ltd.
 Keum Kwang Vina Co., Ltd.
 Kim Binh Garment Co., Ltd.
 King Hamm Industrial Co., Ltd.
 King Hung Garments Industrial Co. Ltd.
 King Star Garment Co. Ltd.
 Kinh Bac Garment JSC
 KL Texwell Vina Co., Ltd.
 Kovina Fashion Inc.
 Kwang Viet Garment Co., Ltd.
 KY Vina Co., Ltd.
 L&S Vina Co., Ltd.
 L&T Trading Produce Co., Ltd.
 Lan Hanh Manufacturing- Trading-Service Co., Ltd
 Langham Garment Co., Ltd.
 Lee & Vina Co., Ltd.
 Leo Jins Vietnam Co., Ltd.
 Linea Aqua Vietnam Co., Ltd.
 Longway Vietnam Co. Ltd.
 Lotus Textile & Garment Co. Ltd.
 Lyon Garment Co., Ltd.
 M&J Garment-Printing-Embroidery Co. Ltd.
 M.D.K Co., Ltd. Viet Vuong Co., Ltd.
 Made Clothing (Vietnam) Co. Ltd.
 Makalot Garments (Viet Nam) Co., Ltd
 Maxim Label & Packaging Vietnam Co., Ltd.
 Maxport Limited Vietnam – Thai Binh Branch
 May Hai JSC
 May Hai JSC - Lay Trach Factory
 Michigan Hai Duong Co., Ltd.
 Mido Trade Co., Ltd. -Ninh Binh
 Minh Anh Co., Ltd.
 Minh Anh Khoai Chau Garment JSC
 Minh Tri Co., Ltd.
 Minh Tri Thai Binh Co., Ltd.
 MJ Apparel Co., Ltd.
 My Hung Garment and Trading JSC
 My Tho Garment Import-Export Co., Ltd.
 My Viet International Export Service Trade Co. Ltd.
 Nahal Vina Co., Ltd.
 Nam Ha Garment JSC
 Nam of London Co. Ltd.
 Nam Phuong Co., Ltd.
 Nam Quang Co., Ltd.
 Nam Yang International Viet Nam Co., Ltd.
 Namlee International Co. Ltd.
 Namyang Delta Co., Ltd.
 Namyang Song May Co. Ltd.
 NB Blue Co., Ltd.
 NB Nam Phuong Co., Ltd.
 New Wide Garment (Viet Nam) Co. Ltd.
 Nha Be Garment Corporation- JSC
 Nhat Phuong Printing Co., Ltd.
 Nien Hsing (Ninh Binh) Garment Co. Ltd.
 Nobland Viet Nam Co., Ltd. (NBVO)
 Nobland Vietnam Co. Ltd.
 Now Vina Co., Ltd
 NYG (Vietnam) Co., Ltd.

Oasis Garment Co., Ltd. (Vietnam)	Quint Major Industrial Vietnam Co. Ltd.
Opus One Corporation	Regent Garment Factory Ltd.
O-Sung Vina Co., Ltd.	Regina Miracle International Vietnam Co, Ltd.
P.I.T Vina Co., Ltd.	Rich Way Co., Ltd.
Park Corp. (Vietnam) Ltd.	S&H Corporation
Parosy JSC	S.J Vina Co., Ltd.
Peace Vina Co., Ltd.	Saigon Private Garment Export Co., Ltd. (Branch)
Peak Speed Printing Co., Ltd.	Saitex International Dong Nai (VN) Co., Ltd.
Pearl Garment Vietnam JSC	Sambu LA
Pearl Vina Co., Ltd.	Sambu Vina Sports, Ltd.
Philko Hi Vina Inc.	Sao In Garment Embroidery Imp/Exp Co. Ltd.
Phong Phu International JSC- Jean Export Garment Factory	Sarah Co., Ltd.
Phong Phu International JSC- Phong Phu Long An Export Garment Factory	Seshin Vietnam Co., Ltd.
Phu Hung JSC	Seyang Corporation Vietnam
Phu Khang Co., Ltd.	Shillabags International Co, Ltd.
Phu Tai Linh Service and Trading Co., Ltd.	Shinsung Vina Co., Ltd.
Phuong Nam Garment Trading Import Export JSC	Shinwon Ebenezer Ha Noi Co. Ltd.
Pie Rich International Co., Ltd.	Shinwon Ebenezer Sai Gon Co., Ltd.
Poong In Vina 5 Co. Ltd.	Shinwon Ebenezer Vietnam Co. Ltd.
Poong In Vina Co., Ltd.	Simone Accessories Collection Vietnam Ltd.
Precious Garments (Vietnam) Co., Ltd.	Simone Accessories Collection Vietnam TG Ltd.
Premier Global (Vietnam) Garment Factory Co. Ltd.	SMA Vina Viethan Garment Import Export JSC
Protrade Garment JSC.	Smart Elegant International Vietnam Ltd.
Puku Vietnam Co., Ltd.	Smart Shirts Knitting Garments Manufacturing (Vietnam) Co., Ltd.
Pungkook Saigon Co., Ltd.	SNC Garment Co., Ltd.
Pungkook Saigon Two Corporation	Son Ha Company Ltd.
QMI Industrial Vietnam Co., Ltd.	Son Ha Garment JSC
Quang Thai Garments Manufacture Co., Ltd.	Son Ha Phu Tho Co., Ltd.
Quang Viet (Tien Giang) Co., Ltd.	Son Kha Co., Ltd.
Quang Xuan Trading and Service Co. Ltd.	Song Hong Garment JSC - Factory 11.12.13.14
	Song Hong Garment JSC - Factory 15-18

Song Hong Garment JSC- Factory 3.4.5.6
 Song Hong Garment JSC- Factory 7.8.9.10
 Song Tien JSC
 SSV Export Garment Company
 Sun Garment Textile Vietnam Co., Ltd.
 Sun World Garment Co. Ltd.
 Sung Hwa Vina Co., Ltd.
 Sungjin Inc Vina Co., Ltd.
 T & AN Co. Ltd.
 T & T Co., Ltd.
 Tae Young Vina Co., Ltd.
 Tai Viet Camping Products Industries Co., Ltd.
 Tai- Yuan Garments Co., Ltd.
 Tan Duong Export Garment Co., Ltd.
 Tan Uy Dat Co. Ltd.
 TBS Group - Branch 1- Handbag Factory
 TDT Investment and Development JSC
 Texhong Thai Binh Garment Company Limited
 Texma Vina Co., Ltd.
 Thanh Cong Textile Garment Investment Trading JSC
 Thanh Tai Garment and Wash Company Limited
 Thanh Tan Garment Factory
 Thao Uyen Garment Manufacturing and Trading Co.Ltd.
 Thao Uyen Shol Branch - Thao Uyen Garment
 Manufacturing & Trading Co., Ltd.
 Thien Chi Garment Co., Ltd.
 Thien Nam Garment Co., Ltd.
 Thien Quang Sewing Clothing One Member Co., Ltd.
 Thomas Hill Co., Ltd.
 Thuan Phuong Embroideries Garments Co. Ltd.
 Tien Hung Joint Stock Company
 Tien Tien Garment Joint Stock Company
 TNG Investment and Trading JSC – Dai Tu Branch
 TNG Investment and Trading JSC – Phu Binh 2 Garment
 Branch
 TNG Investment and Trading JSC - Phu Binh 3 Garment
 Branch
 TNG Investment and Trading JSC – Song Cong Area
 Branch
 TNG Investment and Trading JSC - Viet Duc Branch
 TNG Investment and Trading JSC- Viet Thai Garment
 Branch
 Tong Yu Textile (VN) Co. Ltd.
 Top One Garment MFG Co. Ltd.
 Top Royal Flash Vietnam Co., Ltd.
 Trida Co., Ltd.
 Triple Garment (Vietnam) Co., Ltd.
 Truong Hy International Co., Ltd.
 Truong Son Garment JSC
 Truong Vinh Trading Industrial Garment Co. Ltd.
 TTG Co. Ltd.
 Tungtex Fashions (Vietnam) Limited
 UBI Vina 1 Co., Ltd.
 UBI Vina 2 Co., Ltd.
 UDY Vina Co., Ltd.
 Unipax Co., Ltd.
 Unique International (VN) Co. Ltd.
 Unisoll Vina Co., Ltd.
 United Sweethearts Garments (Vietnam) Co. Ltd.
 Upgain (VN) Manufacturing Co. Ltd.
 V.J. ONE Garment Co., Ltd.
 Van Thanh Trading Service Co. Ltd.
 Vastco Garments Ltd.
 Viet Hung JSC.
 Viet My Export Garment Co. Ltd.

Viet Nam Plummy Garment Company Limited

Viet Pacific Apparel Co. Ltd.

Viet Pan Pacific International Co. Ltd.

Viet Thanh Garment Trading Joint Stock Company

Viet Thinh Garment JSC

Viet Tien Garment Cooperation

Viet Tri Garment Joint Stock Company

Vietnam Rehong Garment Co., Ltd.

Vina CKGF Trading Co. Ltd.

Vina Gio Co., Ltd.

Vina KNF International Co., Ltd.

Vina Korea Co., Ltd.

Vina Kyungseung Trading Co., Ltd.

Vinatex Textile and Garment Northern Corporation
Co.,Ltd.- Hai Phong Branch

Vinh Tien Garment Im-Ex Co. Ltd.

Westfield Vietnam Co., Ltd.

Win Vina Co., Ltd.

Winning Sportswear Co., Ltd.

Woo Yang Vina II Co., Ltd.

Xuan Hoa Garment Co., Ltd.

Yakjin Vietnam Co., Ltd.

Yen The Garment Co., Ltd.

Yes Vina Garment Co., Ltd.

Yesum Vina Co., Ltd.

Yupoong Vietnam

ANNEX B: METHODOLOGY

Factory assessments

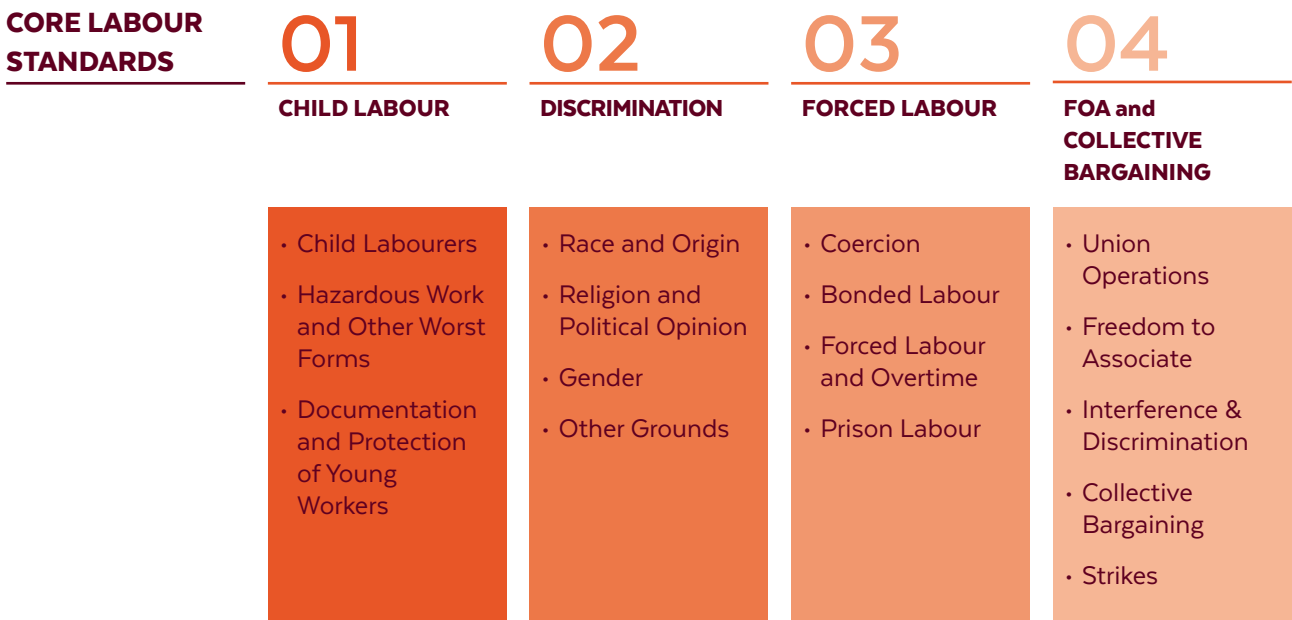
This report is based on aggregate compliance findings from a sample of 331 factories in the Better Work Vietnam programme, assessed between 1st January 2017 and 30th June 2018⁴². Compliance findings themselves are derived from factory level assessments, which are conducted by Better Work advisors in all participating factories.

For each member factory, Better Work conducts one assessment per annual cycle, using a standardized

compliance assessment tool (CAT) to monitor compliance with international core labour standards and the national labour law. The Compliance Assessment Tool contains 289 questions, organized under eight issue groupings, known as clusters, and 37 sub-groupings known as compliance points⁴³.

Our assessment reports contain non-compliance findings, which are used as a baseline to help factories plan and execute their improvement activities in their current and future cycles. Collecting and reporting this data helps both factories and Better Work track progress and commitment to improved working conditions over time.

FIGURE 3: BETTER WORK ASSESSMENT CLUSTERS AND COMPLIANCE POINTS



Questions in the core labour standards clusters are standardized in all Better Work countries, with the exception of Freedom of Association in Vietnam, which is not reported at the factory level⁴⁴. Similarly, compliance points in the conditions of work cluster are largely consistent across countries in terms of overall content, although the compliance guidance in specific questions can vary according to specific national legal requirements.

Better Work reports the non-compliance rate (NC rate) for each of the 37 compliance points. A compliance point is marked non-compliant if any single question within it is found to be out of compliance with the law.

After each factory assessment, Better Work produces a report which is shared both with the factory and selected buyers (i.e. those that are subscribed to receive reports from that factory). Report findings are based solely on what was observed and identified during the actual assessment, and factories are given a seven day window prior to its official release to provide feedback and clarifications on any of the content.

As part of its confidentiality agreement with factories, Better Work does not make assessment reports publicly available; however it does disclose selected compliance data at the factory level on its global Transparency Portal⁴⁵.

WORKING CONDITIONS

05

COMPENSATION

- Minimum Wages/Piece Rate Wages
- Overtime Wages
- Premium Pay
- Method of Payment
- Wage Information, Use and Deduction
- Paid Leave
- Social Security and Other Benefits

06

CONTRACTS and HUMAN RESOURCES

- Employment Contracts
- Contracting Procedures
- Termination
- Dialogue, Discipline and Disputes

07

OCCUPATIONAL HEALTH AND SAFETY (OSH)

- OSH Management Systems
- Chemicals and Hazardous Substances
- Worker Protection
- Working Environment
- Health Services & First Aid
- Welfare Facilities
- Worker Accommodation
- Emergency Preparedness

08

WORKING TIME

- Regular Hours
- Overtime
- Leave

Calculating non-compliance

Better Work calculates non-compliance rates based on the findings of the aforementioned factory assessments. The compliance data published in this report are drawn from a large, representative sample of factories in the programme (331 factories assessed between January 2017 and June 2018), with headline non-compliance rates reflecting the share of factories that were found to be non-compliant under each compliance point. These headline rates offer a useful indicator of overall industry progress towards decent work in Vietnam, as well as enabling limited comparisons with industries in other Better Work countries.

However, to get a deeper insight into the precise dynamics of the compliance landscape and the issues being uncovered at the factory level, it is necessary to look at compliance at the question level, i.e. the share of factories that are found non-compliant for each individual question in the assessment. With this data, it is possible to more effectively pinpoint the key drivers of non-compliance in each compliance point, and with this, develop more targeted advice and guidance both for factory level improvement and wider policy advocacy in Vietnam.

This report contains headline non-compliance rates for all 37 compliance points, together with selected question level data for issues that are either persistently problematic (i.e. high non-compliance rates) or particularly serious in terms of their potential consequences for worker health and wellbeing.

ANNEX C: GENDER TAGGED QUESTIONS

CAT Question	Non-compliance rate by question
Does the employer comply with monthly limits on overtime hours worked?	77%
Does the employer comply with yearly limits on overtime hours worked?	71%
Does the employer submit claims for sick leave and maternity leave to the social insurance agency within 10 days?	41%
Does the employer comply with daily limits on overtime hours worked?	37%
Does the employer settle claims for sick leave and maternity leave within 3 working days?	36%
Does the factory incorporate all required allowances and additional payments into the calculation of wage-based benefits (e.g. social insurance payments, overtime, paid leave, etc.)?	26%
Do female workers receive periodical gynaecology health checks every 6 months?	22%
Do all persons who perform work for the factory, both on the premises and offsite, have a contract?	14%
Does the employer adequately protect pregnant or nursing workers against safety and health risks?	14%
Does the employer provide required time off for breastfeeding breaks?	13%
Does the employer pay women workers for 30 minutes rest per day during their periods?	5%
Are pregnant workers provided time off for prenatal visits?	4%
Is overtime work voluntary?	4%
Are pregnant workers provided with time off for prenatal visits?	3%
Do entitled workers receive full average monthly wages and maternity allowance of two month's minimum wage?	2%
Do pregnant workers receive correct payment when they take time off for prenatal care?	2%

Does the employer pay workers for one hour breastfeeding break per day?	2%
Is an applicant's gender or marital status a factor in hiring decisions?	2%
Do job announcements refer to the applicants' gender or marital status?	2%
Does the employer comply with the entitlement to paternity leave?	2%
Does the employer change the employment status, position, wages, benefits or seniority of workers during maternity leave?	1%
Does the employer terminate workers due to the worker's pregnancy, maternity leave, marriage, or breast-feeding of a child under 12 months of age or force them to resign?	1%
Do regular working hours exceed 10 hours per day, or 48 hours per week?	1%
Does the employer pay for paternity leave when required?	0.39%
Is the gender or marital status of a worker a factor in decisions regarding conditions of work?	0.39%
Is the gender or marital status of a worker a factor in decisions regarding pay?	0.39%
Are periods of maternity leave included in a worker's period of continuous service?	0%
Are workers forced to work overtime under threat of penalty?	0%
Do regular daily working hours exceed 10 hours?	0%
Do regular weekly working hours exceed 48 hours?	0%
Does the accommodation have lighting of at least 50 lux?	0%
Does the accommodation offer workers adequate privacy?	0%
Does the employer comply with the entitlement to maternity leave?	0%
Does the employer require pregnancy tests or use of contraceptives as a condition of employment?	0%
Is an applicant's sexual orientation a factor in hiring decisions?	0%

Is sexual orientation a factor in decisions regarding conditions of work?	0%
Is sexual orientation a factor in decisions regarding opportunities for promotion or access to training?	0%
Is sexual orientation a factor in decisions regarding pay?	0%
Is sexual orientation a factor in the employer's decisions regarding termination or retirement?	0%
Is the gender or marital status of a worker a factor in decisions regarding opportunities for promotion or access to training?	0%
Is the gender or marital status of the worker a factor in employer decisions regarding termination or retirement of workers?	0%
Is there harassment of workers on the basis of sexual orientation?	0%
Is there sexual harassment of workers in the workplace?	0%

END NOTES

1. Cumulative figures covering the period from inception of the programme in 2009 to January 2019.
2. World Bank (2018) "CPTPP Brings Vietnam Direct Economic Benefits and Stimulate Domestic Reforms, WB Report Says." Available at: <https://www.worldbank.org/en/news/press-release/2018/03/09/cptpp-brings-vietnam-direct-economic-benefits-and-stimulate-domestic-reforms-wb-report-says>
3. The infographic information about BWV is updated as of January 2019.
4. The total industry workforce is estimated to be 2.7 million.
5. A full list of public reporting issues can be found under the BW transparency portal at: <https://portal.betterwork.org/transparency>
6. During this time, factories receive two alerts – one after each assessment – to notify them that they're at risk of becoming PNC. If by the third assessment they still have not improved, then they will be classified as PNC.
7. The dataset of 2017 and this one are different, mostly due to new factories entering in 2018. Therefore, the percentages are not directly comparable. Nonetheless, the percentages reflect the general compliance situation of factories under Better Work Programme in a particular year
8. Eight percent of factories were found to have required young workers to work more than eight hours a day and 40 hours per week plus overtime, which is against the law for under 18s (but not regular adult workers). In reality, factories that don't adequately monitor their young workers often end up treating them as regular adult workers, which includes asking them to work typical or standard working hours (i.e. the same as adult workers).
9. By law and generally in factories' internal work rules, female workers are entitled to 1 hour off per day from the 7th month of pregnancy onwards, and through the period they are breastfeeding a newborn baby under 12 months of age.
10. Code of Conduct on Sexual Harassment at the Workplace: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_421220.pdf
11. Committee of Freedom of Association Digest, paras. 130-132, 859.
12. Vietnamese Labour Code and Trade Union Law.
13. Like other questions under the working conditions clusters, the legal basis for these questions are drawn from provisions of the Labour Code on compensation, its guiding decrees and circulars.
14. The NC rate in this public reporting issue has also dropped from 40% in the period of the 9th annual report to 26% in this annual report.
15. The Vietnamese Labour Law prescribes in its requirements for the composition of the OSH Unit and the qualifications of its members.
16. See Figure 4 in the BWV 9th Annual Report, available at: <https://betterwork.org/blog/portfolio/better-work-vietnam-annual-report-2017/>
17. Lack of risk assessment (38 percent non-compliance) and poor record-keeping of accidents and diseases (34 percent non-compliance) are the two other leading NC issues in the OSH Management Systems compliance point.
18. Boiler operators often arrive up to thirty minutes before their shift each day to start steam boilers; and many factories fail to account for this in official working time records.
19. In 2017, 81% and 77% of the observed factories could not comply with the monthly and yearly overtime limit, respectively.
20. However, both sets of educational rates compare

favourably when measured against garment workers in other comparable countries.

21. Most of these cases lack substantive evidence and are not officially reported by victims because of fear or a lack of knowledge of the issues.
22. Authoritative data on this is unavailable, but anecdotal evidence from Better Work suggests that typically around 60 percent of supervisors in its factories are women.
23. Djaya D., D. Brown, and L. Lupo. “An Impact Evaluation of Better Work from a Gender Perspective: Analyzing Worker Surveys from Haiti, Nicaragua, Indonesia, Vietnam and Jordan” Better Work Discussion Paper, forthcoming.
24. Late payment of maternity leave claims is one of the leading drivers of non-compliance in the “paid leave” section of the Better Work assessment (a section in which 31 percent of factories were non-compliant in this observed period).
25. Djaya, Brown, and Lupo. An Impact Evaluation of Better Work from a Gender Perspective: Analyzing Worker Surveys from Haiti, Nicaragua, Indonesia, Vietnam and Jordan
26. While in most cases, the disadvantage stems from the fact maternity leave is not counted as working time, some workers also miss out on bonuses and other payments simply because they are absent from the factory when the payments are made.
27. Djaya, Brown, and Lupo. An Impact Evaluation of Better Work from a Gender Perspective: Analyzing Worker Surveys from Haiti, Nicaragua, Indonesia, Vietnam and Jordan
28. As noted by other organizations such as UNICEF, it also poses risks to children’s early psychosocial and educational development.
29. The amount normally ranges from VND 10,000 to VND 300,000 per month.
30. These incentives are outlined in Decree 85 of the Labour Law, passed in 2015
31. Private childcare is also plagued by quality problems, with many lower cost kindergartens being both unlicensed and lacking in qualified staff.
32. Many migrants also send their children to hometowns for even longer periods (i.e. up to and beyond primary school age), which can weaken parent-child bonds and put children at risk of neglect (UNICEF, no date).
33. By law, factories are required to either provide 1 hour paid time off (i.e. a 7 hour day for 8 hours’ pay) or reassign pregnant workers to “lighter” work. However, since there are so few “lighter” jobs available for workers to be moved to (most factory jobs are considered heavy or hazardous, by law), almost all factories choose the shorter working day option for pregnant workers.
34. Compliance data in this chapter comes from the same dataset as in Section 1, i.e. covering 331 factories between January 2017 and June 2018.
35. Partnerships will likely include Better Work and non-Better Work factories, which will help to expand the programme’s influence over gender norms beyond its membership and across the wider industry in Vietnam.
36. IFC (2017)
37. See: *Stitching a Future: Stories of Hope and Success in Vietnam’s Garment Industry*: <https://betterwork.org/blog/portfolio/stitching-a-future-stories-of-hope-and-success-in-vietnams-garment-industry/>
38. Depending on the methodology used, the gender pay gap may range from 16% to 22%, see: ILO: 2018
39. See: *Asia-Pacific Garment and Footwear Sector Research Note*: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_467449.pdf
40. See Labour Code, Article 160 and Circular no. 26/2013/TT-BLDTBXH dated 16 October 2013

41. Brown, Drusilla et al (2016) “The Impact of Better Work: A Joint Program of the International Labour Organization and the International Finance Corporation”. Available at: <https://betterwork.org/blog/portfolio/impact-assessment/#1474900139598-0c76ab6e-80c4>
42. In case a factory is assessed twice during the period, the dataset takes only the most recent assessment.
43. Besides their primary reference in ILO Core Conventions, Core Labour Standards issues also draw upon national laws, where applicable.
44. There is a gap between Vietnamese Law and International Labour Standards regarding freedom of association. In this context Better Work does not cover questions pertaining to the right of workers to join a union of their choice or the ability of unions to join a federation of their choice, as in other countries. Despite this, the question of whether workers are required to join a union is still assessed at the factory level, along with other aspects of union activities, including management interference in union affairs, anti-union discrimination, collective bargaining, and strikes.
45. The Portal can be accessed at: <https://portal.betterwork.org/transparency>

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