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WORKPLACE SOCIAL DIALOGUE AND INDEPENDENT MEDIATION: THE EXPERIENCE OF SWEDEN AND VIETNAM

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Abstract
This thesis examines the lowest tier of social partnership, yet the one closest to the employee – social dialogue at the workplace – together with independent mediation in collective labour disputes. It compares two sharply contrasting experiences: that of Sweden, a mature example of self-regulation, and that of Viet Nam, which is carrying out labour law reforms under the influence of international trade commitments. On the basis of this analysis, the thesis substantiates proposals to supplement the Labour Code of the Republic of Uzbekistan with a new article on mandatory workplace dialogue, to establish an independent state mediation service, and to introduce regular recording of collective agreement coverage.

Keywords: social partnership, workplace dialogue, consultation, mediation, collective labour disputes, collective agreement coverage, Sweden, Vietnam.

When social partnership is discussed, most people picture the General Agreement, the national tripartite commission and sectoral agreements. This picture is accurate, but incomplete. The decisions that matter most to employees – job cuts, changes to working-time schedules, revisions of bonus schemes – are taken at the workplace. And it is precisely at this level that our social partnership system is at its weakest [12]. In organisations without a trade union, particularly

in the private sector, there is no institutional channel of dialogue whatsoever between employees and the employer. The employer takes a decision, and the employee learns of it from an order. In our view, this situation is dangerous not only for employees but for employers as well: discontent that goes unheeded sooner or later turns into open conflict.

The second issue concerns disputes. The statutory regulation of the right to strike in 2026 brought collective labour disputes into the legal domain. A strike, however, is the final and most costly stage of a dispute. To avoid reaching it, the parties need a mediator whom they trust and who is dependent on neither side. L.U. Rahimkulova notes that the ILO has not adopted a separate convention devoted specifically to the settlement of collective labour disputes, and that ILO recommendations should therefore be applied more widely in national legislation [1]. Each state, then, chooses its own path in this area, which makes the experience of others particularly valuable.

Why Sweden and Viet Nam? At first sight, it may seem odd to place these two countries side by side. Sweden is the classic example of self-regulation, where labour relations are governed primarily not by statute but by agreements between the social partners. Viet Nam, by contrast, relied for many years on a single trade union system and has in recent years been fundamentally overhauling its labour legislation under the influence of international trade agreements. Yet it is precisely this contrast that proves instructive: viewed from both ends, it becomes clearer under what conditions workplace dialogue and mediation institutions function and under what conditions they remain on paper.

The history of the Swedish model begins with the Saltsjöbaden Agreement, signed in December 1938 by the Swedish Trade Union Confederation (LO) and the Swedish Employers' Confederation (SAF) after nearly two years of negotiations. The agreement established a joint body, the Labour Market Council,

and laid down procedures for handling disputes as well as restrictions on actions endangering the national interest. For more than half a century thereafter, the labour market operated almost free of state intervention. V.B. Gorokhova stresses that the model rests on full employment, a solidaristic wage policy and the prominent role of trade unions [2]. At the constitutional level, Chapter 2, Article 14 of the Instrument of Government (Regeringsformen) guarantees the right to take collective action, including the right to strike, unless otherwise provided by law or agreement.

From the standpoint of workplace dialogue, Sweden's principal instrument is the Co-determination in the Workplace Act of 1976 (MBL) [3]. Section 10 establishes the right of the trade union and the employer to negotiate with each other. Of particular interest for our subject is Section 11: an employer bound by a collective agreement must, on its own initiative, negotiate with the trade union before deciding on any important change to its operations or to employees' working conditions. This is known as the "primary duty to negotiate", and only where there are special reasons may the employer take a decision before negotiations have been concluded. In addition, the employer must keep the trade union continuously informed of the development of production and finances and of the guidelines of its personnel policy, and must provide access to documents to the extent necessary to safeguard the union's common interests.

It is worth noting that the MBL does not require the employer to reach agreement with employees – the right to decide remains with the employer. The Act merely makes it mandatory to hear the employees' views before a decision is taken. In our opinion, it is precisely this moderate approach that makes the Act attractive to other countries as well: it does not curtail managerial freedom, yet it improves both the quality of decisions and their acceptance by employees. In this sense, the MBL is consistent with Directive 2002/14/EC of the European Union, which

likewise obliges employers in undertakings with at least 50 employees to inform and consult employee representatives on the economic situation, the employment situation and substantial changes in work organisation [4].

The second important element of the Swedish experience is independent mediation. The National Mediation Office (Medlingsinstitutet), established in 2000, mediates in collective disputes and promotes efficient wage formation. It appoints special mediators for major disputes, while for local disputes four standing mediators are appointed each year on a regional basis. The tradition of mediation runs deep in the country: Sweden was the first of the Scandinavian states to adopt a mediation act, in 1906, and it also has a specialised Labour Court. In our view, one of the Office's most valuable functions is also one of its least conspicuous: every year it publishes reliable statistics on collective agreement coverage and trade union density. In 2025, for instance, 88 per cent of employees aged 18–68 were covered by collective agreements (83 per cent in the private sector and all employees in the public sector), while union density stood at 66 per cent [5]. A situation that is not measured cannot be managed.

In Sweden, collective agreements are concluded mainly at the sectoral level. Some 115 partners operate in the labour market – 60 trade unions and 55 employers' organisations – and approximately 670 major collective agreements cover around 3.6 million people. Under the 1997 Industrial Agreement (Industriavtalet), the wage increase agreed in the export-oriented industries serves as a benchmark ("märket") for the labour market as a whole. There is no statutory minimum wage, nor is there a mechanism for extending collective agreements by government decision; its role is performed by application agreements (hängavtal) concluded by trade unions with employers that are not members of an employers' organisation. The peace obligation – the prohibition of industrial action over matters regulated by a collective agreement during its term – is another important

pillar of the system. The degree of trust between the state and the social partners is well illustrated by the 2022 reform of the Employment Protection Act (LAS): the far-reaching amendments were prepared on the basis of an agreement reached between the partners themselves.

Nonetheless, it would be wrong to portray the Swedish model as ideal. A. Kjellberg and K. Nergaard show that, in contrast to the stability observed in Norway, trade union membership in Sweden has been declining [6]. According to G. Bender, union density fell from 85 per cent in the mid-1990s to roughly 69 per cent, with the decline concentrated among young, temporary and foreign-born workers [7]. Coverage remains high for the time being, since an employer that is a member of an employers' organisation applies the agreement to all of its employees. The system, however, relies on the broad reach, independence and mutual trust of trade unions and employers' organisations. These preconditions have not yet taken shape in the private sector of Uzbekistan, and the Swedish model therefore cannot be transplanted as a whole. It can be regarded only as a source of particular instruments.

The experience of Viet Nam offers lessons from a different angle. In 2019, the country ratified ILO Convention No. 98, a decision closely linked to its commitments under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the EU–Viet Nam Free Trade Agreement (EVFTA). The Labour Code No. 45/2019/QH14, adopted on 20 November 2019 and in force since 1 January 2021, introduced a number of innovations [8]. At the same time, Convention No. 87 had still not been ratified as of 2026.

The provision of the Vietnamese Code most relevant to our subject is Article 63. Under it, the employer must hold social dialogue at the workplace at least once a year. Dialogue must also take place at the request of either party and in the cases listed in the law, including dismissals, the wage system, labour norms, bonus

schemes, internal labour regulations and temporary suspension of work. Chapter XIII of the Code (Articles 170–178) provides for the possibility of establishing, at enterprise level, workers' representative organisations outside the system of the Viet Nam General Confederation of Labour; Article 178 enumerates their rights, including the right to engage in collective bargaining and to take part in workplace dialogue. At the national level, under Articles 91–92, regional minimum wages are set on the basis of recommendations from the National Wage Council.

The distance between the letter of the law and practice, however, is considerable. Because the government decree establishing the registration procedure for alternative representative organisations was delayed, the mechanism has not become fully operational in practice. The new Law on Trade Unions No. 50/2024/QH15, adopted on 27 November 2024 and in force since 1 July 2025, allows foreigners to join trade unions but does not permit them to lead them. Human Rights Watch noted in its 2026 report that the law did not provide for the fundamental reforms that would open the way for independent trade unions [9].

S. Clarke, Chang-Hee Lee and Do Quynh Chi have pinpointed the roots of this contradiction. In their view, the rapid growth driven by foreign investment from the mid-1990s onwards transformed the structure of employment, while the "rights-based" regulatory system created in the early period of reform adapted only slowly to disputes over "interests" [10]. Trade unions were unwilling or unable to challenge employers on behalf of workers, and workers preferred direct action to official channels. As C. Miller observes, although the right to strike is recognised by law, the procedures are so burdensome that unauthorised, "wildcat" strikes have become the only realistic option in practice [11]. In other words, where there is no reliable channel for dialogue, discontent will find its way out regardless – only outside the law.

Placing the two experiences side by side reveals a telling picture. In Sweden, workplace dialogue and mediation institutions are built on the mutual trust of the social partners, and the law merely reinforces that trust. In Viet Nam, the law came first, while trust and independent representation are still in the making; as a result, the progressive provisions of the law do not fully work in practice. In our view, Uzbekistan stands between these two poles. We share Viet Nam's desire to modernise labour legislation, but we must avoid repeating its mistake of proclaiming rules without mechanisms for their implementation. From Sweden, it is advisable to borrow not the model as a whole but specific, narrowly defined instruments.

From this perspective, we put forward the following proposals. First, the Labour Code should be supplemented with Article 41[1] establishing, for employers with more than fifty employees, a duty to hold regular social dialogue at the workplace and to consult employee representatives before major organisational changes. The fifty-employee threshold derives from the option given to Member States in Article 3 of Directive 2002/14/EC and does not impose an excessive administrative burden on small businesses. The requirement of "at least once a year" draws on Article 63 of the Labour Code of Viet Nam, while consultation prior to changes draws on Section 11 of the Swedish MBL. As subjects of dialogue, it is proposed to specify the three matters set out in the Directive – the economic situation of the undertaking, the employment situation and work organisation – together with occupational safety and health. Importantly, the provision should also apply in organisations without a trade union: in such cases, the dialogue would involve a representative body elected at a general meeting of employees.

Second, an independent state mediation service for collective labour disputes should be established. The value of such a service lies not in the breadth of its

powers but in its independence: the mediator must be dependent neither on the employer, nor on the trade union, nor on the sectoral ministry. Drawing on the experience of the Swedish National Mediation Office, it would be advisable for the service to maintain a roster of qualified mediators, to appoint special mediators for major disputes and to deploy standing mediators in the regions. Now that the right to strike is regulated by law, such a service could become the most effective means of preventing disputes from escalating into strikes.

Third, the level of collective agreement coverage should be recorded on a regular basis and published annually in the form of a national report "On the State of Social Partnership in the Sphere of Labour". Today it is difficult to say with any precision how many employees are protected by collective agreements, which means that any policy is pursued blindly. This task could be entrusted to the mediation service or to the unified electronic platform for social partnership. Fourth, enshrining in law a clearly delimited peace obligation, which precludes strikes over matters regulated by a collective agreement during its term, would give the parties a guarantee of stability. It should be expressly stated that the peace obligation does not apply to new issues not settled by the agreement or to breaches of the agreement by the employer.

Nor should it be forgotten that the Vietnamese experience teaches another simple but important lesson: when a new legal rule is adopted, the secondary legislation implementing it must be prepared at the same time. Otherwise, both Article 41[1] and the mediation service risk becoming institutions that exist only on paper. We therefore recommend that the instruments defining the dialogue procedure, the form of the minutes, the criteria for selecting mediators and the reporting indicators be developed together with the law itself.

By way of conclusion, it should be emphasised that workplace dialogue is the foundation of social partnership: however good the agreements concluded at the

national level may be, they will not deliver the expected results unless they translate into a living dialogue between employees and the employer at the organisation level. The Swedish experience demonstrates the importance of consultation prior to decisions, of independent mediation and of reliable statistics. The Vietnamese experience shows that mandatory dialogue rules can serve as a minimum standard in the private sector, but also that they do not work without implementation mechanisms. Taken together, the proposed Article 41[1], an independent state mediation service and a system for recording coverage would guarantee a minimum level of institutional dialogue even in organisations without a trade union, help prevent disputes related to redundancies and restructuring, and make it possible to settle collective disputes before they escalate into strikes.

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