

## **“The Fish” and “the Fishing Rod:” Unemployment Insurance in Vietnam\***

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*As the second most populated country in the Southeast Asian region, Vietnam is drawing attention of both internal and external recruiters to take full advantage of its young and abundant workforce. Using firsthand data from Vietnam, this paper investigates the unemployment insurance scheme in the country based on important indicators such as coverage, qualifying conditions and benefits, and analyzes challenges of the scheme under economic changes. The paper addresses the original 2009 version and its gradual modifications until 2015. A comparison between the 2009 version and revised version is presented to understand the reformations on the unemployment insurance and how these adjustments improve the current unemployment insurance condition.*

***Keywords: Unemployment Insurance, Unemployment Allowance, Vietnam Workforce, South Korean Employment Insurance***

### 1. INTRODUCTION

Since the implementation of strong economic reforms in Vietnam in the mid-1980s, its market and economy have evolved into a successful case of development and transformation. Much of these changes brought growth and strong national economic performance for Vietnam, however, the sudden success also created new challenges such as rural-urban migration, severe urban labor market and most importantly, unemployment.

In order to address the new issues and protect its citizens, the Vietnamese government started developing the system of Unemployment Insurance (UI). This new concept was introduced since late 2006 along with the first-ever Social Insurance Law, and started since 1 January 2009.

Vietnam implemented a UI scheme to strengthen the social security protection for unemployed workers and, pursuant to the Law on Social Insurance and to the UI Decree, contributions under the scheme started on January 1, 2009 and benefits started to be paid on January 1, 2010. The Bureau of Employment (BoE) under the Ministry of Labour, Invalids and Social Affairs (MoLISA) has overall responsibility for administering the UI legislation. Vietnam Social Security (VSS), an agency reporting to the Prime Minister, is responsible for collecting contributions and disbursing benefits.

While the policy resembles various UI systems in both developed and developing countries in terms of coverage, qualifying conditions, contribution responsibility, and benefit duration and amount, it was still a rough draft that has been continuously modified in order to improve its effectiveness. During the consecutive years, the government and the respective responsible agencies, introduced various circulars and decrees that enhanced and altered some measures and procedures of the UI scheme to boost its performance and ability to help the unemployed citizens. In 2015, the latest change was presented and it is under current implementation.

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The main purpose of this paper is to describe the Vietnamese UI scheme based on some important indicators, and to analyze some challenges of the scheme under economic changes in Vietnam. The paper addresses the 2009 version and its gradual modifications until 2015. These modifications, as discussed in the paper, were to tackle the thorny problem of “the fish” and “the fishing rod,” which stemmed from the old story that many Vietnamese know by heart. In the story, a young fisherman gave a poor hungry beggar a fish. Yet an old wise man suggests him an alternative course of action: giving the beggar a fishing rod and teaching him how to use it. We may find a similar expression in English proverb, “Give a man a fish and you feed him for a day; teach a man to fish and you feed him for a lifetime.” A policy with short-term vision may result in long lasting issues, which Vietnam UI Law itself had experienced.

The paper is organized as follows. In the second section, we provide information about the UI scheme in Vietnam with important indicators such as coverage, qualifying conditions, and benefits for the 2009 model. In the third section, we analyze the 2015 revised version of the UI, its main contents and a comparison between both versions is presented in order to understand the reformations on the UI and how these adjustments improve the current unemployment insurance condition. The fourth section includes some concluding remarks and implications for Vietnam UI as well as a suggestion of investigation of other countries’ case studies, especially the South Korean case.

## 2. THE 2009 UNEMPLOYMENT INSURANCE LAW AND ITS PROBLEMS

### 2.1 The Main Contents of 2009 UI Law

The UI scheme in Vietnam was introduced as a part of the Social Insurance Law promulgated in 2006, but its implementation was from 1 January 2009 under the guidelines indicated in Decree No. 127/2008/NĐ-CP dated 12 December 2008.<sup>1</sup> Some of the main contents of the first version of 2009 are as follows.

#### *On Coverage*

According to the Law and the Decree, only those with the following conditions are eligible for the UI scheme participation:

- Employees working under contracts of indefinite term or contracts of a term of three months and/or over;
- Cadres, public servants;
- Defense workers, police workers;
- Professional officers and soldiers of the Army; professional officers and noncommissioned officers, technical officers and non-commissioned officers of the police force; persons engaged in cipher work and enjoying salaries like army or police men;

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<sup>1</sup> For details, see Ministry of Labor, War Invalids and Social Affairs (MoLISA). Document Code 04/2009/TT-BLDTBXH. Accessed October 12, 2015. <http://www.molisa.gov.vn/en/Pages/Detail-document.aspx?vID=332>.

- Non-commissioned officers and soldiers of the Army, non-commissioned officers and combatants of the police force on term services; and
- Persons working overseas for a definite term who previously paid compulsory social insurance premiums. Employers participating in the UI scheme are those who employ ten or more employees at the following organizations:
  - State bodies, state units, security services;
  - Political organizations, social-political organizations, social-political professional organizations, social-professional organizations, other social organizations;
  - Foreign agencies and organizations, international organizations operating in Vietnamese territory; and
  - Entrepreneurs, cooperatives, business individuals, cooperative groups, other organizations and individuals hiring, employing and paying wages to employees.

*On Qualifying Conditions to Receive UI Benefits*

According to Article 81 of the Social Insurance Law<sup>2</sup> and Article 127 of the Decree No. 127,<sup>3</sup> only the unemployed who meet the following conditions are qualified for receiving UI benefits:

- The insured must have worked and contributed to the UI Fund for at least 12 months in the 24 months prior to his/her unemployment.
- The insured must be registered with the Employment Service Center at the Provincial Department of Labor, Invalids, and Social Affairs (DoLISA) when he/she loses his/her job, or when his/her labor/working contract is interrupted.
- The insured has not yet found a job within 15 working days after the date of making unemployment registration with the Employment Service Center of DoLISA.

*On Contributions*

Contributions from employees, employers, and government are main sources forming the unemployment insurance fund. The total contribution is 3% of the employee’s salary/wage, in which employees contribute 1% of their monthly salary/wage; employers contribute 1% of payroll; and the government contributes remaining 1%. Contributions of employees and employers are done monthly, while the government’s contribution is done yearly.

*On Benefits*

By participating in the UI scheme, the insured will receive the following benefits: (i) unemployment insurance benefit, (ii) health insurance, (iii) vocational training support, and (iv) free-of-charge job-seeking consultancy.

The monthly unemployment benefit provided to the insured is equivalent to 60% of the insured’s average monthly salary/wage of the six consecutive months prior to unemployment.

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<sup>2</sup> See Ministry of Justice (MoJ) of Vietnam. Decree No. 71/2006/QH11. Article 81. Assessed August 26, 2015. [http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view\\_detail.aspx?itemid=4751](http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=4751).

<sup>3</sup> See Ministry of Justice (MoJ) of Vietnam. Decree No. 127/2008/NĐ-CP. Article 15. Assessed January 29, 2015. [http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view\\_detail.aspx?itemid=10755](http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=10755).

*On Unemployment Allowance Entitlement Duration*

The period of receiving the unemployment benefit is stipulated as follows:

- Three months, if his/her contribution to the UI scheme has been made for 12 months to less than 36 months;
- Six months, if his/her contribution to the UI scheme has been made for 36 months to less than 72 months;
- Nine months, if his/her contribution to the UI scheme has been made for 72 months to less than 144 months;
- Twelve months, if his/her contribution to the UI scheme has been made for 144 months and above.

*On Report on the Status of Job Seeking of Employees Subject to Unemployment Allowance Entitlement*

The insured will also get vocational training support for a period of no more than six months from the date he/she receives monthly unemployment benefit. The support amount is equivalent to the level of expense for a short-term training course in accordance with the Law on Vocational Training.<sup>4</sup>

To seek a job, the insured persons will get employment consultancy and recommendation free of charge in the duration of receiving unemployment benefits. Lastly, to protect the insured from health risks, health insurance benefits are also provided to him/her, in which the health insurance premium is paid by social insurance organizations.

*On Suspension and Termination*

The insured will be suspended from receiving unemployment benefits if failing to report his/her job-seeking situation monthly to social insurance organizations or being remanded during the period of receiving unemployment benefits.

The insured shall be terminated from receiving unemployment benefits when the period of unemployment benefits ends, or if he/she:

- (i) finds a job,
- (ii) fulfills military service obligation,
- (iii) becomes an old-age pensioner,
- (iv) has twice refused jobs recommended by the social insurance organizations without plausible reasons,
- (v) fails to report his/her job seeking situation monthly to social insurance organization in three consecutive months,
- (vi) goes abroad for residence,
- (vii) serves administrative penalties at reformatories, training institutions, treatment institutions, or is under incarceration, or
- (viii) dies.

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<sup>4</sup> See Ministry of Justice (MoJ) of Vietnam. Decree No. 74/2006/QH11. Law on Vocational Training. Accessed August 10, 2015. [http://moj.gov.vn/vbqp/en/lists/vn%20bn%20php%20lut/view\\_detail.aspx?itemid=3729](http://moj.gov.vn/vbqp/en/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=3729).

After the termination of receiving unemployment benefits, the previous duration of unemployment insurance contribution will not be counted for the subsequent receipt of the unemployment insurance allowance.

## 2.2 Limitations of 2009 UI Law

### *The General Situation*

Unemployment insurance (UI) in Vietnam came into effect since the first day of 2009. After five years of implementing, UI achieved several positive results. The number of the unemployed participate in the UI, being approved to enjoy unemployment allowance, receiving job introduction and vocational training, et cetera, have all increased. Nevertheless, apart from these achievements, there existed many issues and problems.

**Table 1.** Unemployment Insurance in Vietnam through the Years

	2009	2010	2011	2012	September 2013	Total
Unemployment registration (People)	N/A	189.611	335.901	456.299	371.000	1.376.214
Approved to received unemployment allowance (People)	N/A	145.519	N/A	838.874	1.213.757	N/A
Unemployed approved to receive one-time unemployment allowance (People)	N/A	2.772	N/A	N/A	54.133	N/A
Asked for vocational training (People)	N/A	270 243 (MoLISA)	1.037	4.776	7.519	13.601
Received consultation and job introduction (People)	N/A	114.809	N/A	648.370	984.509	N/A
Participants in UI (Million People)	5,9	7,2	7,9	8,3	8,421	8,421
Total number of collecting UI (Billion VND)	3.510,7	5.400,3	5.730,3	N/A	N/A	N/A
Total amount of UI budget (Billion VND)	N/A	8.200	N/A	N/A	N/A	N/A

Source: Synthesize from Ministry of Labor, War Invalids and Social Affairs (MoLISA) and National Social Insurance of Vietnam data.

**Table 2.** Percentage of Contribution to Social Insurance, Health Insurance and UI

Year	Employers (%)			Employees (%)			Total
	Social Insurance	Health Insurance	UI	Social Insurance	Health Insurance	UI	
01/2007	15	2		5	1		23
01/2009	15	2	1	5	1	1	25
01/2010-12/2011	16	3	1	6	1,5	1	28,5
01/2012-12/2013	17	3	1	7	1,5	1	30,5
01/2014-	18	3	1	8	1,5	1	32,5

Source: National Social Insurance of Vietnam.

At an initial observation, as shown in Table 1, until September of 2013, Vietnam had around 1,3 million people registered of being unemployed. Meanwhile, according to National Social Insurance statistics, there were around 8.3 million labors participated in the UI. Therefore, there was 1.3 million labors that registered of being unemployed out of 8.3 million labors that enjoying the UI. The rate of one seventh is indeed alarming. Even though the number of participants in the UI has continuously increased, it has always been relatively small in comparison with the mandatory social insurance or health insurance. Table 2 shows that the percentage of contribution to the UI from both the sides of the employers and employees has never exceeded 1%, while the contribution to Social Insurance and Health Insurance have increased through the years and contributed to the total annual increase of 2.5%.

Another noticeable problem laid in vocational training. As shown in Table 1, the number of the unemployed who joined vocational training programs increased through the years. Nevertheless, if we compare the numbers to the total numbers of the unemployed, labors who receive vocational training after losing their job are just “a drop in the bucket.” To go into more details, in 2010 there was 270 unemployed received vocational training; the numbers increased in 2011 (1.036) and 2012 (7.519). However, this also means throughout five years of implementing UI in Vietnam, there were merely 13.601 unemployed participated in vocational training programs out of 1.3 million unemployed.

In reality, the situation has proved to be even more serious. The questions are raised whether the UI has helped the Vietnamese government in solving unemployment burden, securing social welfare and creating trust among the labors once they participate in the UI. The problems of UI are stemmed from not only the policy itself but also the outdated mechanism the UI law was being implemented in Vietnam, as well as the inherent features or limitations of Vietnamese employers and employees.

*In terms of Policy*- To identify the specific objects of UI

There are limitations in identifying the specific objects of the UI, especially those objects that join the UI within governmental offices. Vietnamese government released Decree No.06/2010/NĐ-CP<sup>5</sup> on 25 January 2010 in which regulates those who are governmental officers are excluded from the objects of the UI. They are the head of the office, vice-head, other special positions of governmental units (it is dependent upon specific governmental units that are directly under certain governmental level.) However, before 2010, these objects were not considered as governmental officers, thus they were able to join the UI. Until now, there is no detail document or guideline for these objects.

- The “10 labor” regulation

The objects of the UI are enterprises and organizations which use more than 10 labors, whereas medium and small-size enterprises that used less and 10 labors are very popular and indeed dominated in Vietnam. This caused an imbalance among the labors. What is worse is that the labors work for enterprises that use less than 10 labors is more vulnerable to unemployment. The regulation that only the enterprises that have more than 10 labors is within the objects of the UI and labors that have working contracts which is exactly or longer than 12 months are the objects to join the UI; and those enterprises use less than 10 labor plus labors that have working contracts less than 12 months are not within the objects to join the UI, are unreasonable.

This is a loophole for many enterprises to dodge the UI. They in fact only register to participate in the required social insurance for the administrative office system of the unit of about 9 people (less than 10 labors) (Nguyen, 2014: 77). When there are visits by investigation staff from province-level social insurance, or other investigating staff, such units only show the signed working contracts of administrative officers. This is a serious shortage in terms of social insurance as well as UI policy for the labors. Apart from dodging to participate in the UI for all of their labors, the tardiness in paying UI is another important issue. There are many cases in which the labor lost their job yet due to the tardiness in paying or even in deep debt of social insurance in general and UI in particular, it is unable to solve the UI final payment, thus, further benefits of the UI are unresolved.

- Job introducing and vocational training benefits

The vocational training level and time frame is too short (less than 6 months from the day the labors enjoy monthly unemployment allowance), causing difficulties for the labors. Basically, the unemployed are trained with merely primary level jobs. Moreover, apprentice fee is low. Vietnamese enterprises recruit unskilled workers frequently (many enterprises recruit first then train the labors right on-the-spot), whereas the wage gap between unskilled workers and trained workers is not large. Psychologically, the labors are afraid of wasting time in vocational training while the effectiveness is low and is not mandatory according to the regulations. In the other words, the UI Law in its original design focused on giving “the fish” rather than providing “the fishing rod” for the Vietnamese unemployed. It was a supporting policy that unintentionally created the passive mentality among those received the help from the government.

- Procedures to join the UI

The regulations such as registering for unemployment within 7 days since the day the

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<sup>5</sup> See International Labour Organization. ISN VNM-2010-R-84266. Accessed August 1, 2015. [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=84266&p\\_country=VNM&p\\_count=548](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=84266&p_country=VNM&p_count=548).

labors lost their job, end their working contract, or their contract; plus handle all the documents to enjoy the UI within 15 days since the day of unemployment registration, are relatively short. It means that within only 22 days the labors have to complete the whole application procedures, unless they will be rejected to enjoy the UI. All of these created time-pressure for not only the labors, but also social insurance agencies and Job Center. In the context that the social insurance final payment is difficult to solve, and the confirmation by the employers is usually not in time, these regulations of time-limitation proved to be irrational. Moreover, in many cases the labors do not wish to register to be unemployed right away to spend time to find new job, or have no demand in enjoying unemployment allowance, or other personal reasons.

- Receiving the unemployment allowance

After the Director of Department of Labor, War Invalids and Social Affairs (DoLISA) signs the “Decision of Unemployment Allowance Entitlement,” Job Introducing Center sends the decision to provincial social insurance office to enlist the unemployed who enjoy unemployment allowance according to districts and sends to district-level social office to pay. The UI office at district level carries out the unemployment allowance payment at its headquarter or sends its social insurance staff at district-level to the commune to pay or the agency pays at each commune at a certain date of a month. This is similar to retirement or health-losing allowance payment system (Nguyen, 2014: 82). However, such kind of monthly payment is inappropriate with unemployment allowance payment, which is counted according to days: the day to receive unemployment allowance is 16 days after the labors successfully register for unemployment. Therefore, the labors usually receive unemployment allowance much later than the moment they receive the Decision of Unemployment Allowance Entitlement, which does not secure the UI’s final goal – to assist the labors an amount of money to stabilize their life during the time of finding a new job. On the other hand, when violation is founded, it is very hard to resolve according to the law, especially in the cases of pausing or stopping to enjoy the UI.

- Responsibility of the employers: unclear

There is no detailed regulation on the responsibility of the employers in informing the labor agency whenever there is a change in terms of labors. This is an important issue in managing and implementing the UI.

*In terms of Social Insurance Final Payment (“Closing Social Insurance Book”)*

Generally speaking, social insurance agencies are prompt to and determined in maintaining the progress of conducting the final insurance payment, or in Vietnamese, “closing the social insurance book” for the labors. Still, they are facing difficulties because the enterprises contribute/pay social insurance in general and the UI in particular too slowly or even in debt, which makes the closing of social insurance book impossible. Some enterprises intentionally dodge the UI payment by continuous delay in concluding the procedures for the labors to enjoy UI benefits.

What is worse is the regulation that in case the enterprise is in debt for more than 3 months, the labors’ insurance book is unable to be closed, therefore, the labors cannot receive UI. This is the fault on the part of the employers which yet incurs damages to the employees and appropriate authorities cannot solve the situation.

*In terms of Implementing Mechanism*

At the moment the UI in Vietnam is organized horizontally, not vertically, which created

difficulties for implementation, causing burden of personnel and operating costs. According to current regulations, National Social Insurance of Vietnam is taking charge of collecting, paying and managing the UI budget (Ministry of Justice (MoJ) of Vietnam. Decree No. 127/2008/NĐ-CP. Article 13 and 14. Accessed May 03, 2015. [http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view\\_detail.aspx?itemid=10755](http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=10755)). Regarding this, National Social Insurance of Vietnam is in good progress and works effectively due to several advantages such as vertical organization according to 3 levels: Centre, Province and District. The objects of the UI are also within the objects of participating in Social Insurance. In addition, the National Social Insurance of Vietnam has fifteen years of experience in managing the financial budget, focusing on Social Insurance and Health Insurance budgets.

In the meantime, the Ministry of Labor, War Invalids and Social Affairs (MoLISA) is in charge of receiving and solving the procedures to enjoy UI policies. At the central level there is the UI directly under the Department of Job, MoLISA; and at the provincial level there is the UI Office, Job Introducing Center directly under the Department of Labor, War Invalids and Social Affairs (DoLISA) of provinces and cities that are directly under the central government. (Ministry of Justice (MoJ) of Vietnam. Decree No. 127/2008/NĐ-CP. Article 4. Accessed May 03, 2015. [http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view\\_detail.aspx?itemid=10755](http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=10755)). However, since the UI Office is directly under the Job Center of DoLISA, which operated under provincial management, the direction from the central government to the provinces faces certain difficulties.

The cooperation among the Job Department, MoLISA with National Social Insurance at the Central is relatively close. Nevertheless, in some provinces, the cooperation between the two is quite limited. Therefore, with the current model, the unemployed have to visit both of the offices to complete the procedures of unemployment registration and enjoy UI benefits. Moreover, they are two independent branches in terms of organization. Therefore, all administrative procedures have to go through many steps, creating difficulties and troublesome for the UI participants.

#### *The Dangerous Increase of Insurance Debt*

Although being considered as an effective assisting method for the unemployed, social insurance debt (including UI debt) kept increasing. Debt and delay in contributing/paying

**Table 3.** UI Participants, Total Amount of Collecting and Debt

	2009	2010	2011	2012	August 2013
Participants in UI	5.993.300	7.206.163	7.968.231	8.269.552	8.421.445
Total amount of collecting UI	3.510.651	5.400.307	6.747.116	8.664.818	5.131.934
UI debt	43.198	308.476	374.735	545.943	600.102
<i>Government budget (assisting 1%)</i>		232.010	278.259	327.201	302.855
<i>Employers</i>	43.198	76.466	96.476	173.742	291.942

Source: National Social Insurance of Vietnam.

social insurance, health insurance and UI occurred at almost all institutions. The situation was heading to complicated developments in which the numbers of both the violated institutions and the amount of debt were on the rise. Many provinces had long-term debt, affecting the rights of the labors. Many enterprises' owners extracted the salary of their labors to contribute/pay for social insurance, health insurance and UI yet in fact never hand the money in to the agencies, or only pay when investigators and insurance officers intervene. What should be noted is that the phenomenon of UI debt is more popular among administrative agencies or public and civil service than other careers.

According to Table 3, in 2009, UI debt was VND 43,1 billion. It increased 13 times in 2012 and the 1% assistance from the government accounted for more than 67%. Until August of 2013, the UI debt was 600 billion, increased 14 times compares with 2009 statistics, in which the governmental budget accounted for 50%.

#### *Employers' Limitations*

##### - Dodging UI payments

In comparison with Social Insurance in which the employers have to contribute/pay 16%, the responsibility in contributing/paying UI (1% of monthly salary) is not large (Hoang, Ngoc Bich, 2011: 23). However, to enterprises that face difficulties and in long-term social insurance debt, to extract an extra amount every month to contribute/pay for the labors was a big problem. In addition, although being informed, many employers do not thoroughly understand the regulations regarding the UI. They hesitated to be involved in administrative procedures and thus, fell into UI debt. There existed enterprises that do not participate in the UI for some of their labors on the ground that the labors are governmental officers or the units do not implement working contract system but maintaining recruitment decision model.

Vietnamese economy reveals further limitations among the employers. Most of the enterprises in Vietnam are small and medium-sized ones. In the context of severe competitiveness and "integrate" mentality, any increase in the in-put spending though small would critically affect overall operation of an enterprise. Therefore, lateness and long-term delay in UI contribution/payment prevailed in small and medium-sized enterprises.

#### *Employees' Limitations*

##### - Lack of information and the habit of short-term thinking

Vietnamese labors are mostly average or below-average level labors, which lack the ability to gain access to information. They, therefore, do not know of the presence of governmental policies, as well as their rights and responsibilities. Moreover, they are not facilitated by the employers to get access to policies regarding the UI. This creates favorable conditions for the enterprises' owners to dodge the UI or conducting actions that do not guarantee the benefits of the labors.

Vietnamese labors also do seasonal jobs or work in traditional trade villages. Here their salaries depend on the product orders and seasons thus an exact calculation of their salaries to work out insurance fee seems to be impossible to achieve. This is not to mention the rotating and changing of labors in many companies reach the rate of 50% which makes the observation and the closing of social insurance book even more complicated.

On the other hand, a common mentality among Vietnamese labors is the hesitation in participating in the UI. This is because, according to the labors, in the situation of increased prices yet un-increased income, they do not wish their wages to undergo further losses. In reality, many labors misunderstood the purpose of the UI with unemployment allowance.

There existed labors who participated fully in 12 months of the UI asked to quit their jobs to enjoy unemployment allowance, who then, after having received the money, asked if they could go back to work.

- Cheating and “imaginary unemployment”

The labor market in Southern Vietnam has strongly developed with many fluctuations in the numbers of labors that move or quit their jobs. Sadly, the secret collusion between the employees and employers in stopping working contract after 12 months to enjoy the UI has become popular. There emerged the syndrome of “imaginary unemployment:” even though the labors were enjoying the UI, they in fact still worked at other enterprises without reporting to labor agencies (Hoang, Thi Dung, 2011: 14). In the other case, both sides agreed upon stopping the working contract, then after several months, the labors came back to the old enterprises to work. This not only created losses for the UI budget but also affects manufacture and business situation and led to personnel insecurity.

- The “resting mentality”

The number of the unemployed that express the demand for vocational training remained too small. It is because during the apprentice period they did not have living expenses, and apprentice list did not meet the demand of the unemployed. In Southern cities and provinces of Vietnam where jobs are abundant, the direct recruitment situation – recruit right at-the-spot – is everywhere, creating “resting mentality” among the labors (Hoang, Thi Dung, 2011: 15). They wanted to rest, enjoyed unemployment allowance, then worked immediately afterwards, instead of demanding consultation or vocational training.

In short, the limitations of the old 2009 UI law come from various sources. The law itself contains several issues that resulted in loopholes for the employers to dodge payment, plus inconvenient procedures which did not fully benefit the labors. On the sides of UI participants, first of all, the employees’ knowledge of the UI was still limited. Some employees did not understand their rights and responsibilities. Many employees thought that if they were unemployed, they could immediately enjoy unemployment allowance. Others did not know the conditions to be able to enjoy the UI, therefore, the number of unemployment registers was usually high, yet most of them do not satisfy the necessary conditions to enjoy the UI. Secondly, the employers’ awareness of their responsibility in concluding the procedures for their labors to register as the unemployed and in handling the application to enjoy the UI was unclear. Thirdly, Vietnamese agencies and organizations lack adequate understanding of the importance of the UI policies, therefore, the policy communications and information in some provinces was still incompetent. Informing methods were poor, leading to a large number of labors and employers inaccessible of information. As a result, unemployment registration and concluding application for participate in the UI is slow in comparison with the regulations, affecting the labors’ benefits.

Objectively put, the UI is a relatively new policy to Vietnam which was relatively difficult to manage. It is different from normal social insurance in a way that it goes hand in hand with labor market policies such as job solving, vocational training and re-training, et cetera, issues that are under the management of the Labor, War Invalids and Social Affairs branch. The topical issues of the 2009 version UI urged the Vietnamese government to launch a reform and revitalization in 2015 to better manage the situation and achieve more positive results for all the sides of participants.

### 3. 2015 REVISION

#### 3.1 The Main Contents of 2015 UI Law

Since 2015, the Vietnamese government decided to make significant changes in the Unemployment Insurance (UI) law. Pursuant to the Employment Law No.38/2013/QH13,<sup>6</sup> all regulations regarding UI on Social Insurance Law No.71/2006/QH11 shall be ineffective on the effective date of this law. Below are some major changes in UI provisions under this law:

##### *Objects of the UI*

- Employees are an object of UI when working under labor contracts or working contracts not only with an indefinite or a definite term (12 months to 36 months) but also with seasonal term (3 months and under 12 months).
- All employers who employ employees under the labor contract or working contract are object of UI declaration and payment.

##### *Conditions of UI Contribution Duration to Claim UI Allowance*

- In case of termination of definite term or indefinite term contract: UI contribution duration must be at least full 12 months within 24 months before the termination date.
- In case of termination of seasonal labor contract: UI contribution duration must be at least full 12 months within 36 months before the termination date.

##### *Salary Base for UI Calculation*

- Employers making UI contribution pursuant to the salary scale announced by the Employers shall use the salary base for compulsory social insurance, which is determined pursuant to the Law on Social Insurance, as the salary base for UI calculation.
- Where the monthly salary subject to UI is more than 20 times of the minimum regional salary, then the monthly salary base for UI calculation is equal to 20 times of the minimum regional salary as per the Labor Code's regulations effective at the time of making UI contribution.

##### *Unemployment Allowance Rate*

The monthly unemployment allowance equals 60% of the average monthly base salary for UI contribution of 6 consecutive months before the termination date but not exceed 5 times of the stipulated region-based minimum salary, for employees who contribute UI under the salary regime decided by employers at the time of termination.

##### *Unemployment Allowance Entitlement Duration*

The duration of entitlement unemployment allowance is based on the number of months of UI contribution. This duration is 3 months if the period of UI contribution is in the range

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<sup>6</sup> See MoLISA. Document Code 38/2013/QH13. Accessed May 03, 2015. <http://www.molisa.gov.vn/en/Pages/Detail-document.aspx?vID=624>.

of 12 months to 36 months. It is then added 1 month for each additional period of contribution of full 12 months, but total not exceeds 12 months.

The period of unemployment allowance entitlement would commence from the 16th day, following the day on which the complete unemployment allowance application dossier is submitted. (Note that employees unilaterally and illegally terminating labor contracts, work contracts shall not be entitled to unemployment allowance.)

*Reserve the Period of Entitlement Unemployment Allowance*

Person who stops receiving unemployment allowance in case found a job, performs the military or public security service obligation, attends a training course of full 12 months or longer, serves a decision on application of the measure to send him/her to a reformatory, compulsory education institution or compulsory detoxification establishment, declared by a court as missing and kept in temporary detention or serves a prison sentence may reserve the period of entitlement UI for calculating the subsequent duration of entitlement unemployment allowance when they fully satisfy the conditions for claiming UI under the law.

The reserved period equals the total of UI contribution minus the period which the employee has received unemployment allowance, based on the principle of one month of unemployment allowance equivalent to 12 months of UI contribution.

*Report on the Status of Job Seeking of Employees Subject to Unemployment Allowance Entitlement*

- On a monthly basis, the employees must report the job seeking progress directly to the career service center where the unemployment allowance is paid, except for the following cases:
  - The employees are subject to sickness, maternity, accidents as certificated in writing by the authorized medical centers.
  - Force majeure situations
- The entitlement to unemployment allowance would be suspended where the monthly job seeking progress is not reported.

*Expand the conditions to enjoy vocational training*

Laborers who contribute to UI more than 9 months during the 24 months prior stopping their working contracts according to the law are able to receive vocational training once they stop their working contracts.

**3.2 2015 Law in Comparison with 2009 Law**

With the above new regulations, the 2015 version of the UI includes many critical changes in comparison with the old 2009 version:

*Expanding the List of Participants*

- Employers who can participate in UI will now include employees under seasonal contracts or specific contracts with a contract length from 03 months to fewer than 12 months. (Under current guidelines, only employees who are employed under a contract of 12 months or longer can participate in UI.)

In case where an employee has signed labor contracts with many organizations, then the employee and the first employer to establish a labor contract with the employee shall be responsible for UI participation.

- Employers participating in UI include government, public, individual, foreign, international businesses operating on Vietnam land; enterprises, co-ops...who employ individuals under working contracts or labor contracts.

This means, under the new guidelines, the old condition that “employers must have more than 10 employees in order to participate in UI” has been removed. This is an important change for organizations with less than 10 employees.

*Amending Provisions on Conditions to Enjoy Unemployment Allowance and on the Level of such Allowance*

Conditions for enjoyment of UI are different depend on the term of labor contracts. In particularly, for those who worked under indefinite-term labor contracts or contracts for full 12 months or more, they must have the period for payment of UI for full 12 months or more within 24 months before the unemployment.

If they work under contracts of full 3 months to fewer than 12 months, they must have the period for payment of UI for full 12 months or more within 36 months.

The monthly level of unemployment allowance entitlement shall be 60% of the average monthly salary of preceding 06 months before unemployment, but the maximum rate shall not exceed 05 times of the regional minimum salary level and not exceed 05 times of basic

**Table 4.** 2009 versus 2015 Unemployment Allowance

	2009	2015
Maximus rate of unemployment allowance in a month	60% of the average monthly salary base for UI of the most recent 6 months prior to unemployment.  (Maximus of contribution: VND 23,000,000 -> maximum of allowance: VND 13,800,000/month)	60% of the average monthly salary base for UI of the most recent 6 months prior to unemployment, but not exceeding 5 times of the regional minimum salary  (The current regional minimum salary is VND 2,700,000 x 5 = VND 13,500,000/month)
Months receiving allowance	- 3 months if the period of UI contribution is in the range of 12 months to 36 months. - 6 months if the period of UI contribution is in the range of 36 months to 72 months. - 9 months if the period of UI contribution is in the range of 72 months to 144 months. - 12 months if the period of UI contribution is more than 144 months.	- 3 months if the period of UI contribution is in the range of 12 months to 36 months. - It is then added 1 month for each additional period of contribution of full 12 months, but total not exceeds 12 months.
Find a job during the time enjoying UI	One-time payment all the months that were not able to enjoy unemployment allowance	Reserve the months that were not be able to enjoy unemployment allowance to count to the next time

salary of the State domain. Particularly, the rate of paying UI is unchanged, it means employees shall pay 1% of monthly salary amount and enterprises shall pay 1% of monthly salary fund.

Among these terms, the employees pay most attention to the unemployment allowance and changes that follow the new law’s implementation. Therefore, Table 4 considers all of the aspects of unemployment allowance that have been changed. As is shown, the new law not only limited the rate of allowance but abolished the one-time allowance receiving regulation in the old law. Instead of receiving allowances of all the months that they were not able to enjoy, the labors now have to reserve the allowances of these months and save them for the next time they are unemployed. The logic for this critical change is urging the employees to find new job and get back to work. This is to tackle the “imaginary unemployment” problem which was resulted from the one-time allowance receiving regulation in the past – the unemployed quit their job and move quickly to another one to easily enjoy the allowance.

### 3.3 Limitations of 2015 UI Law

Despite radical revision, the 2015 UI Law reveals a few weaknesses. First of all, as mentioned earlier, before 2015, the UI in Vietnam was regulated within the Social Insurance Law and the penalization and calculation of interest for late UI contribution/payment was counted as if Social Insurance late contribution/payment. When the Employment Law was presented, regulations regarding the UI were moved to this law. Yet, the Employment Law does not regulate all the violating behaviors and forms to penalize these violations and the calculation of interest for late UI contribution/payment. In the long-term perspective, this shortage may result in huge UI debt for Vietnamese government. Without an appropriate budget share of collecting-spending, plus concrete regulations of violating behaviors, the system would not be sustainable in the future.

As shown in Table 5, the UI debt reached its peak in recent years, in which governmental budget occupied as much as 50% of the debt. Meanwhile, the collecting amount of late payment interest remains relatively small. If there is no sanction to control the situation, especially regulations on penalization and calculation of interest for late payment, the debt due to late payment will continue to rise whereas interest collecting will become impossible.

The old law is null and void. The new law does not regulate the collecting of tax or counting of interest for late UI payment. Therefore, from the early of 2015 until the moment, appropriate agencies are helpless in handling late UI payment. If the loophole keeps enlarging, Vietnam government will not be able to collect what they have spent and bankruptcy is possible. Realizing this serious shortcoming, the MoLISA is proposing for now to count interest for late UI payment as with Social Insurance, which was regulated in

**Table 5.** UI Debt (Billion VND)

	2013	2014
UI debt	572,8	336
Governmental budget	359,6	151,9
Late payment interest collecting	18,8	25

Source: National Social Insurance of Vietnam.

the Social Insurance Law in 2006, and which is null and void in December of 2015. For later, MoLISA is intended to build decrees of amendment and supplementation Decree No. 95/2013 (on penalizing administrative violations in the field of labor),<sup>7</sup> which includes contents about the UI. When this new decree is introduced, violating behaviors and penalization will be implemented accordingly.

#### 4. CONCLUSION

The birth of the UI is indeed a huge breakthrough in the development of Vietnam's insurance in particular and Vietnamese government's efforts in securing social welfare in general. The UI in Vietnam was introduced in 2009 in the context of economic stagnation and difficulties in not only Vietnam but also the world economy. It was the moment when Vietnam witnessed hundreds of enterprises being bankrupted, thousands of employees became jobless. For more than five years of implementing, the UI has brought about certain successes, as well as positive effects in terms of socio-economics. The number of the unemployed participate in the UI, being approved to enjoy unemployment allowance, receiving job introduction and vocational training, the total amount of UI collecting, et cetera, have all increased. These are satisfactory results signaling a good policy that should be continued for the better for the employees.

Nevertheless, the policy itself and its implementing mechanism revealed several shortcomings and outdated points. The critical limitation lays on the fact that the law has just stopped at assisting the employees in terms of allowance and being ignorant of the origin of the policy: that is to help the unemployed re-integrate into the labor market. The law has been given "the fish" rather than providing "the fishing rod" for the ones in need. In reality, the unemployed paid attention to merely how much allowance they would get and did not care of or understand, or even trust, the principal of this policy: to assist vocational training, consulting and introducing new jobs. Therefore, the effects of these activities and programs were still limited. Moreover, taking advantage of some loopholes in the policies, violations and fraudulences have occurred among both the employers and employees, and sometimes even with the secret cooperation of these two actors.

Recognizing these shortcomings, the 2009 UI law has been continuously modified for the last few years. The fastest modifications come during 2013-2014 period with the introduction of various circulars and decrees that enhanced and altered some measures and procedures of the old UI law. At last, the revised version was introduced at the beginning of this year of 2015 which is pursuant to the Employment Law that came to effect since 2013.

With a special focus on vocational training and introducing new jobs – the ultimate goal of UI and also the most critical limitation of the old law – the new law expand the conditions to enjoy vocational training and open a new program in the field to assist the unemployed. At the same time, it restricts or tightens the unemployment allowance in all terms of rate, duration and regulations on the case the unemployed be able to find new job. By this approach, we see the efforts by the government to make the UI a long-term policy rather than an emergency end for the unemployed, with the hope to change their short-term thinking when they join the labor market. We wonder whether these changes are appropriate with the

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<sup>7</sup> See International Labour Organization. ISN VNM-2013-R-97028. Accessed March 14, 2015. [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=97028&p\\_country=VNM&p\\_count=548](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=97028&p_country=VNM&p_count=548).

labor market of Vietnam and effective in boosting UI law’s performances. Let us wait for more positive signals from Vietnam, one of the most abundant and dynamic labor markets of Southeast Asia.

In the meantime, it is essential for Vietnam as well as other emerging economies to investigate and learn from different countries’ experiences, as the case of South Korea proved to make headway in terms of employment-related regulations. Not only did South Korea introduce its scheme much early but also produce a progressive pattern of employment insurance (EI) rather than UI. South Korea implements EI instead of the UI in the case of Vietnam on the very basic ground that EI goes one step further than UI. According to South Korean government, the UI simply supports the livelihood of the workers who have lost their jobs. It is a passive medium as it helps people only after they have lost their jobs (Ministry of Labor, Republic of Korea, 2013: 12). Therefore, EI can be said to be positive and much more preventive compares to the UI.

Moreover, South Korean government is pioneer in launching research exchange and technical training activities – providing “the fishing rod” – for developing countries recently. Therefore, Vietnam should actively support these initiatives, especially the annual ASEAN-ILO-Korea Fellowship Training Program on Employment Insurance, which is organized by Korean Ministry of Employment and Labor (MOEL) and Korea Employment Information Service (KEIS).<sup>8</sup> In short, the chances and prospects are wide open to Vietnamese government and labors.

#### APPENDICES

**Table 6.** Number of People Enjoy Unemployment Allowance

Year	Male	Female	Total
2009	0	0	0
2010	59000	87469	146469
2011	109784	163798	273582
2012	166985	224480	391465
2013	151371	204618	420845

Source: Ministry of Labor, War Invalids and Social Affairs (MoLISA) data.

<sup>8</sup> For example, the program in:

- 2010: [http://www.ilo.org/asia/whatwedo/events/WCMS\\_145523/lang--en/index.htm](http://www.ilo.org/asia/whatwedo/events/WCMS_145523/lang--en/index.htm)
- 2013: <http://www.korea.net/NewsFocus/Society/view?articleId=113628>

Latest program updates can be found at <http://eng.keis.or.kr/user/bbs/eng/87/225/bbsDataList.do>

**Table 7.** Unemployment Insurance Spending

Year	Vietnam Dong (VND)
2009	0
2010	409,893,775,932
2011	1,010,393,058,360
2012	2,478,659,245,385
2013	3,624,207,472,090

Source: National Social Insurance of Vietnam data.

**Table 8.** List of Legal Documents Regarding the new 2015 Law on Employment

31/2015/NĐ-CP -	Detailing a number of articles regarding assessment and grant of certificates of national occupational skills
28/2015/NĐ-CP -	New provisions on unemployment insurance
726/BHXH-THU -	Regarding the submission of additional dossier of unemployment insurance participants
5471/BHXH-BT -	Regarding the payment of unemployment insurance premium from January 2015
77/2014/QĐ-TTg -	Increasing levels of vocational training support for unemployment laborers from January 01, 2015
4064/BHXH-THU -	Participants and payment rates of compulsory social insurance and unemployment premiums from January 2015

Source: VietLaw Online. Accessed August 8, 2015. <http://luatvietnam.net/list/topics/Labour---Employment>.

**Table 9.** UI Scheme in 7 Countries

Issue	Vietnam	Republic of Korea	Thailand	Japan	US	Germany	Denmark
Implemented UI	2009	1995	2004	1947	1935	1927	1907
Coverage	Indefinite employees of private sector employers with 10 or more employees	All workers with a few exceptions (minimum of 60 hours per month)	All regular workers with a few exceptions	All workers employed more than 20 hours a week	The American UI system consists of 53 individual State programs which provide temporary cash benefits to involuntarily unemployed workers while they search for a job. Each State scheme is self-financed solely by extended benefits employers' contributions (workers contribute in three States only), except for financed by the federal government. These extended benefits are an additional up to 20 weeks (usually 13 weeks) in States with high level of unemployment.	Includes most employees. However, civil servants and persons earning less than €400per month are excluded.	Voluntary for employees, self-employed and graduates (83% covered in 2005)
Work needed to qualify	12 months in last 24 months	180 days in last 18 months	6 months in last 15 months	At least 6 months of insurable employment in past 2 years are required.	UI claimants qualify if they have recent insured work, namely minimum wages in the first 4 of the 5 five completed quarters, but the required amount (or period) varies significantly from State to State.	12 months within the last three years	12 months in last 36 months 4 in last 28 months if younger than 50, or 4 in last
UI Benefit Rate	60%	50%	50%	50%	50%	60%	90%
Waiting period before paid	Found no job within 15 days	7 days	7 days	7 days	Most States have a one week waiting period but 12 States have no waiting period	There is no waiting period for German UI benefits.	3 weeks if self-employed
Duration	3 to 12 months	3 to 8 months	6 months (8 months during 2009)	90 to 330 days	Most states pay up to 26 weeks of benefits. In the third quarter of 2011, the average duration across the country was 17.6 weeks.	Duration is half of the months of contribution	24 months

**Figure 1.** South Korean Allowance to Promote Employment (APE) Structure<sup>9</sup>

	<b>Requirements</b>	<b>Payment amount</b>
• Early Re-Employment Allowance (ERA)	A person who gets a job before the prescribed duration of UB	1/3 to 2/3 of unpaid Job Seeking Benefit. Min/Day= 90% of minimum hourly rate
• Job Capacity Development Allowance	A person who attends a Job Capacity Development Training (within Job Center)	Travel and food expenses during the training period 5,000 Won / day (4.3 US \$)
• Allowance for seeking job in remote place	A person who is seeking a job more than 50km away from his/her residence	Accommodation cost (up to 40,000 Won / day), actual travel costs
• Moving allowance	A person who needs to move his/her home to get a job	Actual costs ; 80% of actual costs exceeding 2.5 tons

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<sup>9</sup> Schmit, Valerie and Celine Felix. 2010. "Unemployment Insurance: Case study from Korea." Paper presented at Social Security and Social Protection Floor, Bangkok, 20 December. Under South Korean EI scheme, the common unemployment allowance is called APE.

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