A REVIEW OF THE LEGAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION IN VIET NAM

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1. Introduction

Since it initiated its Doi Moi (or Renovation) process in the late 1980s, Viet Nam has become one of the world’s fastest-growing countries and the object of rapid socio-economic changes.1 Despite this process, the development of a legal framework for human rights has not moved on dramatically. Domestic human rights-related laws have not yet caught up with international standards: furthermore, the evolution of human rights litigation in the country has been heavily conditioned by issues of ‘national interest’ and ‘political stability’.

This article reviews the legal framework available for human rights protection and promotion in Viet Nam by examining both its domestic legislation and the international legal treaties that Viet Nam has ratified. It concludes that the overall picture is complex, although there are still windows of opportunity for positive changes. Viet Nam’s domestic legal system on human rights is still far from being complete and adequate. The nominal availability of legal tools and the real possibility of using them are two different stories and there is usually a big gap between them. The country’s participation in the international legal framework against human rights violations is still selective as Viet Nam continues to remain outside some substantive instruments and declines to accept individual complaints mechanisms established under major human rights treaties.

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1 Mark Manyin et al., Viet Nam’s Labor Rights Regime: An Assessment 7 (2002).
2. Human rights protection under the Constitution and national legislation

As international law in many countries does not create rights and obligations that are directly enforceable by individuals before national courts, international human rights law is often only effective if states incorporate human rights protection in their domestic legal system. Since launching its economic reforms, the government of Viet Nam has gradually established a new legal regime both to implement the reforms and attract foreign investors. 13,000 legal documents across a wide range of subject areas have been adopted and put into effect. Specifically, a number of these documents include various provisions relating to human rights protection and promotion.

A preliminary review of Viet Nam’s national laws shows that there exists, to some extent, a legal framework on the protection and promotion of human rights. The country’s amended Constitution in 1992 (hereafter referred to as the Constitution of 1992), is the first to mention the term ‘human rights’ (quyền con người). It should be emphasized that the same term had been rejected before. This may be considered an important step in laying the ground for further developments in the national legal system in terms of protecting human rights.

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3 Mark Manyin et al., supra note 1, at p. 9.
5 Mark Manyin et al., supra note 1, at p. 9.
6 These legal documents (all in Vietnamese) can be found at various websites, including the National Assembly’s at http://www.na.gov.vn/.