

PROTECTING AND EXERCISING HUMAN RIGHTS IN VIETNAM UNDER GLOBAL INTEGRATION CONTEXT

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Abstract: Under the context of international integration, the protection, implementation and fostering of human rights in Vietnam are facing favourable conditions but also certain challenges, including the lower-middle development level as compared to the world, the high ratio of people with disability, the prevalence of subversive forces... Vietnam's orientation and solutions to these problems in the upcoming period include: to actively take part in international conventions and forums on human rights at global and regional levels; to continue improving the legal framework with the aim of "a prosperous population, a powerful, democratic, fair and civilized nation"; to improve the legislation for human rights protection; to promote international cooperation and to enter into dialogues on human rights and, at the same time, to combat unreasonable requests and arguments from outside; to actively engage in international economic integration, using economic power as the long term and basic foundation for improving human rights.

Key words: integration, human rights, orientation, solutions.

On 12th November 2013, the 68th Session of the UN General Assembly elected Vietnam as a member of the UN Human Rights Council for the 2014-2016 term, with 184 ayes over a total of 192 votes, despite constant destructive attempts and attacks from opposing forces. This is confirmation for Vietnam's achievement and status in protecting human rights on its territory, as well as its contribution to the fight for human rights across the world.

During the process of global integration, many countries in the world and in South East Asia have been under heavy pressure with regards to human rights issues, including China, Singapore, Malaysia, Indonesia and Myanmar. However, by different means,

these countries have gradually overcome their pressures and have been able to persuade their critics, such as the US and EU, to make compromises and lift pressures off them. Their experience is to gradually adhere to international, regional conventions as well as international forums on human rights; to revise their Constitutions, legal systems, to pledge for and foster human rights and, at the same time, improve the actual state of human rights within the country; to carry out dialogues but also fight against external pressures; to develop a market economy, open up to foreign

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investment and become a profitable destination for partners all over the world.

Ever since stepping onto the reform pathway, Vietnam has reaped great achievements on all aspects, from political to economic, social and cultural. Particularly, since after the 8th National Congress in 1996, by applying the principle to “actively engage in global integration”, the country has made prompt progresses in improving the human rights.

With the right reform approach, especially in economic development, tackling with social issues, Vietnam has made significant achievements in improving the population’s living standards. With its inner strength as well as in cooperation with the United Nations, international non-governmental organizations, Vietnam has made strong progress in hunger eradication and poverty reduction, becoming a success story that has been widely recognized by the global community. After 20 years, the poverty rate in Vietnam has been reduced from over 60% to less than 10%; income per capita increased to nearly USD 1,200 in 2012, pulling the country into lower middle-income countries. Social welfare, healthcare and education indicators... have all been improved significantly.

By actively integrate with the world, Vietnam has adopted reforms that have allowed it to improve its political and legal systems. Particularly, in the legal system, the country has modified the Investment Law, the Enterprise Law, regulations on immigration, citizenship, adoption of the principle of openness and transparency; it has also

enacted the Ordinance of Belief and Religion, Press Law, Publication Law... Thus, in practice, the civil and political rights of citizens, including freedom of belief, religion, freedom of movement, of taking part in the political life, the rights of minority ethnic groups, of the disadvantaged in society... have been acknowledged, respected and ensured better. Such achievements have been highly appreciated by the citizens and by the international community.

As we get deeper into the global integration era, on the one hand, we need to acknowledge the accomplishments and limitations in respecting and protecting human rights; on the other hand, we need to make such accomplishments visible to the world, at the same time, fight against the false accusations of internal and external opposing forces.

We also need to assess the advantages and difficulties, impediments laid on the road of human rights development of the country. The most obvious advantage is the Party’s development of theoretical awareness, the perception of people from all walks of life on the importance and significance of human rights issues has been greatly altered. Legal provisions of the rule-of-law state have been established and constantly improved, creating a framework for actually ensuring human rights. The market economy mechanism has also been created and improved, creating favourable conditions to ensure freedom of ownership and business for individuals. Access to information has been made much easier for citizens. Vietnam now ranks the second in Asia on

telecommunications growth and the number of Internet users.

Another advantage is in the knowledgeable and goodwill attitude and in true relationships built between international organizations and the Vietnamese government as well as with local authorities in institutional support, expertise exchange, in financing economic development, poverty reduction, democracy promotion in the country (the World Bank alone in the past 20 years granted Vietnam with USD 17 billion in implementing programmes on socio-economic development, poverty reduction...).

Nevertheless, numerous difficulties and challenges still lay ahead, for example: the protection and promotion of human rights depend on many factors, such as the perception of certain government bodies from central to local and people in general are lagging behind the advancement of human rights. The level of legal institution improvement is still limited. Various legal issues need to be further studied and regulated upon. The level of socio-economic development is still limited, including inadequate development policies, weak management, affecting economic stability and growth and social welfare improvement; the life of rural and mountainous population still faces many difficulties. All the above can hardly be tackled in a month, a year but maybe in decades. Vietnam has barely stepped into the middle-income country group; it is also a country with a high rate of disabled people (nearly 6% of population), most of

which are war victims (of bombs, mines and toxic chemicals). Therefore, despite certain improvements, Vietnam's human development index is still among the world's average group.

Difficulties also originate from the lack of goodwill of certain forces. Each year, the United States Department of State publishes a Report on human rights issues in countries across the world, including Vietnam, which lacks goodwill and realism. In 2012, the Committee on Foreign Affairs of the United States House of Representatives passed the Act 1869 on human rights in Vietnam consisting of many biased information and remarks, even distortion on passed events, for example, interpreting general criminal trials into cases of religious repression, repressions of press and freedom of speech... Indirectly, this has created difficulties for local authorities at provinces, especially in places with minority ethnic groups, and directly impacting the peaceful life of those provinces' inhabitants, also damaging Vietnam's image in the eyes of international friends. Such activities have inevitably led to skepticism from Vietnamese authorities against non-governmental organizations and individuals in contact with Vietnam, which eventually does not benefit programmes on poverty reduction and socio-economic development in difficulty-driven regions.

In practice, violations of human rights sometimes originate from individuals themselves, which is out of control of the state, even governments of countries exemplary of human rights conduct (for instance, terrorist attacks at airports,

supermarkets, shootings at schools, public areas, causing hundreds of casualties in the United Kingdom or in the United States of America in the recent years). In our country Vietnam, there are still officers, Party members, civil servants who do not have the right knowledge of human rights, of the responsibility to protect and promote human rights, of the establishment and improvement of policies, regulations and execution of the state's policies, regulations on human rights, citizen rights. There are also bureaucratic, corruptive behaviors, violations of democracy and other legitimate rights of citizens, affecting the image and prestige of the Party and the State. These are the main causes of unnecessary shortcomings and limitations.

However, when tackling human rights issues, weighing up difficulties against advantages, opportunities against challenges, advantages and opportunities are still prominent. What decides the upcoming advancement is the political determination of the Party and the State.

In principle, the Party and the State have determined that national independence, freedom and happiness are the utmost goals of the country's regime. That is also in pursuit of human rights. Throughout 30 years of reform, many documents of the Party and the State (most clearly seen in the 1992 Constitution, in the Constitution of 1992 supplemented and revised in 2013) have affirmed that: *In the Socialist Republic of Vietnam, human rights and citizen rights are well respected and protected.*

Theoretical and actual human rights issues have shown that, there are three steps that states need to follow in solving human rights issues. Socialist in nature, the State of Vietnam also has to tackle human rights issues along such steps:

- *Respect, protect* human rights, foremostly, civil rights, is the obligatory duty of the government. These rights are *fundamental* rights and of *absolute generality*, regardless of political regime, of the level of economic development and cultural differences.

- On the basis of and in accordance with the country's conditions, *ensure in practice* human rights, which means ensuring that each citizen has the chance to enjoy the human rights given by law, especially in areas of economic, social, cultural rights. A few political rights (the right to democracy, freedom of speech...) are also included in this group. These are the *rights of relative generality*, requiring certain prerequisites to fulfill and satisfy.

- Continue to *promoting* human rights, meaning to be aware of and *transform the legitimate needs of people in the globalization era and information boom into human rights* (for instance, the right to live in a clean environment, the right to get and to give information), satisfy human rights in aspects of economic, social, cultural, civil, political at *a higher standard*.

This is also the guideline to be followed by the government in tackling human rights.

From actual success stories, limitations as well as upon learning from the experience of other developing countries, the orientation

and solutions in tackling human rights issues in an era of deeper global integration of our country include:

Actively getting engaged in international conventions and forums on human rights at regional and global level.

Apart from the two major conventions, namely the Convention on economic, cultural and social rights and the Convention on civil and political rights, the world regards the following 7 conventions as the “core” of human rights: the Convention on the elimination of all forms of racial discrimination (adopted in 1966, entered into force in 1969); the Convention on the elimination of all forms of discrimination against women (adopted in 1979, entered into force in 1981); the United Nations Convention against torture (adopted in 1984, entered into force in 1984); the Convention of the rights of the child (adopted in 1989, entered into force in 1989); the Convention of the rights of persons with disability (adopted in 2006, entered into force in 2008); the International Convention on the protection of the rights of all migrant workers and members of their families (adopted in 1990, entered into force in 2003). Vietnam is signatory to nearly all the above conventions. On 7th November 2013, the country has become an official signatory to the Convention against torture.

Under the context of global integration, Vietnam has a vast number of immigrant workers and also, the number of immigrant workers has been getting larger. Thus, it is time Vietnam needs to adhere to the

Convention on the protection of the rights of all migrant workers and members of their families. It is also high time for Vietnam to submit an annual report on exercising human rights to the United Nations, or at least publish an annual “White Book” on this matter (China has recently practiced this method). This is a way to make public and transparent the achievements as well as shortcomings, the objective and subjective causes of human rights issues, in an open way. This behavior will definitely be praised and appreciated by local and international community.

Continue to improving the legal institution with the aim for “a prosperous people, a strong country, a democratic, fair and civilized society”

When improving the legal institution with this aim in mind, the problem is to institutionalize the relationship between the individual and the group, the community, between the rights and responsibilities of individuals. However, in today’s society, both individual rights and community’s rights are not defended at the right level. On the one hand, there is a clear sign that individual rights are not well protected, particularly regarding free speech, mentality, yet there is also a sign of abuse of freedom rights, violating the rights of other individuals, communities (for instance, using the Internet to humiliate other people). On the other hand, although in people’s mindset and culture, the community is prioritized above the individual, in practice, the group and community’s rights in many places are

not respected, leaving room for abuse (for example, abuse public ownership of state's land and resources to transgress, steal and embezzle,...)

Another problem in institutionalizing the law and policies is tackling the relationship between the general principle of the human rights and the objective conditions of socio-economic development level. Satisfying the human rights, especially the economic, cultural, social rights, cannot surpass the objective conditions. After the complete failure of the subsidized economy, we have reformed our mindset and methodology, moving from the state being the supplier that satisfies the material needs of each citizen to the state being the one who ensures the *opportunity* for each citizen to enjoy such needs. For instance, the right to habitat, the right to employment, the right to education... cannot be solved in the past method but by campaigning each participant in the market economy where the state ensures the legal conditions for the fact.

To serve and promote further global integration of the country, as well as to satisfy the demands of the international legal system, improving the domestic legal system of Vietnam need to go through the following direction:

Regarding the civil – political rights: the focus is to perfect the democratic institution, ensuring the right of citizens to directly or indirectly take part in the building and control of the country, the right to express their opinions, to form groups, the right to religious freedom, and the intellectual

property right.

Religious freedom is a big concern for many countries. In Vietnam, this issue is easily taken advantage by opposing forces for political intention. Vietnam's Constitution has concretized the Party and the state's principle on religious freedom. On the one hand, we have confirmed the state's principle of non-religiousness, meaning that we do not allow religious matters to interfere in national matters; that the state has to treat all religions with fairness and equality and fight against all attempts to abuse the right to religious freedom to threaten the state and national security. On the other hand, we acknowledge the individual right to religion on the spirit of *"Every individual has the right to freedom of belief, faith and religion, even the right to change his/her religion or belief, the right to express, spread, exercise, worship or commemorate his/her own religion and belief in private or public areas, or with others"* (Article 18 in the Convention of Civil and Political Rights).

In the information era and based on the actual development of information technology in our country nowadays, we can recognize *the need to access Internet as a right*. The only issue is to establish a legal framework so that ensuring one's right does not violate another's and ensure social security and safety (Finland has since 2009 regarded access to Internet as a human right and demanded that service providers ensure reasonable pricing and transmission speed. Meanwhile, a public poll in the UK showed

that 79% of adults asked agreed that this should be named a human right).

Regarding the economic rights: the focus is to improve the market economy mechanism, ensuring ownership and business rights for citizens, so that these are fair and non-discriminatory. These include legal provisions related to access to capital, land, natural resources and other public services.

With respect to the economic rights and duties of individuals to the society and the state, it is time that the state establishes and complies with the duty to explain its acts in utilizing natural resources, state budget, since these are the tax money of the citizens and they are entitled to oversee this.

Regarding the social, cultural rights: the focus is to improve the social security system (especially the system of social insurance, of rescuing and servicing social cases, troubled and underprivileged cases); perfect the education, healthcare systems and health insurance for the citizens.

The rights to birth, to movement also need to be institutionalized so that both individual right and social interests are protected and that they do not conflict with each other. Actual experience proved that we have yet tackled this matter correctly. For instance, we have recognized the right to freedom of movement, thus, allowing people to move freely between large cities, but failed to match the rights with responsibilities of migrants, hence, over a short period of time, the number of people concentrating in large cities such as Hanoi, Ho Chi Minh City, have increased fast,

exceeding the capacity of such cities and affecting urban security and safety.

Similarly, loosening regulations on birth control but lacking related laws involving duties to nurture and taking care of the child has led to a very fast expansion of the population while the quality is not guaranteed. These entail also problems on gender misbalance, causing potential social insecurity in the future.

Vietnam is now revising the Marriage and Family Law in which the issue of same-sex marriage is being considered. If approved, Vietnam will join the group of less than 20 countries recognizing this right, proving its great effort in addressing the right of this special group of people.

Strengthening legislation in protecting human rights

As we are in the early days of a market economy, there has been an increase in number and severity of cases of moral deterioration, violations of human rights originating from individuals. The occurrence of private and public organizations committing violations of human rights at different levels, such as dumping toxic waste into the environment; trading unsanitary, unsafe products; supplying public services in a bureaucratic manner... have been getting more widespread. Obviously, we need to perfect related documents, at the same time to issue serious punishment in case of violation. This is genuine proof that the state respects and protects human rights, simultaneously ensure for the country's sustainable development.

In the country's dawn of market economy, intellectual property rights have not been rightly protected. This does not only brings damages to Vietnamese citizens but also creates unnecessary conflicts on the international legal arena. Protecting this right does not depend on political regime, the level of economic, social development, but on the awareness of and respect for the law.

Strengthening international cooperation, willing to conduct dialogues on human rights, at the same time fight against the unreasonable requirements and principles from outside.

The Association of South East Asian Nations (ASEAN) has made a major advancement, that is, adopting the "ASEAN Charter" and the "ASEAN Declaration of Human Rights" in 2012, suitable with the characteristics of countries in the region. As a member of the ASEAN and the United Nations, Vietnam can and should organize and host forums to exchange experience and share its opinions on human rights issues, especially specific topics such as the prevention of women, children trafficking; prevention of child labour; protection of immigrants' rights; prevention of heresies that go against the nation's moral and culture.

We should organize regular dialogues and give priority to organizations such as the US Government and Congress, "Amnesty International", "Human Rights Watch", the Vatican.

Actively engaging in international economic integration, using economic stimulus as a long term foundation to improve human rights, and preventing forces that want to

use human rights issues as an excuse to interfere in the country's problems.

After all, *ensuring and promoting* human rights, especially the economic, social, cultural rights, depends greatly on the level of economic development of the country. Therefore, we need to strive for higher growth and high income per capita. Poverty will nullify any preferential treatment, any motto, no matter how humane and beautiful they are.

On the other hand, when developing the market economy, economic interest is a major concern, but also an invisible yet effective obstacle against the criticism and attack of opposing forces. We can extend our economic relations in trade and investment with other countries, create favourable conditions for foreign companies when doing business and investment in Vietnam. The key is to choose areas that can benefit both parties. This depends on the economic development strategy of the country and on improving the legal framework for trade and investment.

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