



Human Rights in the Vietnamese Legal System Over 40 Years of Implementing the Renovation Policy

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Abstract

The policy on developing and implementing laws concerning human rights in Vietnam has existed since the early days of the country's establishment. Since the implementation of the national renovation process nearly 40 years ago, the achievements in legal development regarding human rights have been significant, notably with hundreds of legal documents being recognized. However, when comparing the content of Vietnam's renovation policy with the results of building the Vietnamese legal system on human rights over nearly 40 years, certain limitations still remain. Additionally, Vietnam is facing many difficulties and challenges in building and implementing a legal system that ensures human rights, and there may be new trends in the future in constructing and perfecting Vietnam's legal system.

Keywords: Human rights, 40 years of renovation; Vietnamese legal system; Vietnam.

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1. Introduction

The history of human rights shows that as early as 500 BC, the first "decrees" on the right to choose a religion were inscribed in Akkadian on clay pillars following successful slave liberation wars (Burns H. Weston, 2023). Throughout the journey of consolidating and ensuring human rights, Vietnam has always focused on policies that create the best conditions for everyone to enjoy and exercise these rights, especially during the renovation period (from 1986 to the present). Nearly 40 years of building the legal system on human rights, from inheriting old regulations to developing and deeply integrating with the international community as it is today, our country has issued hundreds of thousands of legal documents governing all aspects of social life.

Over nearly 40 years of renovation, Vietnam's socio-economic landscape has undergone rapid and comprehensive changes. From a country that had just emerged from war, struggling to rebuild its economy and overcome the aftermath of the conflict, Vietnam has now established a socialist rule of law state and is in the process of perfecting it. However, when looking at the overall regulations on human rights in Vietnam's legal system from the time the Democratic Republic of Vietnam (now the Socialist

Republic of Vietnam) declared independence in 1945 to the present (especially during the renovation period from 1986 to the present), it can be seen that despite the country's most difficult circumstances and the challenges faced on all fronts, the Party and State have always pursued the policy of enacting documents to ensure human rights. By participating in many multilateral treaties, bilateral international agreements, and joining international political, economic, social, and cultural organizations, Vietnam's legal system has also been adjusted and changed to both meet the needs of social management, ensure human rights in Vietnam, and adapt to and incorporate positive and newly emerging elements in international law. These achievements show that ensuring and promoting human rights in Vietnam is one of the top priorities, alongside the tasks of socio-economic development and maintaining political stability and peace for the country.

The Vietnamese legal system, like the legal systems of many other countries worldwide, has its successes in legislation but also contains aspects that need to be addressed. Particularly over the 40 years of renovation, Vietnam is still in the process of perfecting its legal system. The socio-economic landscape has changed through many short phases, so legal documents require frequent updates, amendments, supplements, or replacements. Due to these scattered changes and amendments across various documents on a single issue, and with multiple laws involved in regulation, overlaps in the scope and subjects of regulation are unavoidable, and even conflicts can arise between legal documents and international treaties to which Vietnam is a party.

Researching the achievements and existing limitations regarding human rights in the legal system over nearly 40 years of renovation is crucial to gaining an overall perspective and drawing lessons for the construction and improvement of the legal system in general. This research will provide a foundation for continued studies on new solutions, goals, and directions for protecting human rights in Vietnam. Additionally, the research should aim to develop practical and easily implementable solutions for the legal system on human rights in Vietnam in the near future.

2. Research Methodology

In researching "Human Rights in the Vietnamese Legal System Over 40 Years of Implementing the Renovation Policy," the research team employed various methodologies, including historical, logical, statistical, and comparative methods. These were applied based on the analysis and synthesis of the achievements in the promulgation of legal documents, with classification and systematization according to different groups of rights. The team also utilized the theoretical framework of Marxism-Leninism, Ho Chi Minh's ideology, and the Party's renovation guidelines, along with the policies and laws of the State, to form a correct and contextually appropriate perspective on human rights within the legal system of Vietnam.

Human rights are not regulated by a single or a few legal documents within the legal system but are scattered across numerous documents. These range from the highest legal authority, the Constitution, to laws, resolutions, decrees, circulars, decisions, and other documents from both central and local levels. Thus, within the scope of this scientific paper, the research team primarily focused on studying, analyzing, comparing, and compiling data from the Constitution, laws, certain international treaties that Vietnam has joined, and some of the most characteristic sub-law documents related to human rights legislation. Documents from the Party, research outcomes, and statistical data such as population figures and age distribution, which are stored in other reliable books and research materials, were also inherited, utilized, and further developed by the research team.

To assess the regulations on human rights groups, in addition to compiling historical legislative documents from each period, we also studied and compared the contents of these documents with relevant international treaties to provide an overall evaluation of the current state of the legal system. Furthermore, based on this evaluation and combining it with survey methods, expert opinions, and previous credible research findings, the research team presented the difficulties and challenges in building and perfecting human rights legislation today. From there, we proposed some solutions to

address existing issues, contributing to the theoretical and practical basis for the review, research, drafting, and promulgation of legal documents on human rights in Vietnam in general.

3. Research Results

3.1. Continuing to Build and Improve the Legal System on Human Rights in Vietnam During 40 Years of Implementing the Renovation Policy

The issue of implementing and ensuring human rights has been a priority for Vietnam since the early days of the Democratic Republic of Vietnam (later renamed the Socialist Republic of Vietnam). The first Constitution of the Democratic Republic of Vietnam in 1946 acknowledged right in its first article: "All power in the country belongs to the entire Vietnamese people, without distinction of race, gender, wealth, class, or religion." This Constitution also dedicated Chapter 2 to the Duties and Rights of Citizens, recognizing basic rights across various aspects of life, such as the equality of citizens in all respects, equality before the law and between men and women, the right to participate in government and national reconstruction, the rights of ethnic minorities, and freedoms such as speech, publication, organization and assembly, belief, residence, and movement. It also guaranteed protection against arbitrary arrest and detention without judicial decision, rights related to housing and correspondence, property ownership, labor rights, the rights of the elderly and children, the right to education, and the right of foreign nationals fleeing persecution in their own countries for democratic and freedom struggles to seek refuge in Vietnam.

During the years 1950–1975, the revolutionary situation and the war to defend the country leading to reunification were intense, so the Party's policies on human rights primarily focused on training new people and cadres for the resistance and reconstruction effort and maintaining the economy and socialist reform. Despite the country's difficulties during this period, the second Constitution of the Democratic Republic of Vietnam was promulgated in 1959 with many provisions on human rights. The Constitution recognized the rights of ethnic minorities, including the right to preserve customs, languages, scripts, and cultural development. Additionally, it introduced new provisions on the protection of mothers and children, the right to protest, the freedom not only to practice religion but also not to follow any religion, the right to file complaints and denunciations, labor rights, rights in the fields of science, culture, and arts, and the rights of overseas Vietnamese (Việt Kiều).

After the country's reunification in 1975, the 4th National Congress of the Vietnam Workers' Party (which was renamed the Communist Party of Vietnam) took place in 1976. In addition to the policies on maintaining and developing the economy, the Congress also set strategic goals for the development of education, culture, and healthcare, carried out educational reform, and intensified the training of cadres and workers (Communist Party of Vietnam, 1976). In 1980, the next Constitution of the Socialist Republic of Vietnam was enacted, adding provisions for the right to participate in the management of state and social affairs, certain labor rights, social insurance benefits, the right to health protection, the freedom to form associations, the freedom to protest, and rights related to personal safety, science, technology, and culture.

In summary, before 1986, when the country was still addressing issues related to war, national reunification, and the initial stages of building socialism nationwide, human rights were primarily expressed as citizens' rights across various aspects of social life. Essentially, human rights were defined and protected by the State.

During 1986–1990 (the beginning of the country's renovation period), in the context of a newly unified country emerging from prolonged wars and difficulties, while also needing to fulfill international obligations, stabilizing the country's situation and the people's livelihoods remained top priorities. The 6th National Congress of the Party (in 1986) marked a significant turning point in the process of inheritance and renewal. The success of the Congress opened a historic new chapter in the Vietnamese revolution, leading the country into a new phase of development, including in the area of ensuring human rights.

The resolution of the 6th Party Congress determined that it was necessary to pursue economic renovation goals, achieve social equity in accordance with the actual conditions, and ensure policies related to education, culture, healthcare, sports, and social welfare, as well as implement policies that respect freedom of religion. The 6th National Congress of the Party (in 1986) analyzed and acknowledged existing challenges and identified numerous development tasks for the new phase, including the task of respecting and ensuring citizens' rights, with the principle of "all for the people, by the people." The renovation began with and focused heavily on changing the approach to economic development, shifting from a bureaucratic, subsidized economy to a socialist-oriented market economy, thereby unleashing productive capacity.

From 1991 to 2010, the modern scientific and technological revolution advanced rapidly, and the processes of economic and social internationalization created significant opportunities and also posed challenges for the country. Besides focusing on the renovation of economic human rights, the Party's policy of ensuring other basic human rights related to culture and society was expanded and paid greater attention to human rights in various other areas of social life. At the same time, the development of laws regarding human rights had to integrate with international standards, meet common international demands, and reflect Vietnam's responsibility to the international human rights treaties it had joined.

The 7th National Congress of the Party approved the Platform for National Construction during the Transition to Socialism. In this Platform, socialism, as defined by the people, is described as a society in which: "...Human beings are liberated from oppression, exploitation, and injustice, work according to their abilities, enjoy according to their labor, and live in prosperity, freedom, and happiness, with conditions for comprehensive personal development" (Communist Party of Vietnam, 2019, p. 428). Regarding social policy, the Platform outlines the direction of social policies related to the rights to food, housing, mobility, education, rest, medical care, and physical well-being; the right to work; the rights of vulnerable groups (such as women, children, the elderly, and people with disabilities); social welfare; encouraging and facilitating investment in housing construction; adherence to environmental protection, building a cultural foundation; ensuring the right to information and the freedom of creativity for citizens; promoting equality; and respecting and ensuring the freedom of belief and religion.

The economic, cultural, and social rights outlined in the Party's 2001-2010 Socio-Economic Development Strategy reflect both continuity and innovation. Economically, the Party emphasized the development of a multi-sector economy with various forms of ownership by synchronizing market factors, reforming and enhancing state management efficiency, innovating monetary policy, and expanding and improving foreign economic relations. Culturally and socially, the Strategy focused on education and training; science and technology; cultural and informational development (including journalism and publishing); population and employment; poverty alleviation; wages and income; and public health care and protection. Additionally, the Strategy introduced new provisions concerning the rights of vulnerable groups (such as those living with HIV/AIDS), and the implementation of administrative reforms (Communist Party of Vietnam, 2019, p. 955).

During the 2006-2010 period, besides continuing the human rights policies similar to previous phases, the Strategy emphasized the importance of environmental protection and natural resource conservation (Communist Party of Vietnam, 2019, p. 143). This focus represents a significant new point regarding citizens' rights to live in a quality environment. To implement the legal framework with such goals and directions, the Politburo issued Resolution No. 48-NQ/TW on May 24, 2005, which outlined the orientation for building and perfecting the legal system, with the second orientation focusing on "Building and perfecting laws to ensure human rights, freedoms, and citizens' democracy," specifically: "Strengthening the legal basis for the responsibility of state agencies in the timely and synchronized construction, promulgation, and implementation of laws and international treaties to which Vietnam is a party concerning human rights and citizens' rights in the civil, political, economic, cultural, and social spheres" (Communist Party of Vietnam, 2005).

Since 2011, Vietnam has not only been in a phase of integration but has also moved towards comprehensive integration. The National Party Congress documents clearly mention "human rights" and widely use the term "human rights." In the 2015 revised Program for Building the Country During the Transitional Period Towards Socialism, the Party emphasized: "People are the center of the development strategy and the subject of development. Respecting and protecting human rights, linking human rights with the rights and interests of the nation, the country, and the people's ownership" (Communist Party of Vietnam, 2011). The issue of the right to information and access to information for the people, particularly in remote areas and among ethnic minorities, has been given strong attention. The XIII Congress documents continue to expand on judicial reforms, specifying the task: "Building a professional, modern, fair, strict, and honest Vietnamese judiciary that serves the country and the people. Judicial activities are responsible for protecting justice, human rights, citizens' rights, the socialist regime, state interests, and the legitimate rights and interests of organizations and individuals" (Communist Party of Vietnam, 2021, p. 206). One of the strategic breakthroughs identified in the 10-year Socio-Economic Development Strategy 2021-2030 is: "Enhancing the effectiveness of external affairs, integration, and Vietnam's international standing and reputation." On the other hand, "The comprehensive renovation underway in Vietnam is based on three main pillars: sustainable growth; social progress and equity; the rule of law and human rights" (Ministry of Foreign Affairs of Vietnam, 2017, p. 10). Therefore, legal mechanisms ensuring human rights are increasingly respected, protected, and aimed at being implemented more effectively and substantively, allowing people not only to exercise fundamental rights but also to fully enjoy the benefits of national development, towards international integration.

Based on this, after nearly 40 years of implementing renovation policies, Vietnam has always focused on building and gradually perfecting the legal system on human rights in all areas of life, aligning with practical requirements and international regulations, moving towards perfecting the legal system in accordance with the international treaties that Vietnam has joined.

It can be seen that the continued development and improvement of the human rights legal system in Vietnam over nearly 40 years of implementing the national reform policy is reflected primarily in several key aspects:

First, human rights in Vietnam are approached comprehensively across all areas such as civil, political, economic, social, and cultural rights. The Vietnamese legal system is gradually being perfected and takes into account all subjects, including both Vietnamese citizens and everyone living within Vietnam's territory, including marginalized groups in society.

Second, human rights in Vietnam are inseparable from social responsibility, national independence, national self-determination, the country's development, community interests, and alignment with the direction of Vietnamese human development. Every individual is free to exercise rights not prohibited by law, provided they do not infringe upon the rights and legal interests of others and the community.

Third, human rights are universal and represent a common value for all humanity. However, each country (including Vietnam) has its own specific economic, political, cultural, social, historical, and religious characteristics. Therefore, the value of human rights must be approached from various perspectives, aligning with global standards while respecting Vietnam's distinctive values.

Fourth, in addition to establishing general regulations on human rights, the legal system must also focus on improving policies that ensure and promote human rights effectively and substantially. Ensuring and promoting human rights is not only a right but also a responsibility of the Vietnamese State. The policy on protecting human rights within the legal system is parallel to the development of the country's socio-economic conditions and the protection of the socialist system and state interests. Thus, economic development is a necessary condition for ensuring and promoting human rights, and the role of safeguarding human rights is also seen as a condition for maintaining peace, security, stability, and development of the country.

Fifth, the improvement of Vietnam's legal system on human rights is always aimed at international integration to enhance economic and social development, enrich resources to ensure human rights; protect human rights at the international level, not just within national borders; and adopt additional perspectives and legal thinking on human rights from global achievements in the struggle to protect and promote human rights. Additionally, international integration related to human rights is also considered in terms of building a strong legal environment to protect Vietnamese people from negative impacts resulting from international integration.

3.2. The Current State of the Human Rights Legal System in Vietnam after Nearly 40 Years of Reform

Civil and Political Human Rights in Vietnam's Legal System during the Reform Period

Freedom of Speech, Freedom of the Press, and Information: The rights to freedom of speech, freedom of the press, and information are clearly defined in the Constitutions of 1992 and 2013. Article 69 of the 1992 Constitution states: "Citizens have the right to freedom of speech, freedom of the press; and the right to be informed...". Article 25 of the 2013 Constitution also provides for these rights: "Citizens have the right to freedom of speech, freedom of the press, access to information, ...". Thus, both Constitutions recognize the rights to freedom of speech and freedom of the press. However, the 1992 Constitution specifies "the right to be informed", while the 2013 Constitution specifies "access to information". Yet, there is still no official and comprehensive legal document explaining the concept and content of the right to access information. Most legal documents only stipulate the responsibility of state agencies to disclose and transparently provide some information in specific areas related to their activities. Referring to Article 19 of the International Covenant on Civil and Political Rights of 1966, the content of the right to access information includes at least three components: the freedom to seek, receive, and impart information in any form. Under current Vietnamese law, the right to access information is recognized to varying degrees in specific areas such as: (1) The freedom to seek and exchange information: Individuals and organizations can seek information through the internet, as well as through traditional media and printed books and newspapers. (2) The right to access information through the disclosure and public announcement of information held by state agencies or by requesting information from state agencies (excluding state secrets). Thus, for the first time, the 2013 Constitution has enshrined principles for the implementation of human rights and citizen rights, including the right to access information.

In 1989, the Press Law was enacted by the National Assembly, replacing Decree 282-SL dated December 14, 1956, on the press system of the President of the Democratic Republic of Vietnam. The new Press Law provided more detailed regulations on freedom of speech in the press and expanded the rights to media information on all matters, as well as the rights of journalists. Thus, after many years of applying the old press management regime, Vietnam finally had an official law that specifically detailed press freedom, and in 2016, the Press Law was further updated to address changes in the global context. The State not only regulated freedoms in press activities but also paid attention to human rights related to freedom of speech, access to accurate information, and protection against harmful and distorted information through the enactment of the 2012 Publishing Law, the 2015 Network Information Security Law, the 2016 Information Access Law, the 2018 Cybersecurity Law, etc. Regarding the right to access information, the law stipulates that citizens have the right to access and request information from the state, except for information that is not accessible, such as state secrets that have not been declassified or information whose access could harm the public interest.

Equality before the law; the right to respect for life, dignity, and the inviolability of the body, property, private life, and personal secrets: The 1992 Constitution stipulates that all citizens are equal before the law. The 2013 Constitution expanded this to include not only "citizens" but "everyone is equal before the law; no one is discriminated against in political, civil, economic, cultural, and social life" (Article 16 of the 2013 Constitution). Equality before the law is recognized in the spirit of all laws and subordinate legal documents. Additionally, gender equality has been emphasized by the legal system. The National Assembly enacted the Gender Equality Law in 2006 and many regulations in various laws concerning

gender equality. The Marriage and Family Laws of 1986, 2000, and 2014 recognize gender equality in marriage relationships; the Labor Codes of 1994, 2012, and 2019 also include provisions on equality in labor, but they approach international regulations by specifying policies for vulnerable groups in these special relationships.

Vietnam's first Criminal Procedure Code was enacted in 1988, clearly outlining the fundamental principles ensuring human rights in criminal trials, citizens' equality before the law, the inviolability of the body, the right to protection of life, health, property, honor, and dignity; inviolability of residence, safety, and confidentiality of correspondence and telecommunications; the right to legal defense, and many other citizen rights in criminal procedure. This Code was amended several times in 1990, 1992, and 2000. In 2003, a new Criminal Procedure Code was enacted, which introduced additional provisions, including the presumption of innocence until a legal trial. In 2015, the National Assembly enacted a new Criminal Procedure Code that clarified the principle of presumption of innocence, regulations on search and seizure conditions, protection of personal secrets; provisions for closed trials in necessary cases to protect the honor and dignity of the accused; clear regulations on detention and temporary custody procedures for investigation, and many other amendments aimed at ensuring fair, objective, and appropriate criminal trials. The Civil Codes of 1995, 2005, and 2015 also clearly outline personal rights and regulations, as well as measures to protect human rights concerning life, health, dignity, honor, and reputation. The Penal Codes of 1999 and 2015 both specify criminal responsibility for offenses that infringe upon the aforementioned human rights.

Freedom of Assembly, Association, and Demonstration: Article 69 of the 1992 Constitution states: "Citizens... have the right to assemble, form associations, and demonstrate according to the law." Article 25 of the 1959 Constitution: "Citizens have the right to assemble, form associations, and demonstrate." Article 67 of the 1980 Constitution: "Citizens have the right to freedom of assembly, freedom of association, freedom of demonstration, in accordance with the interests of socialism and the people." Article 25 of the 2013 Constitution also provides for these rights: "Citizens have the right to freedom of speech, freedom of the press, access to information, assembly, association, and demonstration. The exercise of these rights is regulated by law." Thus, the rights to freedom of assembly, freedom of association, and freedom of demonstration of Vietnamese citizens have always been recognized by the Vietnamese Constitution. Moreover, these rights, which international conventions regard as fundamental human rights, including the rights to freedom of assembly, association, and demonstration, have been guaranteed and protected by the Vietnamese State through different periods.

However, the right to form associations in Vietnam is still governed by Decree No. 102/SL/L004 dated May 20, 1957, which established the law on the right to form associations and is guided by various subordinate legal documents such as Government Decree No. 45/2010/ND-CP dated April 21, 2010, on the organization, operation, and management of associations (amended and supplemented by Decree No. 33/2012/ND-CP dated April 13, 2012, and guided by various circulars and decisions of the Ministry of Home Affairs). Although these documents specify the right to form associations, there are still some practical issues with their implementation in the current context. Moreover, with tens of thousands of associations established representing the interests and voices of various social strata across all fields (according to statistics, by the end of December 2014, there were 52,501 registered associations nationwide (Government, 2015)), the legal system ensuring the right to form associations needs to be more thoroughly and appropriately refined.

Regarding the right to demonstrate, although it is provided for in the Constitution, the State has not yet enacted a law on demonstrations due to various subjective and objective reasons. Additionally, many groups and associations operate without violating legal regulations but with unclear objectives, operating on social networks, and are increasingly difficult to control; many demonstrations are exploited to disrupt public order, incite, attack, and undermine the State. Furthermore, due to limited awareness and other influencing factors, many cases of exercising citizen rights, such as the right to strike under labor law, are distorted, turning collective strikes into demonstrations that cause significant social damage and disrupt general security and order (Nguyen Son, 2021). In response to these pressing demands, Resolution No.

70/2014/QH13 of 2014 from the National Assembly introduced a draft Law on Demonstrations for consideration and a draft Law on Associations for opinion. The National Assembly has studied and included them in legislative programs, but to date, the Government is still in the process of drafting the Law on Demonstrations to present to the National Assembly. “Regarding the Law on Demonstrations, according to the Minister of Justice, the Ministry of Public Security, following the directives of the Politburo, National Assembly, and Government, is continuing to work with relevant agencies and units to study theoretical and legal bases and conduct practical surveys at units and localities to research and draft the law to ensure the protection of human rights, fundamental rights, and obligations of citizens, and to prevent hostile forces from exploiting demonstrations to cause disorder and undermine the Party and State. Therefore, the Government has not proposed to include this law in the legislative program for 2020 and 2021” (Huong Giang, 2020).

Rights to Vote, Run for Office, and Participate in State and Social Management: The Law on Elections of People's Council Deputies, first enacted in 1994, detailed the conditions under which citizens are eligible to run for and vote in People's Councils, including the procedures and other related regulations for exercising these rights. This law was replaced by the Law on Elections of People's Councils in 2003 and the Law on Elections of National Assembly and People's Council Deputies in 2015. Legal provisions also expanded the rights to file complaints and lawsuits regarding election results and established streamlined procedures to ensure accuracy and objectivity in the election process. Additionally, the Law on Complaints and Denunciations of 1998 initiated regulations on citizens' rights to complain and report violations by state management agencies. These rights have been further refined with the enactment of the Complaints Law in 2013, the Denunciations Law in 2013, and the Citizen Reception Law in 2013. Most current specialized laws now include procedures for handling complaints and denunciations in specific state management activities. The Law on Referendums, enacted in 2015, introduced mechanisms for citizens and social groups to contribute to state and social management.

Rights to Freedom of Movement, Residence, and the Right to Housing: Constitutions of different periods in Vietnam have recognized the right to freedom of movement and residence. Both the 1992 and 2013 Constitutions acknowledge the right to freedom of movement and residence within the country and abroad. The 2013 Constitution also stipulates the right to legal housing. The Construction Laws of 2003 and 2014; the Housing Laws of 2005 and 2014; the Residence Laws of 2006 and 2020; and the Land Laws of 1993, 2003, and 2013 have established various mechanisms and recognized these rights of citizens. Among these, the right to legal housing is also reflected in the inviolability of residences, with searches of residences required to be prescribed by law (Article 22 of the 2013 Constitution). The Land Laws of 2003 and 2013 explicitly define resettlement policies when the State recovers land to ensure housing for those displaced, even in cases where the land recovery does not meet conditions for compensation for residential land.

Religious and Belief Rights: From the provisions ensuring the right to religious beliefs in the 1946 Constitution, subsequent Constitutions of 1959, 1980, 1992, and 2013 have all included provisions for freedom of belief, and have further expanded to include freedom of religion and the right to not adhere to any religion. During the renovation period, the 1992 Constitution established that religions are equal before the law and provided protection for places of worship of various beliefs and religions; no one is allowed to infringe upon freedom of belief or religion or to exploit beliefs and religions to violate the law and state policies (Article 70 of the 1992 Constitution). The 2013 Constitution introduced new aspects by including freedom of belief and religion in the chapter on human rights and the rights and obligations of citizens; it stipulates that freedom of belief and religion is a right of everyone and is respected and protected by the state. Thus, under Vietnamese law, freedom of belief and religion is not only a right of citizens but of all people. Specific regulations for protecting the right to freedom of belief and religion are detailed in Ordinance No. 21/2004/PL-UBTVQH11 dated June 18, 2004, by the Standing Committee of the National Assembly, and have now been replaced by the Law on Belief and Religion of 2016. Article 18 of the Universal Declaration of Human Rights states: “Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either

alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.” Thus, it can be seen that the legal provisions on freedom of religion and belief are fundamentally guaranteed and align with international conventions. However, some regulations still lack coherence in effectively implementing policies on freedom of belief and religion (for example, the right to change religion or belief is allowed under the 2014 Citizen Identification Law and related implementation documents, but the 2015 Civil Code has not yet recognized the right to change religion or belief as having the same status and role as other personal rights in civil relations).

Human Rights in the Economic, Social, and Cultural Spheres in the Vietnamese Legal System During the Renovation Period

Human Rights in the Economic Field: In 1986, the Marriage and Family Law was enacted, amending and supplementing the rights related to the private ownership of property by spouses and children. These rights developed from the 1959 Marriage and Family Law but involved changes in ownership relations linked to private ownership of production means. In 1987, the first Land Law was enacted, which regulated long-term land use rights and the rights to make decisions regarding land use by individuals and economic organizations (such as transferring rights, organizing production, and economic activities). Generally, the rights to dispose of land use during this period were not extensively expanded, remaining limited to specific cases. However, the initial recognition of possession and disposal rights concerning production means represented a significant shift in ownership rights, especially private ownership. Additionally, the National Assembly also enacted the Foreign Investment Law in Vietnam, recognizing the right of private individuals to contribute foreign investment (replacing the previous monopoly on foreign trade management).

In 1990, the National Assembly enacted the Company Law and the Private Enterprise Law. These two laws fundamentally changed and marked a historic event for Vietnam's open economy by officially recognizing the rights to business freedom, the establishment of private enterprises, and the equality of private enterprises with other businesses. These laws have been amended, expanded, and replaced by more detailed laws such as the 2005 Enterprise Law, the 2015 Enterprise Law, the 2005 Commercial Law, civil regulations in the 1991 Economic Contract Ordinance replaced by the 1995, 2005, and 2015 Civil Codes. In 1994, the Domestic Investment Promotion Law was also enacted, along with Intellectual Property Laws in 2005 and 2015, the Bidding Law, and the Consumer Protection Law. These legal documents have created a legal framework to ensure equality in economic activities among economic actors, property rights, and the legal status of economic organizations. Notably, Article 33 of the 2013 Constitution maximally expanded human business freedom with the provision: “Everyone has the right to freedom of business in sectors not prohibited by law.” In addition to legal documents, the state has issued various sub-law documents such as decrees, circulars, directives, decisions, and national programs for economic development, detailing the implementation of rights and policies to promote the business environment, international economic integration, and proactive and active participation in international economic linkages such as free trade agreements, international economic linkages, and sub-regional and sub-area cooperation. Thus, it can be seen that human economic rights in the Vietnamese legal system focus not only on issues of property rights and business freedom but also on the right to benefit from the country's economic development achievements.

Labor Rights: Vietnam has ratified over 20 conventions of the International Labour Organization (ILO), including Convention No. 122 on Employment Policy. Starting from 1994, Vietnam officially enacted its first Labor Code to protect the right to work, benefits, and other rights of parties in labor relations. The Labor Codes of 2012 and 2015 also stipulate numerous measures to protect workers as the weaker party in labor relations, as well as policies for workers. In the public sector, the 2008 Law on Officials and Civil Servants, the 2010 Law on Public Employees, and the 2019 amendments to these laws also stipulate the rights of workers in the state sector. The 2013 Employment Law and the 2020 Law on Vietnamese Workers Going Abroad for Work have established many mechanisms and policies for job creation and protecting workers' rights in the labor field. Additionally, Vietnam is focused on developing skilled labor

through the enactment of the 2006 Vocational Training Law, the 2014 Vocational Education Law, and numerous guidelines and policies supporting vocational education.

The Right to Life, Health Care, and Social Security: Article 19 of the 2013 Constitution officially recognizes the right to life: “Everyone has the right to life. Human life is protected by law. No one shall be deprived of life contrary to the law.” In 1993, the first Environmental Protection Law was enacted, with its preamble stating one of its purposes as “ensuring the human right to live in a clean environment.” The 2005, 2014, and 2020 Environmental Protection Laws have updated many more stringent provisions. Regarding human health, in 1989, the National Assembly enacted the Law on Protection of People’s Health. In 1993, the National Assembly Standing Committee issued Ordinance No. 25-L/CTN on Private Medical Practice; in 2003, the Standing Committee issued a new ordinance, No. 07/2003/PL-UBTVQH11, introducing a mechanism for socialization, allowing private participation in establishing medical facilities to ensure the right to health care for the public. The 2007 Law on Prevention and Control of Infectious Diseases and the 2009 Law on Examination and Treatment further specified medical activities. Recently, the National Assembly enacted the new Law on Examination and Treatment No. 15/2023/QH15, which outlines specific provisions to ensure the rights of all citizens in medical examination and treatment. Additionally, since 2019, the National Assembly has been working on the Draft Law on Disease Prevention and Control, clearly outlining the state’s responsibility to ensure public health not only through medical treatment but also by preventing and controlling diseases, especially given the complex global disease situation. Regarding social security, the 2013 Constitution includes Article 34 specifically addressing citizens’ rights to social security. Regulations in the Social Insurance Laws of 2006 and 2014, the 2012 Trade Union Law, and the Labor Codes of 1994, 2012, and 2019 establish various social security policies, including insurance, protection policies, and support for workers, the elderly, children, people with disabilities, and other vulnerable groups.

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The Right to Education: The Education Law of 1998 marked a significant increase in the Party and State’s commitment to human development, addressing citizens’ right to education. The 2005 Education Law reduced state interference in private educational institutions. By 2019, the new Education Law affirmed that “Education is a top national policy” (Clause 1, Article 4), reflecting the Party and State’s determination to build and develop education. Additionally, the education sector has engaged extensively in international integration with numerous legal documents concerning cooperation, links in education,

and the recognition of foreign degrees and certificates. These educational laws not only focus on creating mechanisms and policies for training knowledge and skills according to educational programs but also regulate specialized educational activities aimed at human development in the modern era.

Human Rights in the Cultural Field: While the 1992 Constitution only generally addressed the respect for human rights in culture, the 2013 Constitution specifies in Article 41: “Everyone has the right to enjoy and access cultural values, participate in cultural life, and use cultural facilities.” Currently, laws such as the Intellectual Property Law of 2005 and 2015, the Publishing Law of 2012, the Advertising Law of 2013, the Film Law of 2006 and 2022, and the Cultural Heritage Law of 2009 have created important legal frameworks for protecting and ensuring human rights in the cultural field. Additionally, regulations in the Press Law, the Publishing Law, the Law on Protection, Care, and Education of Children, and the Gender Equality Law align with Vietnamese culture, economic-social development, and the Party's human development goals, ensuring that people enjoy culturally rich values while also accessing the comprehensive cultural and civilizational values of humanity.

Laws on the Rights of Vulnerable Groups in Society

The definition of “vulnerable groups in society” currently varies and is not codified in any legal documents, with inconsistent terminology also present (Vietnam Ministry of Foreign Affairs, 2018). However, it can be understood that “vulnerable groups are those who, in similar circumstances, face more disadvantages compared to others in the same situation when participating in social, labor, or legal relations” (Tuong Duy Luong, 2019, p. 48). Generally, vulnerable groups include individuals such as persons with disabilities, children, the elderly, women (in certain legal contexts), ethnic minorities, people living with HIV, those undergoing rehabilitation in addiction treatment centers, and victims of human trafficking.

Regarding the Human Rights of Persons with Disabilities: Legal documents regulating the rights of persons with disabilities are increasingly aligned with the realities in Vietnam. In 1998, the Ordinance No. 06/1998/PL-UBTVQH10 of the Standing Committee of the National Assembly addressed people with disabilities, but its scope was expanded to include the general international definition of persons with disabilities. In 2010, the Law on Persons with Disabilities was enacted, providing a more comprehensive and specific framework for the rights of individuals with disabilities.

Regarding Children, the Elderly, Women, Ethnic Minorities, and Victims of Human Trafficking: These groups are primarily considered vulnerable due to their limited civil capacity, ability to resist negative social impacts, or restricted cultural and social understanding due to regional, linguistic, or experiential differences. The regulations and policies supporting these groups are found in the Constitution, the Law on Protection, Care, and Education of Children, the Law on the Elderly, the Law on Gender Equality, the 2011 Anti-Trafficking Law, the 2007 Law on Domestic Violence Prevention and Control, as well as provisions in the Criminal Code, the Labor Code, the Education Law, the Land Law, the Legal Aid Law, and other guiding documents. These laws outline protection measures for these groups and align with international convention principles. Policies include free legal aid, exemptions from court fees for children and the elderly in civil disputes, and protections for children, the elderly, and pregnant women under the Criminal Code. Social insurance and other social welfare regulations demonstrate the State's commitment to the rights of these groups. However, practical experience with the legal system for these groups highlights the need for specific laws addressing the human rights of vulnerable ethnic minorities to ensure more effective policy implementation.

Human Rights of People Living with HIV and Individuals Undergoing Rehabilitation: This group is considered vulnerable due to their susceptibility and requires human rights protections to participate fully in society. Since 2004, various decisions by the Prime Minister, such as Decision No. 36/2004/QĐ-TTg on approving the National Strategy for HIV/AIDS Prevention and Control in Vietnam up to 2010 with a vision for 2020, and other relevant decisions and regulations, including the Law on Domestic Violence Prevention and Control, the 2006 Law on HIV/AIDS Prevention and Control, and other health-related legal documents, have created crucial legal frameworks to respect and protect the rights of these

individuals. Provisions in the Criminal Code, the Law on Drug Abuse Prevention and Control, and related regulations establish rights for both compulsory and voluntary rehabilitation. The legal framework aligns with international treatment recommendations.

3.3. Difficulties and Challenges in Building and Implementing a Legal System that Guarantees Human Rights in Vietnam Today

Uneven Economic and Social Development

Vietnam, with its complex terrain stretching over 2,000 kilometers and three-quarters covered by hills and mountains, has a population dispersed across various regions with differences in language, customs, infrastructure, levels of government management, and varying economic and social conditions. Regional disparities among different populations in terms of healthcare, education, culture, access to information, and levels of public awareness in some areas are still low. The development of the market economy, especially in the context of the global impact of the pandemic, has led to unemployment, increased wealth disparity between regions and social classes, rising social issues, and environmental degradation. These factors create challenges in accessing and implementing human rights in the economic, cultural, and social sectors. Additionally, drafting laws that cater to a diverse range of subjects with various characteristics across different regions within one or a few nationwide legal documents is very challenging.

The Rule of Law and Judicial Reform are Still Undergoing Improvement

Over nearly 40 years of renovation, Vietnam's legal system, including human rights laws, has been fundamentally improved. The understanding and theory of the Socialist Rule of Law State of Vietnam have become increasingly unified, comprehensive, and profound. Resolution No. 27-NQ-TW of 2022, issued during the sixth plenum of the 12th Central Committee of the Communist Party, on continuing to build and perfect the Socialist Rule of Law State of Vietnam in the new phase, has determined that "Human rights as defined by the Constitution will continue to be specified by laws and better implemented in practice." However, the building of the Socialist Rule of Law State in Vietnam is still considered by the Party to have limitations and inadequacies that do not meet the requirements for development, management, and protection of the country in the new context.

Therefore, it can be seen that the Vietnamese legal system still needs to be reviewed to eliminate overlapping and outdated documents, ensuring they are constitutional, unified, accessible, and easy to implement while aligning with general development trends and international treaty commitments (National Assembly, 2023). Although the legal framework on human rights in Vietnam has been progressively improved, it still has areas of inadequacy. This is because: the rapid changes in modern society, especially in the context of international integration and the Fourth Industrial Revolution, require the legal framework to be regularly updated to keep pace with these changes; uneven development between regions leads to differences in the implementation and protection of human rights, and the law needs to be adjusted to reflect this reality; practical law enforcement, despite the laws being enacted, still faces many difficulties such as lack of resources and inadequacies in training and management; some legal provisions may not keep up with or align with international human rights standards, requiring adjustment for better alignment; and external factors such as political and economic pressures from other countries also impact the process of building and improving the legal framework. These factors contribute to the ongoing inadequacies in the human rights legal framework in Vietnam. Furthermore, the rapid development of the economy and society and the complex global changes affecting Vietnam reveal that current legal documents still lack many protective regulations in international economic integration (Lê Thành Long et al., 2015).

This indicates that, in addition to factors such as legislative techniques, funding for research, international experience, and expert opinions, our country is still in the process of perfecting the Socialist Rule of Law State and judicial reform. This results in rapid changes in policies and directions that are not yet synchronized and do not keep pace with the complex changes in domestic and international situations.

Combined with the diverse and complex nature of the beneficiaries of human rights from various draft laws, this creates a persistent "lag" in the issuance of legal documents. This poses a significant challenge in developing a coherent and stable legal system in the current context.

Insufficient Resources to Ensure the Implementation of Social Welfare Human Rights

As of 2022, the average population in Vietnam is approximately 98.5 million people. According to forecasts by the General Department of Population, by 2049, the population of our country will experience significant aging. The period of "golden demographic structure" (a high proportion of working-age population) will end by 2040 (General Statistics Office, 2011). Thus, social welfare policies for the elderly in Vietnam will increasingly become a burden on the economy if economic development does not keep pace with social needs. It is currently estimated that Vietnam has about 4.8 million people exposed to Agent Orange, among whom millions and their descendants are living with illness and poverty due to the residual effects, necessitating additional support policies for children affected by Agent Orange (Communist Party of Vietnam, 2022). Moreover, people in mountainous areas, remote regions, and areas frequently affected by natural disasters still face many difficulties. The incidence of HIV/AIDS remains high and shows signs of spreading.

However, Vietnam is facing a shortage of necessary resources for development, particularly in implementing support policies for vulnerable groups in society, especially as some vulnerable groups are naturally increasing and cannot be controlled in time. Additionally, the quality and level of human resources involved in implementing legal policies into practice are still uneven, and in some areas, they remain low. Therefore, for human rights policies in the legal system to be cohesive and practically implementable, financial, human, and infrastructural resources must first be ensured. This is also a significant challenge that the State must balance when deciding to build support policies in the context of an overall economic difficulty.

Volatility of the International Environment

Our country's economy is developing but is not yet at a sustainable, stable level, so fluctuations in the international environment are bound to have both positive and negative impacts on Vietnam. The global economic downturn following the pandemic and the challenges posed by global climate change have directly affected vulnerable groups in society due to the dispersion of national resources, which diminishes the effectiveness of human rights protection policies. The report evaluating the results of the 5-year socio-economic development tasks from 2016 to 2020 and the directions and tasks for socio-economic development from 2021 to 2025 by the Party notes: "The economy is increasingly integrating deeply and widely, with the openness of the economy being high amid unpredictable global economic fluctuations, creating difficulties for analysis, forecasting, competitiveness, and autonomy...". Additionally, the current international environment has introduced theories and models of social construction in the Fourth Industrial Revolution with new technological foundations, marking a transition from an information society (Society 4.0) to a super-intelligent society (Society 5.0). "This affirms the need to build aspirations and visions for Vietnam's development towards a modern, humane society, with people at its core as the most universal value of humanity" (Nguyen Xuan Thang, 2021, p.639). Therefore, in the future, the development of policies ensuring human rights must be more cautious and include provisions for forecasting and timely responses to rapid changes and the impact of the international situation on Vietnam.

Challenges from Unfriendly Public Opinion and Hostile Forces

During both the 2014-2016 and 2023-2025 terms of the United Nations Human Rights Council, Vietnam was elected as a member, reflecting international trust in Vietnam's contributions and efforts to promote human rights protection. This indicates that the rhetoric of hostile forces and the unfriendly comments from some international organizations accusing Vietnam of human rights violations are incorrect and not recognized by the international community or the United Nations.

However, in practice, there are still many individuals and organizations in Vietnam that operate and connect with various foreign entities to undermine the Socialist Republic of Vietnam. Consequently, the issuance of policies and regulations on human rights is frequently distorted and falsely accused, and even used to incite vulnerable groups and individuals with limited understanding to participate in actions that create difficulties in the research of new draft laws in sensitive areas and the implementation of existing legal regulations.

3.4. Recommendations for Improving Vietnam's Legal System on Human Rights in the Future

Given the challenges and the current state of legal document issuance, both globally and domestically, along with the Party and State's policies on socio-economic development and socialist development orientation in Vietnam, it is necessary to implement a series of synchronized measures to enhance the effectiveness of Vietnam's legal system on human rights in the upcoming period. The following steps are recommended:

Summarize and Extract Lessons from the Development and Issuance of Human Rights Legal Documents Over the Past 40 Years

Throughout the implementation of enacted laws, many state agencies from central to local levels have conducted evaluations of each law at various stages. The Law on the Issuance of Legal Documents of 2015 and some guiding decrees have established regulations for a comprehensive review of the legal document system. However, the field of human rights within Vietnam's legal system is not confined to one or several regulatory documents but is directly or indirectly reflected and intertwined throughout the entire system of legal documents in various sectors.

Currently, summarizing the theoretical and practical aspects of the socialist-oriented renovation process over the past 40 years in Vietnam is one of the key tasks that the Party and State are focusing on. With the results of building and implementing laws over nearly 40 years of reform in Vietnam, including achievements in legal document development, there are still limitations, such as overlaps. Legal documents are continuously replaced, amended, and supplemented to meet current circumstances and demands. Therefore, to draw lessons for the development and issuance of documents aimed at improving the quality of the legal system ensuring human rights, it is necessary to conduct evaluations, provide specific guidelines, and make improvements in a synchronized and timely manner. This includes addressing overlaps, complexity, and limitations in the recent process of developing legal documents.

Continuing the Construction and Improvement of the Socialist Rule of Law State and Promoting Balanced Socio-Economic Development Nationwide

Resolution 77/NQ-CP dated May 12, 2023, issued by the Government, outlines six key tasks and solutions for constructing and improving the Socialist Rule of Law State of Vietnam in the new phase, including the task of perfecting the legal system. However, whether the legal system for human rights is stable, consistent, and timely depends on the stability, perfection, effectiveness, and efficiency of state power organization, state institutions, and the clear delegation of functions, tasks, and decentralization of powers, as well as their operational effectiveness.

In addition, the socio-economic development of the country will generate resources to ensure human rights in practice. Furthermore, balanced socio-economic development across regions will create a more uniform environment for the subjects and methods of ensuring and promoting human rights, leading to more synchronized and effective implementation of legal documents and policies on human rights nationwide.

Emphasizing the Quality of Developing Legal Documents on Human Rights

Resolution 27-NQ-TW, adopted during the sixth plenary session of the 12th Central Committee of the Communist Party in 2022, sets the goal for improving legislation as follows: "Fundamentally improving mechanisms to ensure the rights of the people, ensuring and protecting human rights, and citizens' rights... Establishing a legal system that is democratic, fair, humane, comprehensive, coordinated, unified, timely, feasible, transparent, stable, accessible, and conducive to innovation, sustainable development, and the strict and consistent enforcement of laws."

Thus, the Party's policy in building the legal system is to ensure that it is unified, feasible, and consistent. "After a period of intense focus on issuing a large volume of legal documents, law-making activities in Vietnam will shift their attention towards the quality of legal documents" (Pham Huu Nghia, 2021, p. 643). The rapid issuance of a large number of legal documents in recent times has still not met the needs and demands for development and human rights protection in the current phase. In practice, although some laws such as the Land Law and drafts of laws on Associations, Demonstrations, etc., have reached the time for revision and have been developed and submitted to the National Assembly for feedback for some time, they are still being carefully studied, incorporating feedback and thorough evaluation before being enacted. This reflects a more cautious and thorough approach by the legislative body in developing legal documents on human rights at present.

Focus on Developing Resources to Ensure the Implementation of Human Rights Policies in Vietnam

Resolution 27-NQ-TW of 2022 by the Central Committee also sets the goal of improving the legal system and the organization of strict and consistent law enforcement mechanisms. Additionally, the Party's policy is to build a team of officials, civil servants, and public employees who possess sufficient quality, competence, professionalism, and integrity within the socialist rule-of-law state (Communist Party of Vietnam, 2022, pp. 40-41).

Regarding human resources, for legal policies to be effectively implemented and for individuals to exercise their legitimate rights and benefit from development achievements, human factors are critically important. Officials, civil servants, and public employees need to receive ongoing training and capacity-building to meet the requirements for serving society, the people, the nation's development, and international integration. The Training and Capacity Building Program for Officials, Civil Servants, and Public Employees for 2016 - 2025, outlined in Decision 163/QĐ-TTg by the Prime Minister, sets specific goals for different groups, particularly in political theory and state management knowledge according to each position.

On the economic resources front, harmonizing economic growth with fair social welfare is the Party's policy. For basic human rights, ensuring and promoting the realization of rights is primarily achieved through mechanisms that define rights, obligations, and remove unnecessary state interventions, as expressed in legal documents. However, ensuring human rights in enjoying the benefits of national development and social equity must primarily be achieved through social welfare policies. Social welfare policies "are built on the state budget" (Nguyen Van Tuan, Nguyen Thu Hien, 2022, p. 440). The situation regarding the response of state and social resources to social policy implementation and the increasing number of social beneficiaries, with rising demands for human rights, necessitates the development of specific policies for each group to ensure fairness and timely resource allocation as per legal regulations. Mechanisms and policies ensuring human rights in various fields are nearly covered by the human rights legal system and are regularly updated and amended. Therefore, focusing state economic resources on ensuring human rights always requires attention.

Additionally, social resources such as economic and human resources from organizations and individuals operating within the legal framework for ensuring human rights also need to be mobilized. Currently, organizations under the Vietnam Fatherland Front and many other organizations and individuals contribute significantly to human rights protection in Vietnam. However, these resources have not been fully utilized, thus requiring further development of regulations and policies to encourage these resources to collaborate with state agencies in the field of human rights.

Continue to Enhance International Integration and Learn from Foreign Experience in Enacting and Implementing Human Rights Laws

Vietnam is committed to strengthening international cooperation (both bilateral and multilateral, as well as within United Nations human rights activities) based on equality, respect for international law, national sovereignty, and non-interference in each other's internal affairs. As a member of the United Nations Human Rights Council, Vietnam must make a concerted effort to actively participate in and responsibly contribute to UN human rights activities and regional human rights initiatives. Extensive economic integration through participation in international organizations and agreements (such as the WTO, CPTPP, EAEU, EVFTA, etc.) demands that the Vietnamese legal system be improved to align more closely with international laws and address the lack of protective regulations in international economic integration.

Referencing foreign legal experiences in legislative activities in Vietnam has always been a necessary requirement and an effective method used by Vietnamese lawmakers for many years. The market economy and rule of law systems around the world have been developed by numerous advanced countries. As Vietnam is still in the process of improving and modernizing its legal system, the experiences of more advanced countries need to be considered. When developing laws, it is crucial to adapt these experiences to Vietnam's context while incorporating suitable and progressive legal ideas. This approach will help reduce the time and effort needed to establish theoretical foundations and facilitate the prompt enactment of regulations that respond to the rapid changes in the market economy and international integration.

4. Conclusion

The results of developing and refining Vietnam's legal system over nearly 40 years of renovation clearly reflect the goals and nature of the socialist state, which always aims to ensure human rights and the well-being of its people. Over these decades, the legal system has undergone numerous changes, amendments, and supplements to improve. However, despite the vast number of legal documents regulating social relations, the Vietnamese legal system, especially in terms of human rights law, still faces limitations, overlaps, and complexities. These limitations arise from various internal factors, but there are also specific challenges and difficulties in developing and enacting laws that promote human rights in Vietnam, which remain barriers to be addressed over the long term.

The Party's economic and social development policies directly influence the refinement of the domestic legal system. To ensure that policies and strategies are issued more appropriately and promptly, it is necessary to establish specific and unified theoretical priorities for human rights during the legislative process. This requires a comprehensive review, evaluation, and allocation of significant resources to continue the improvement process. Particularly, by summarizing and drawing lessons from nearly 40 years of domestic legal development and international experiences from centuries of modern development, a foundation can be created to guide the future development and refinement of the legal system.

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