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Editor's Introduction

Welcome to the Thirtieth Volume of *Journal of Law and Social Deviance (LSD Journal)*, an independent, peer-reviewed journal. *LSD Journal* encourages submissions from a wide range of professionals, researchers, and scholars in a variety of fields. Within our broader interest in social deviance and the law, we are particularly interested in how law creates, inhibits, or challenges deviant behavior, especially as it evolves from, responds to, or inspires the animal kingdom, art, design, structure, pop culture, hate, religion, sex, illness, work, drugs, terrorism, and youth. Volume Thirty talked about possibilities in law that turn on connections between and assimilation of triumph, culture, and precedence regarding Vietnam. Objects, investments, and activity encounter external concordance. The breadth of impact or influence is dependent on the strength and regularity of the outside and connecting forces. *LSD Journal* remains committed to publishing articles, essays, and book reviews that strongly represent the journal's niche and offer readers important, substantive, and useful literature.

Contribution

Re: Submissions, Subscriptions, and Comments

Submissions for publication, whether articles, book reviews, essays, notes, or research, should be made electronically to Submission@LSD-Journal.net. All attachments must be Microsoft Word compatible. Please use Times New Roman 9 pt, single-spaced, superscripted footnotes, and use Times New Roman 12 pt, double-spaced text in the body. The editors will referee all submissions. Occasionally, outside expertise may be sought.

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THE THEORY OF THE RIGHT TO ACCESS CLEAN WATER AND SANITATION IN INTERNATIONAL LAW, SOME SUGGESTIVE ISSUES FOR VIETNAM

Ngon Chu Hoang*

I. INTRODUCTION

Current international law does not have specific, binding regulations on the right to access clean water and sanitation, instead, this right is being recognized as a new international customary norm that is being formed. Specifically, this customary norm has both an expression of *opinio juris* and State practice. Specifically, in 2002, with General Comment No. 15 on “The Right to Water”, the United Nations Committee on Economic, Social and Cultural Rights (ESCR-Committee)¹ issued a relatively comprehensive legal opinion. The right to access clean water and sanitation is a basic human right. By 2010,

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¹ ESCR-Committee, General Comment No. 15.

through Resolution 64/242 of session No. 108, the UN General Assembly recognized the right to access clean water and sanitation as a basic individual right.² Of course, in terms of sources of international law, both General Comment No. 15 on “The Right to Water” and Resolution 64/242 are supplementary sources³ and are only recommendations⁴ - not legally binding, however, these can be seen as signs that an *opinio juris* is being formed. On the other hand, although there are very few studies and reports, it is noted that countries stipulate in their Constitutions and legal systems the right to access clean water as an independent right. But in their practical activities, countries have shared a deep awareness of the role of clean water and political determination on this issue through Sustainable Development Goal (SDG) No. 6 “Ensuring access to clean water and sanitation for all” at the 2015⁵ UN

² UNGA, The human right to water and sanitation, A/RES/64/292, (Aug. 3, 2010).

³ Art. 38 International Court of Justice Statute.

⁴ Art. 10 and 14 of the UN Charter refer to UNGA resolutions as “recommendations.”

⁵ United Nations, “Sustainable Development Goals: 17 Goals to Transform our World,” <https://www.un.org/en/exhibits/page/sdgs-17-goals-transform-world#sdg6>.

Summit on Sustainable Development, so it is no exaggeration to say that the right to clean water and sanitation is an international practice in the field of human rights is being formed.

Originating from the above practice, because the right to access clean water and sanitation has not been recognized in a binding condition document, in Vietnam research related to this issue is still very limited. However, if current trends are followed, in the near future the right to access clean water and sanitation will be codified and recognized in a written and formal condition, giving rise to broad legal force. Therefore, proactively researching issues related to a regulation of international law that is gradually taking shape will be the right direction

Therefore, the following research will introduce some discussion issues related to the right to access clean water and biological protection in international law, and at the same time compare it with the current situation in Vietnam, thereby proposing some encourage the expansion of improved policies and laws in the near future.

II. THEORETICAL BASIS

According to the viewpoint recognized in international documents (up to the present time), the right to access clean water and sanitation is in fact closely related to the system of recognized human rights such as the right to living;⁶ the right to the highest standards of physical and mental health;⁷ and the right to have an adequate standard of living with housing and food.⁸ In other words, the right to access clean water and sanitation is a right within the overall human rights spectrum.

However, as stated above, the right to access clean water and sanitation has not been regulated as an independent right nor clearly recognized in any

⁶ Art. 6(1) ICCPR (1966), UNTS 999 (1976), 171: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

⁷ Art. 12(1) ICESCR (1966), UNTS 993 (1976), 3: "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

⁸ *Ibid.*, Art. 11(1), s. 1: "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and for his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent."

fundamental source of international law as stipulated in Article 38 Statutes of the International Court of Justice. Therefore, countries do not have to ensure the implementation of this right as a mandatory obligation, nor do they have a mechanism to monitor and ensure it like other human rights that have been researched and developed into standards - such as civil, political, economic, social and cultural rights.

The current theoretical system of the right to access clean water and sanitation is mainly recognized in documents and resolutions of intergovernmental international organizations, and although only recommendations,⁹ these documents also reflect reflects the positions and orientations of the parties surrounding this theory. For example, in case a resolution is passed by voting such as Resolution 64/242,¹⁰ the voting results will be recorded: Favorable votes; Against votes; and Abstaining votes can assess the awareness and attitude of countries towards the

⁹ Art. 10 and 14 of the UN Charter refer to UNGA resolutions as “recommendations.”

¹⁰ UNGA, The human right to water and sanitation, A/RES/64/292 (Aug. 3, 2010).

content of the resolution. Documents such as records of meetings, for example, A/64/PV.108¹¹ of session 108 when the above Resolution 64/242 was issued, will contribute to clarifying the views of countries with the contents of the Resolution.

On the other hand, countries currently have their own regulations to ensure aspects of the right to access clean water in different ways appropriate to actual circumstances and conditions. Where general international law on access is not recognized, national law prevails. However, when the right to access clean water is officially established and has a binding effect as an independent human right, then international law will prevail, and most countries will have to comply. According to that new regulation, it means that countries may have to adjust, supplement, amend, and update policies and laws to ensure the implementation of their commitments.

¹¹ UNGA, 108th plenary meeting Official Records, A/64/PV.108 (July 28, 2010).

III. RESEARCH APPROACH

Based on the above theoretical basis, this study will clarify some theoretical perspectives of the right to access clean water and sanitation, thereby predicting the direction of improvement of this regulation when recognized as an independent right in the legal system. international human rights law. In addition, this study will evaluate Vietnam's current situation in its approach to clean water issues, thereby providing some comments and suggestions for Vietnam in research, preparation, contribution, and adaptation to future regulations on access to clean water and sanitation.

IV. RESULTS AND DISCUSSION

A. Theory of the Right to Access and Sanitation in International Law

The right to access clean water and sanitation is not a new issue, because, like other basic human rights, it has in fact existed as a natural, inherent right, until now. when encountering obstructive factors and requiring state intervention to ensure full

implementation of these rights. Specifically, in the previous period when the world population was only a modest number, natural water resources were abundant, and access to water sources to serve individual needs was relatively easy, the concept of the right to access clean water has hardly been raised. Similarly, when the water source has not been polluted by human impacts, or affected by climate change, or has not been required to have health standards to combat water-borne diseases. A definition of a hygienic water source is not an urgent requirement.

The first theories and then regulations to ensure the right to access to clean water were only put in place when there began to be subjects facing limitations in accessing water sources such as prisoners,¹² women,¹³ children.¹⁴ Thus, it can be seen that the above

¹² Art. 20, 26, 29 and 46 Geneva Convention (III) Relative to the Treatment of Prisoners of War (1949); Art. 85, 89 and 127 Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (1949).

¹³ Art. 14 (2)(h) to ensure to rural women the right to enjoy adequate living conditions, particularly in relation to water, Convention on the Elimination of Discrimination against Women (1979).

¹⁴ Art. 24(1) and (2)(c) to implement children's rights to health by taking appropriate measures to combat disease and malnutrition through, inter alia, the provision of clean drinking water, Convention on the Rights of the Child (1989).

regulations were formed to ensure that all individuals, regardless of circumstances, have the ability to access water sources to serve basic living needs, especially those who are vulnerable. disadvantaged in society, or in special circumstances. The above regulations also help narrow the gap in inequality between disadvantaged groups and the rest of society in access to water and, more broadly, in the ability to ensure basic human rights.

So, the question is why and how is the right to access clean water and sanitation considered and promoted to become an independent right in the human rights system?

First, answer the question of why. The problem lies in the risks that humanity is facing related to water sources, especially clean and hygienic water sources to serve the essential needs of life. In particular, reports on the environment,¹⁵ population,¹⁶ and health

¹⁵ Report of the UN Water Conference, Mar del Plata, 14–25 March 1977, E/CONF.70/29, (1977)

¹⁶ UN Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992, Agenda 21, <<http://www.unep.org/Documents.Multilingual/Default.asp?documentid=52>>

conditions¹⁷ are premises showing that while the world's population is increasing, water resources are gradually decreasing, leading to the fact that there are billions of people around the world who do not yet have access to or full use of clean water and sanitation. Especially in the future, with the impacts of climate change, clean water, and sanitation sources will become even more scarce and difficult to access, leading to risks of social inequality related to exploiting, managing, supplying, and using clean water. Therefore, countries and international organizations have jointly studied the right to access clean water and sanitation as an independent right in international law to universalize the rights of all individuals to this essential resource to ensure the narrowing of the gap in social inequality. Besides, according to scholars, promoting the right to access clean water to become an independent human right also means encouraging countries to participate in

¹⁷ World Health Organization (WHO) (2012) Glass 2012 Report: UN-water global analysis and assessment of sanitation and drinking water – the challenge of extending and sustaining services.
<http://whqlibdoc.who.int/publications/2012/9789241503365_eng.pdf>

common agendas and commitments and work together. Joint action to solve global problems such as promoting basic human rights, responding to climate change, or protecting the environment.

Second, for the right to access clean water and sanitation to become an independent human right in international law, this right needs to ensure elements including comprehensiveness "comprehensiveness"; "legal bindingness"; and "selfstandingness".¹⁸ Accordingly, the right to access to clean water and sanitation is most clearly outlined through General Comment No. 15 of the Committee on Economic, Social and Cultural Rights dated 20 January 2003 (ESCR-Committee, General Comment No.15, June 20, 2003). Specifically: the document declares that everyone, on a non-discriminatory basis, has the right to adequate, safe, accessible, and affordable water of acceptable quality.¹⁹ Accordingly, water must be continuously supplied for personal and family use, especially for drinking, cleaning, washing clothes,

¹⁸ Pierre Thielbörger, *THE RIGHT(S) TO WATER - THE MULTI-LEVEL GOVERNANCE OF A UNIQUE HUMAN RIGHT* (2014), at 56.

¹⁹ ESCR-Committee, General Comment No. 15, par. 12.

food preparation, and personal and family hygiene. Water quality must meet WHO standards. Water accessibility requires that water be physically secured. Ultimately, water finance does not dictate that water must be provided for free, but that water access must be affordable for all, including vulnerable and marginalized groups. Finally, the document sets out obligations for states by calling for respect, protection, and ensuring the right to access clean water and sanitation.²⁰ In particular, core obligations need to be implemented through strategies, specific national action plans on water, or the establishment of monitoring systems on access to water sources, programs program to help the most vulnerable groups, and the necessary measures to reduce water-related diseases.²¹

In short, the right to access clean water and sanitation does not currently exist as an independent human right in the international legal system. However, from the above analysis, in the future, the

²⁰ ESCR-Committee, General Comment No. 15, par. 20 - 29.

²¹ ESCR-Committee, General Comment No. 15, par. 37.

right to access clean water and sanitation will be promoted to become an independent, binding international regulation, and will have many similarities with the contents of General Comment No. 15 (ESCR-Committee, General Comment No.15, 20 June 2003).

B. Current Status of the Right to Access Clean Water in Sanitation in Vietnam

The story of the right to access clean water in Vietnam is generally similar to what has been recorded in international practice. Currently, Vietnam is not ahead of the world in independently regulating the right to access clean water as a basic human right. Instead, the 2013 Constitution of the Socialist Republic of Vietnam recognizes regulations closely related to the right to access clean water and sanitation such as Article 34 on ensuring social security, or Article 44 on the right to live in a clean environment.

Specific regulations creating a legal framework to ensure the right to access clean water were established by Vietnam with the mindset of establishing the role of

the State in managing a type of natural resource through the 1998²² and 2012²³ Water Resources Management Law. These regulations set out the principles and responsibilities of the State in managing and ensuring equal access to water resources in general. However, it is not until actual demands, risks, and shortfalls in the ability to enjoy the right to access clean water are raised for a number of specific subjects - mainly people living in the area. rural areas, the new State officially develops regulations²⁴ and programs²⁵, as well as implements specific²⁶ measures to ensure

²² Art. 4 (1) of the Law on Water Resources – Law No. 08/1998/QH10 of the National Assembly.

²³ Art. 5 (3) of the Law on Water Resources – Law No. 17/2012/QH13 of the National Assembly.

²⁴ Decree No. 117/2007/ND-CP on production, supply and consumption of clean water; Decree No. 124/2011/ND-CP amending and supplementing Decree 117/2007/ND-CP; and, Circular No. 4/2021/TT-BTC Regulations on price framework, principles, and methods for determining domestic clean water prices.

²⁵ Decision 1978/QĐ-TTg approving the National Strategy for clean water supply and rural sanitation to 2030 with a vision to 2045. This is considered a breakthrough to improve the quality of domestic water in rural areas. The strategy sets goals, tasks, and solutions for rural water supply and sanitation towards sustainable development, ensuring social security for rural people, and gradually narrowing the gap between rural and urban areas. Urban areas contribute to building new rural areas.

²⁶ Decision 318/QĐ-TTg on the set of national criteria for new and improved rural communes for the period 2022-2025, strengthening and increasing the target of the proportion of rural people using clean water that meets standards.

equality in opportunities and access to clean water for people in rural areas.

Thus, from the perspective of human rights, Vietnam has been moving in a direction that is relatively consistent with international practice on the right to access clean water and sanitation. However, placed in the future context, when the right to access clean water and sanitation is recognized as an independent human right, Vietnam's current policies and regulations on ensuring the right to access clean water will. Some remaining problems arise as follows:

First, compared to the approach of a comprehensive and universal human right, Vietnam's current approach to ensuring the right to clean water is only limited to rural people - subjects identified as having limited ability to access and fully enjoy clean water and sanitation. Current policies and regulations only stop at the goal of narrowing the gap in living conditions between rural and urban areas - according to the motto "no one is left behind". However, this narrow approach is clearly not entirely reasonable, for example, implicitly excluding people living in urban

areas from the goal of ensuring the right to access clean water and sanitation. While these people may have difficulty enjoying this right, especially in the context of increasingly rapid urbanization, urban infrastructure has not yet met the essential basic needs of individuals, one of which is the need for clean water. In the future, Vietnam needs to redefine that the right to access clean water and sanitation must be given to every individual in society, regardless of whether urban or rural areas; at the same time, it will lead to an increase in the responsibility and role of the State in ensuring widespread equality in access to clean water and sanitation.

Second, because there is no comprehensive approach combined with the current management model, Vietnam has not yet built a system of policies and regulations to effectively manage and enforce issues surrounding human rights regarding access to clean water and sanitation. Currently, according to the Government's assignment of specialized tasks, each ministry advises on the development of policies, and regulations, and directly implements water

management from a separate perspective. Specifically, the Ministry of Construction proposes and pays attention to the aspects of construction, operation, and management of projects related to clean water distribution, or wastewater treatment in urban areas and industrial parks. Meanwhile, rural water issues are under the management of the Ministry of Agriculture and Rural Development. The Ministry of Health controls technical standards of water sources, water source quality, and diseases arising from water sources. The Ministry of Natural Resources and Environment focuses on managing surface and underground water resources and views water as a resource that is affected by climate change. The Ministry of Finance manages water consumption and water selling prices. Although this vertical management method has many advantages, it also has certain limitations, one of which is the lack of uniformity, sometimes overlap, and “stepping on each other's toes” in management.²⁷ In addition, due to the

²⁷ Overlap in standards on clean water quality provided for domestic use: Circular No. 01/2016/TT-BXD issued by the Ministry of Construction QCVN 07-1:2016/BXD which stipulates 21 water

lack of a strong common mechanism to control the coordination of agencies, accountability, or efficiency in management, exploitation, production, distribution, and consumption is currently lacking. Clean water in Vietnam is still a problem that has not been completely resolved.²⁸

Third, in the current roadmap for building and perfecting the law, Vietnam has included the issue of ensuring people's right to access clean water and sanitation in the project to develop the Law on Water Supply and Drainage.²⁹ Although the project to develop the Law on Water Supply and Drainage has focused on addressing 04 policy groups,³⁰ there are

indicators clean, while Circular 41/2018/TT-BY issued by the Ministry of Health has 99 water quality standards.

²⁸ Ministry of Construction, "Report: Summary of law enforcement in the field of water supply and drainage", Hanoi (2023).

²⁹ Ministry of Construction, "Report: Impact assessment of the proposed policy to develop the Water Supply and Drainage Law project", Hanoi (July 2023).

³⁰ "(1) Develop a synchronous, unified, and effective water supply and drainage system according to planning, orientation, strategy, and program; (2) Improve the quality of water supply and drainage services, innovate the management and operation model of water supply and drainage systems; (3) Ensure resources for investment and development of water supply and drainage; (4) Improve capacity, effectiveness and efficiency of state management of water supply and drainage." Report of the Ministry of Construction, "Proposal to develop a Law on Water Supply and Drainage" (July 2023).

still two issues that have not been thoroughly resolved, including (i) The draft has not applied the theory of public benefits in the distribution of water supply and drainage. Clean water is included in the current group of public assets and public services, so an effective public-private partnership model, or the problem of attracting private capital into this field, has no specific solution; (ii) Compared to the recommendations on the core obligations of countries in General Comment No. 15,³¹ the draft does not clarify monitoring systems on access to water sources, programs to help vulnerable groups.

V. CONCLUSION

In short, the right to access clean water and sanitation in international law is currently not regulated as an independent right in the system of basic human rights. However, with signs of this right being formed as a new practice, in the near future this right can completely become an independent human right.

³¹ ESCR-Committee, General Comment No. 15, par. 37.

In general, Vietnam has had directions and moves that are very consistent with the reality of the right to access clean water and sanitation in the present and the future. The Law on Water Supply and Drainage is currently still in the process of being developed, but with specific policies, principles, and goals, this Law, when officially promulgated, promises to completely solve the remaining problems mentioned above. However, within the framework of a study on international human rights law, the study will offer two additional suggestions for Vietnam in researching, preparing, contributing, and adapting to regulations on access rights. access to clean water and sanitation in the future.

Firstly, Vietnam needs to develop and encourage more research related to the right to access clean water and sanitation, not only because it will serve in the future when this regulation takes effect, but that even Vietnam can fully contribute to the process of proposing, building and perfecting this precise regulation at the international level. Vietnam's positive and proactive participation in environmental and

human rights initiatives in recent years has continuously strengthened our international position in the international arena. So, continue this process for the right to clean water and sanitation will be no exception. Furthermore, along with the goals of deep integration and owner's account, making the most of international legal tools to ensure the legitimate rights and interests of the Party and State of the nation and people in recent years have also required more in-depth research on international legal issues.

Secondly, Vietnam needs to have an appropriate foreign policy, especially based on impact assessments on human rights policies, including the right to access clean water and sanitation. By, in recent years Vietnam's position in the international arena has been continuously strengthened, special efforts should be made to help the efforts and components of national development at the same time as diversifying the multimedia diplomatic channel. However, there is a reality that cannot be changed: Vietnam is still often a victim of erroneous assessments of ensuring the enforcement of human rights. Meanwhile, with

international relations, whether or not to participate in international devices, or to be bound by common values such as human rights or not is always used as a form of right or effort to exert influence, even pressure, to achieve certain benefits. Therefore, Vietnam needs to have comprehensive and detailed impact assessments on the right to access clean water, from which to have appropriate scenarios and diplomatic solutions, avoiding putting itself in a difficult or disadvantageous position.³²

³² CESCR, General comment no. 14 (2000): The right to the highest attainable standard of health (Article 12), Geneva, United Nations (2000).

CESCR, General comment no. 15: The right to water, Geneva, United Nations (2002).

Committee on Economic, Social and Cultural Rights (ESCR-Committee) (1991) Fact Sheet No. 16 (Rev. 1),

<http://www.ohchr.org/Documents/Publications/FactSheet16rev.1en.pdf> (2002).

MW Jenkins & S Sugden, "Rethinking Sanitation: Lessons and Innovation for Sustainability and Success in the New Millennium," UNDP Human Development Report Office, New York (2006).

United Nations (UN), "The Millennium Development Goals Report 2009," United Nations, New York (2009),

http://www.un.org/millenniumgoals/pdf/MDG_Report_2009_ENG.pdf.

United Nations (UN), "The Millennium Development Goals Report 2012," United Nations, New York (2012),

<http://www.un.org/millenniumgoals/pdf/MDG%20Report%202012.pdf>.

United Nations Development Programme (UNDP), "Human Development Report 2006: Beyond Scarcity – Power, Poverty and the Global Water Crisis" (2006), <http://hdr.undp.org/en/media/HDR06-complete.pdf>.

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- United Nations Educational, Scientific and Cultural Organization (UNESCO), The 4th edition of the UN World Water Development Report (WWDR4) (2012) <http://www.unesco.org/new/en/natural-sciences/environment/water/wwap/wwdr/wwdr4-2012>.
- UN, Resolution Adopted by the General Assembly A/Res/54/175: The Right to Development, Geneva, United Nations (2000).
- UN, United Nations Sub-Commission on the Promotion and Protection of Human Rights, Res. 2006/10, Promotion of the realization of the right to drinking water and sanitation, 24 August 2006, UN Doc. A/HRC/Sub.1/58/L11, adopting the Draft Guidelines for the realization of the right to drinking water and sanitation (2005), UN Doc. E/CN.4/Sub.2/2005/25 (2006).
- UNCED, United Nations Conference on Environment and Development, Agenda, 21 (1992).
- UN GA, Resolution Adopted by the General Assembly On 28 July 2010 64/292: The Human Right to Water and Sanitation, Geneva, United Nations (2010).
- UN HRC, *Resolution Adopted by the Human Rights Council 15/9: Human Rights and Access to Safe Drinking Water and Sanitation*, Geneva, United Nations (2010).
- WHO, *Guidelines for Drinking-Water Quality* (4th ed.), Geneva, World Health Organization (2011).
- WHO & UNICEF JMP, *Progress on Drinking Water and Sanitation, 2014 Update*, Geneva, WHO Press (2014).
- World Health Organization (WHO), United Nations Children's Fund (UNICEF), Meeting the MDG Drinking Water and Sanitation Target: The Urban and Rural Challenge of the Decade (2006), http://www.who.int/water_sanitation_health/monitoring/jmpfinal.pdf.

LEGAL FRAMEWORK FOR ENSURING EQUITY AND HARMONIZING INTERESTS OF PARTIES IN LAND ACQUISITION FOR SOCIO- ECONOMIC DEVELOPMENT IN THE NATIONAL AND PUBLIC INTEREST IN VIETNAM

Cao Thanh Son¹

I. INTRODUCTION TO FAIR LAND ACQUISITION PRACTICES

Land for socio-economic development is primarily sourced from land recovered from individuals, households, and organizations. In Vietnam, this process results in significant job losses, about 700,000 farmers annually, due to the loss of approximately 72,300 hectares of agricultural land each year². The World Bank notes that modernization has exacerbated

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² Tuan, Nguyen Tran, *The Consequences of Expropriation of Agricultural Land and Loss of Livelihoods on Those Households Who Lost Land in Da Nang, Vietnam*, 9 ENVIRONMENTAL & SOCIO-ECONOMIC STUDIES 26 (2021).

poverty among farmers, drawing attention to the inequality created when land is transferred to investors without fair compensation to original landholders. Investors often gain unearned benefits from locational advantages, leading to disproportionate land rent gains and social instability. Marxist theory asserts that land rent should belong to the landowner. In line with this, legal frameworks in countries like the U.S. and Japan mandate just, proportionate compensation when land is requisitioned for public use. These systems emphasize fairness and recognition of additional damages such as relocation and loss of livelihood.

In Vietnam, compensation obligations arise when the State acquires land for public or socio-economic development purposes. However, the legal framework, particularly Clause 5, Article 3 of the 2024 Land Law, defines compensation narrowly as the reimbursement of the land use right value, without addressing assets or structures on the land. This limited scope reflects a management-focused perspective, treating “*land*” as the primary subject rather than the broader rights and losses of affected individuals. As a result, the law

overlooks critical elements of actual damages, such as livelihoods, built structures, or business disruptions. In contrast, compensation principles in countries like the United Kingdom follow the “*principle of equivalence*,” which requires damages to be assessed based on fair market value and to reflect all losses, “*no more, no less*.” Due to the absence of a comprehensive definition, the responsibility for interpreting and applying compensation measures has shifted to local authorities. This decentralization has led to inconsistencies across regions and uncertainty for affected landholders. Although compensation is fundamentally a civil law issue, the current approach remains administratively driven and lacks supporting legal documents that clearly define compensation standards in cases of land recovery for national or public interest. Ultimately, the existing legal framework does not fully protect the rights of those whose land is acquired, creating legal and social gaps in Vietnam’s land compensation system.³

³ Pham, Khanh Katherine, "Between a Rock and a Hot Place: Economic Development and Climate Change Adaptation in Vietnam," Master's thesis, Portland State University (2018).

To ensure fairness, equity, and proportionality in land compensation, the *Land Law 2024* should adopt a broader and more comprehensive definition of compensation. The current provision in Clause 5, Article 3, limits compensation to land use rights, failing to include damages related to assets on the land and other associated losses. A revised definition is proposed to include all forms of damage resulting from land acquisition, encompassing both land use rights and asset ownership, aligned with the principle of proportional compensation. This revision is essential in light of Vietnam's growing infrastructure needs. According to the World Bank⁴, Vietnam ranks among the lowest in the ASEAN bloc for infrastructure investment, posing a significant barrier to sustained development. In response, the State has increasingly relied on land acquisition as a tool for infrastructure and socio-economic development. Legal reforms such as the amendment of Article 79 of the *Land Law 2013* (now reflected in the 2024 version) and Clause 3,

⁴ The World Bank In Vietnam (2019), www.worldbank.org/en/country/vietnam/overview#1.

Article 54 of the Constitution have helped define the scope of land acquisition more clearly and prevent misuse.

However, implementation at the local level often falls short of policy intent. Many projects suffer delays and inconsistencies, affecting the livelihoods of displaced populations. The failure to fully exploit land as a productive resource highlights deeper issues in land governance, particularly decentralization without adequate oversight, and a lack of clarity regarding the roles of legislative, executive, and judicial bodies in land ownership and management. This situation raises a critical policy question: How can the State balance economic development goals with the rights and livelihoods of affected communities? As outlined in Clause 1, Section IV of the Party's guidance and *Resolution 18/NQ-TW (2022)*⁵, legal and policy frameworks must be reformed to align the interests of the State, land users, and investors. The goal is to

⁵ Resolution No. 18-NQ/TW (2022) on "Continuing to reform and improve institutions and policies, enhance the effectiveness and efficiency of land management and use, and create momentum for our country to become a developed country with high income," issued by the Central Executive Committee on June 16, 2022.

ensure efficient, transparent, and equitable land use that drives development while preventing waste and corruption. Although *Land Law 2024* makes progress, particularly in specifying cases for land acquisition related to public and national interest, significant gaps remain. These include the absence of a clearly defined concept and criteria for socio-economic development and land acquisition. While Article 91 introduces new mechanisms for compensation, support, and resettlement, its practical effectiveness is limited by these definitional shortcomings. Without clearly codified criteria, the State's ability to equitably manage land acquisition and mediate the competing interests of all stakeholders remains constrained⁶. Overall, while *Land Law 2024* reflects positive institutional reforms, its effectiveness will depend on closing conceptual and regulatory gaps, especially in defining socio-economic development

⁶ Phan Trung Hien & Dinh Thi My Linh, "Reforming Legal Regulations on Land Recovery for Socio-Economic Development in the National, Ethnic, And Public Interests" (2021), <https://www.tapchiconsan.org.vn/nghien-cu/-/2018/815971/doi-moi-cac-quy-dinh-phap-luat-ve-thu-hoi-dat-de-phat-trien-kinh-te---xa-hoi-vi-loi-ich-quoc-gia---dan-toc%2C-loi-ich-cong-cong.aspx>.

and ensuring proportional compensation. Strengthening these areas is essential for Vietnam to use land acquisition as a legitimate and equitable tool for national growth.

II. CURRENT LEGAL FRAMEWORK ON EQUITY IN LAND ACQUISITION

A. Determining Damages for Calculating Compensation When the State Recovers Land

Based on examining the operating methods of the industrial economy, in 1961, George Stigler introduced the theory of social cost problems, also known as the Coase theorem. According to this theory, he argued that activities related to socio-economic matters can all cause harm to third parties, even though they do not participate in that activity. Additionally, Arthur C. Pigou (1877–1959), a British economist famous for welfare economics theory, believed that solutions to the above problem require government intervention in imposing its authority on entities causing losses to others. Therefore, in the role of the State, it is necessary

to regulate so as to harmonize interests among parties in the relationship between parties, with losses of third parties, whether direct or indirect, caused by the damaging party needing State protection, ensuring adequate property compensation through the state or agreement⁷.

Under the *Land Law 2024*, the compensation mechanism continues to rely on a fixed list of damages eligible for compensation. While this approach offers administrative clarity, it risks limiting flexibility in practice. As a result, competent authorities may struggle to respond appropriately when damages arise beyond those explicitly listed in the legal framework.⁸ For instance, in the current legal provisions on housing and construction works, several gaps persist. There are no specific guidelines for proportionate compensation for houses of traditional or cultural value. Additionally, critical factors such as the location, area, design, and architectural uniqueness of housing and

⁷ Pigou, A. C., *THE ECONOMICS OF WELFARE* (1920).

⁸ Phan Trung Hien, *What You Need to Know about Compensation, Support, and Resettlement*, Truth National Political Publishing House (2018) at 321-322.

structures are not adequately considered during land acquisition. Comparatively, Australia's approach to land acquisition provides a more nuanced and equitable model. In Australian practice, compensation is determined based on the optimal use and condition of the property, taking into account various factors including design, materials, size, and purpose of use. Further, compensation reflects not only property value but also associated costs such as relocating business operations and re-establishing brand presence, including advertising costs.⁹

In practice, Vietnam's compensation mechanisms also suffer from inconsistency, particularly in relocation cost compensation for socio-economic development projects pursued in the national or public interest. Local regulations vary significantly across provinces. For example, seven out of sixty-three provinces calculate relocation costs based on distance brackets, while six compensate based on actual incurred expenses. Eight provinces determine

⁹ Tran Vang Phu, *Determining Compensation Value for Houses and Construction Works When the State Recovers Land*, STATE AND LAW JOURNAL No. 2/2018 (2018).

compensation according to house type and construction area, while thirty-two provinces use administrative divisions (commune, district, or provincial level) to assign compensation amounts ranging from 2,000,000 to 15,000,000 VND. Alarming, ten provinces provide no compensation for relocation costs at all¹⁰. These inconsistencies reveal a broader issue of legal fragmentation and inequity in Vietnam's land acquisition practices. Without a uniform and comprehensive compensation framework that reflects the real value of losses incurred—both material and non-material—affected individuals are unlikely to receive fair and proportionate redress.

Comparing this issue with experience from Australia, under Article 55 of the WA Land Administration Act 1997, compensation is determined according to the principle of “value to owner,”

¹⁰ Nguyen Dac Nhan, “Looking Back at 10 Years of Implementing Resolution 19-NQ/TW: Current Situation of Land Recovery, Compensation, Support, and Resettlement Work,” (2022) <https://baotainguyenmoitruong.vn/nhin-lai-10-nam-thuc-hien-nghi-quyet-19-nq-tw-bai-2-thuc-trang-cong-tac-thu-hoi-dat-boi-thuong-ho-tro-va-tai-dinh-cu-333906.html>.

recognizing that compensation levels are higher than market value. Value to owner includes: Market value of affected interests; special value due to ownership or use of recovered land; damage due to land plot division; damage from noise or other damages. The price for calculating compensation is the current market price, decided by the management agency with advice from the head of the valuation agency. Damages are determined as the amount of money that the property could be sold for voluntarily and readily at a specific time.¹¹ Unlike laws in some developed countries, our country's law has not yet widely recognized cases of damage compensation occurring even when the land is not recovered.¹² This is because when determining compensation, our country defines the scope "according to legal provisions." Unforeseen damages will fall outside this scope. Additionally, Vietnam's forecasting mechanism is limited only to damages during the land acquisition process, with

¹¹ Ministry of Natural Resources and Environment, "Foreign Experience in Land Management and Law" (Sep. 2012), at 19-20.

¹² Phan Trung Hien, *Law on Compensation and Site Clearance in Vietnam – Balancing Interests between the State and the People's Interests*, 10 JOURNAL OF SCIENCE OF CAN THO UNIVERSITY 114 (2018).

intangible damages, or damages from when land acquisition notices are issued (before land acquisition), or damages after the land acquisition process, not being calculated.

In practice, many land acquisition cases for socio-economic development and public interest continue to experience inadequate damage assessments and unfair compensation, leading to legal disputes. A notable example is found in Judgment No. 232/2023/HC-PT by the High People's Court in Ho Chi Minh City. In this case, the People's Committee of Ninh Kieu District issued Decision No. 385/QD-UBND to acquire the entirety of Mrs. P's land. During discussions with the relevant authorities, Mrs. P requested full compensation for a 154.2 m² differential land area that she had stably used. The land had no disputes or encroachments and had been developed with residential structures and perennial trees. She also raised concerns regarding resettlement arrangements. However, in Notice No. 129/TB-HDBT dated June 24, 2019, the Compensation and Resettlement Council informed her that while the land was recognized, she

would receive only 60% of its value as support rather than full compensation. Dissatisfied, Mrs. P filed a formal complaint. Since the Chairman of the District People's Committee failed to resolve her grievance, she initiated legal action to compel a response. The Can Tho City People's Court issued a first-instance administrative ruling (No. 11/2020/HC-ST on July 8, 2020), which upheld the local authority's position.

Mrs. P appealed the decision. The appellate court overturned the lower court's judgment, determining that her case did not fall under the exceptions outlined in Clause 4, Article 12 of Decree 47/2014/ND-CP. It found that she had been using the land since at least 1987 without any administrative violations, with permanent structures and long-term crops in place. Despite the absence of a formal Land Use Right Certificate, her use of the land was considered stable and legitimate. Consequently, the appellate court ruled that she was entitled to 100% compensation for both the residential land and the land with perennial crops. This decision was based on Clause 1, Article 20 and Article 21 of Decree 43/2014/ND-CP, Article 6 of

Decree 47/2014/ND-CP, and Clause 1, Article 75 of the Land Law 2013. The court rejected the initial ruling and annulled the administrative decision of the Can Tho City People's Committee.

This case underscores the inadequacy of existing compensation frameworks in Vietnam and highlights the need for more structured and equitable damage determination. Scholars argue that damages in the context of state land acquisition should be categorized more clearly to improve precision and fairness. These categories include damages to land, property, and business; tangible versus intangible damages; material and emotional damages; and damages incurred before, during, and after the acquisition process.¹³ Rather than subsuming the idea of damages within the broader concept of compensation, Vietnamese law should articulate a distinct legal concept: “damages when the State recovers land.” Additionally, the identification of those who suffer damage should be clarified into two primary groups: Group 1, comprising persons whose

¹³ Phan Trung Hien, *Determining Damage and Compensating for Damage When the State Recovers Land*, 10 LEGISLATIVE RESEARCH JOURNAL 15 (2016).

land is directly recovered, and Group 2, consisting of those indirectly affected by the acquisition process. In all instances of land recovery for socio-economic development, it is imperative that authorities calculate all damages, both tangible and intangible, accurately and comprehensively. This includes damage to land users and to assets attached to the land. Furthermore, current support policies should be eliminated. Once all forms of damage are properly quantified, there is no longer a justifiable need for separate support regulations, as comprehensive compensation will already encompass these concerns.¹⁴

B. Interest Regulation Through Forms of Compensation

The implementation of industrialization and urbanization creates significant pressure on mandatory land transfer mechanisms, with those losing land tending to become impoverished due to loss of livelihood, while investors receiving land obtain

¹⁴ Pham Phuong Nam & Bui Nguyen Hanh, *Policy To Ensure 'Farmers Have Fields' In Using Agricultural Land By Applying High Technology*, 17 JOURNAL OF NATURAL RESOURCES AND ENVIRONMENT 15 (2021).

considerable land value. From the above analysis, expert Dr. Pham Sy Lien argues: “If land acquisition does not pay attention to protecting people's assets on land, it leads to abuse in land acquisition, prone to corruption because the scope of applying land acquisition methods is too broad, many projects are difficult to justify as being for national interests or public interests.”¹⁵ In the context of economic development, the exercise of land acquisition rights has the potential to create surplus value that only benefits the final property owner, not the original owner. If the surplus is greater than the cost of land acquisition, it means the organization receiving land use rights will obtain the surplus, which motivates them to persuade the government to implement land acquisition on their behalf, even when the recovered land area only serves private interests. Therefore, laws in developed countries like the UK and the US require courts to carefully consider when using mandatory

¹⁵ Pham Sy Liem, “On Some Institutional Issues in the Land Law,” *Conference proceedings: Evaluating some limitations in implementing the 2013 Land Law and proposing improved solutions*, Vietnam Union of Science and Technology Associations, Hanoi (Nov. 16, 2017), at 8-10.

land expropriation powers for public interest when “one or a few people will obtain surplus value.”¹⁶

Based on the Report on Results of the Project to Improve Mechanisms, Policies, and Laws on Land Acquisition, Compensation, Support, and Resettlement to Accelerate Site Clearance Progress for Investment Projects by the General Department of Land Administration (2018), the total area of land recovered for investment projects was 2,188,577.22 hectares (from 2014 to 2018), including 1,594,485.38 hectares of agricultural land, 591,787.73 hectares of non-agricultural land, and 2,304.11 hectares of unused land (compiled from 42 out of 63 provinces and centrally-governed cities). Overall, the recovered land area has met socio-economic development objectives and ensured local defense and security. The implementation of land acquisition has been closely directed by People's Committees at all levels, whereby the recovered land area has basically met the demand

¹⁶ Elizabeth F. Gallagher, Breaking New Ground: “Using Eminent Domain for Economic Development”, 73 FORDHAM L. REV. 1837 (2005), <https://ir.lawnet.fordham.edu/flr/vol73/iss4/13>.

for “clean land” to implement investment projects, especially projects serving public purposes.

From 2015 to 2019, land-for-land compensation was implemented over 13,022.83 hectares, including: 250.50 hectares of residential land compensation, 12,636.63 hectares of agricultural land compensation, and 135.71 hectares of non-agricultural land compensation. Additionally, compensation in localities for those whose land was recovered was mainly implemented through cash payments. To date, provinces have made cash payments totaling 46,896.48 billion VND (residential land compensation: 16,344.63 billion VND, agricultural land compensation: 25,282.70 billion VND, and non-agricultural land compensation: 4,377.26 billion VND).¹⁷

Through consultation with a research sample of 540 households whose land was recovered for socio-

¹⁷ Nguyen Dac Nhan, “Looking Back at 10 Years of Implementing Resolution 19-NQ/TW: Current Situation of Land Recovery, Compensation, Support, and Resettlement Work” (2022) <https://baotainguyenmoitruong.vn/nhin-lai-10-nam-thuc-hien-nghi-quyet-19-nq-tw-bai-2-thuc-trang-cong-tac-thu-hoi-dat-boi-thuong-ho-tro-va-tai-dinh-cu-333906.html>.

economic development purposes in 2020, including 188 households in Hanoi, 177 households in Ho Chi Minh City, and 175 households in Da Nang. The questionnaire used a 5-point Likert scale. Research results show that people's satisfaction level with compensation and support when the State recovers land for economic development and community service purposes remains generally low at 2.54 points; people's perception of land compensation prices averaged 2.32 points; charges in life after state land acquisition compared to expectations were not highly rated at 2.45 points.¹⁸

To address this, Article 83 of the 2024 Land Law diversifies forms of land compensation. Compared to the 2013 Land Law, where those whose land was recovered could only receive compensation with land of the same use purpose or cash compensation, the 2024 Land Law provides more diverse compensation forms for those whose land is recovered, such as: compensation with land of the same use purpose as the

¹⁸ Doan Ngoc Phuong, "People's Satisfaction with Compensation and Support When the State Recovers Land," 12 JOURNAL OF ECONOMICS AND FORECASTING 105–108 (2021).

recovered land type, cash compensation, compensation with land of different use purpose from the recovered land type, or housing compensation if the person whose land is recovered has such needs and the locality has land fund conditions (previously regulated as same-purpose land or cash); simultaneously stipulating that those whose residential land is recovered are prioritized to choose cash compensation if needed and must register when establishing compensation, support, and resettlement plans.

However, inadequacies still exist around this issue as Clause 2, Article 91 of the 2024 Land Law does not clarify the principles of land compensation when the State recovers land, whether such acquisition must be “equivalent to market price,” “approaching market price,” or “consistent with market price” - this remains unclear, while previous land laws had clearly institutionalized land compensation principles. Similar to Vietnam, countries like the US, UK, India, and China are also gradually diversifying compensation forms. However, these countries have institutionalized compensation principles as fairly and equally as

possible. For example, in the US: Those whose land is recovered receive an amount equivalent to the market value of the affected land and property. According to the Fifth Amendment of the U.S. Constitution, the government may only recover private land for public purposes if there is “Just Compensation”.

In practice, “Just Compensation” is commonly understood as the current market value of the property at the time of acquisition.¹⁹ Additionally, many countries have indirect compensation policies through shares and project benefits (Equity or Benefit-Sharing Compensation), whereby people can receive shares or profits from projects using recovered land, instead of just receiving a one-time payment. For example, in Tanzania, this country allows benefit sharing in the mining sector - Tanzania has applied fair benefit-sharing principles in mining, allowing local communities to benefit from projects through revenue

¹⁹ U.S. Constitution – Fifth Amendment: “...nor shall private property be taken for public use, without just compensation.”
<https://www.archives.gov/founding-docs/amendments-11-27#toc-amendment-v>

sharing and other forms of support.²⁰ Or in South Africa, allowing those who lost land to have joint ownership in the Makuleke ecotourism project: After having land ownership rights restored, the Makuleke community partnered with tourism companies to develop eco-resorts in Kruger National Park. They received employment, training, revenue percentages, and gradual ownership rights in these projects.²¹

Although not yet complete, the diversification of compensation forms under the 2024 Land Law has demonstrated the Party and State's spirit regarding appropriate compensation work for those whose land is recovered. However, the principle of ensuring market-price compensation is only stipulated for actual damages to houses, residences, and construction works in Clause 4, Article 102; and for damages to crops and livestock in Clause 6, Article 103 of the 2024 Land Law. This will significantly affect damage

²⁰ Natural Resource Governance Institute – Equitable Sharing of Mining Profits: The Best Deal for Tanzania?, <https://resourcegovernance.org/publications/equitable-sharing-mining-profits-best-deal-tanzania>.

²¹ Makuleke Ecotourism Project (2018), https://www.peoplenotpoaching.org/makuleke-ecotourism-project?utm_source=chatgpt.com

compensation work in the future. Because in reality, although laws previously institutionalized land compensation principles, practical application shows that in the land allocation process for investment project implementation in Da Nang, with plots A2 and A3 under the Son Tra-Dien Ngoc Resettlement Area project, Da Nang City decided on a compensation price of 2,570,000 VND/m² for affected households, with total compensation of 25 billion VND for plot A2 and 63 billion VND for plot A3²². One month after being allocated land by the Da Nang People's Committee, the enterprise transferred the project to a new investor. Accordingly, the value of plot A2 became 133 billion VND - a difference of 107 billion compared to the original price.²³

²² Chau Hoang Than, *Improving Legal Regulations on the Process of Determining Specific Land Prices*, 12 LEGISLATIVE RESEARCH JOURNAL 28–31 (2020).

²³ Inspection Conclusion Notification No. 160/TBKL-TTCP, by the Government Inspectorate, on the responsibility of the Chairman of Da Nang City People's Committee in complying with laws on Inspection, Complaints, Denunciations and Anti-corruption; inspection of some investment projects using land; public disclosure of the content of the Prime Minister's directives on post-inspection handling (Jan. 17, 2013) at 5.

C. Interest Balance Through Determining Land Prices for Compensation Calculation

In the classic work “The Wealth of Nations”, Adam Smith - the father of modern economics - affirmed the crucial role of land in creating national prosperity.²⁴ From this, when land is transferred from one owner to another, they should naturally have their rights preserved as land users. However, in reality, they may have their fields taken back and land transferred to another owner, and damage compensation for land tenants never equals the actual damage.²⁵ In his work, Adam Smith proves that there still exist cases of power abuse and unfair land policies, leading to inappropriate and unfair allocation of land resources.²⁶ Therefore, the state plays the role of land management agency, responsible for regulating the interests of parties to

²⁴ “The produce of land constitutes the most important and primary source of revenue for every society.” Adam Smith, *THE WEALTH OF NATIONS*, Book I, Chapter XI (1776).

²⁵ Adam Smith, (S. M. Soares, Ed.) *AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS – Books I, II, III, IV and V*, MetaLibri Digital Library (2007), at 405.

²⁶ Adam Smith, *THE WEALTH OF NATIONS*, Book IV, Chapter VIII (1776): “Where the law gives privilege or monopoly over land, it distorts the natural process of wealth creation.”

align with society's common interests in determining land prices for damage compensation calculation.

Accordingly, based on Clause 3, Article 112 of the 2013 Land Law, when the State recovers land for socio-economic development in national and public interests, the land price for compensation calculation “must be consistent with prevalent market land prices.” This is still somewhat imposed, as specific land price determination largely tends to be lower than market prices.²⁷ “At most, it only reflects relative nature, because market prices have many fluctuations.”²⁸ Compensation value determination is based only on the current land use status, not considering land value increases after the State recovers people's land and investors implement projects. In reality, the State's land price framework only equals about 20%-30% of market land prices. Provincial land price frameworks also only equal 30%-60% of local market land prices. This leads to a situation where, during land acquisition,

²⁷ Luu Quoc Thai, *LEGAL ISSUES REGARDING VIETNAM'S LAND USE RIGHTS MARKET* (2016), at 36.

²⁸ Phan Trung Hien, *Determining Land Prices for Calculating Compensation When the State Recovers Land*, (1+2)/2017 LEGISLATIVE RESEARCH JOURNAL 98-99 (2017).

compensation land prices are far below market prices.²⁹ Specifically, with Judgment 345/2022/HC-PT dated May 17, 2022, regarding complaints about acquisition decisions and compensation support during land acquisition, tried by the High People's Court in Ho Chi Minh City, the judgment content shows that Ms. Nguyen Thi D sued Phan Rang-Thap Cham City People's Committee (Ninh Thuan) regarding the acquisition of 1,481.2 m² of land and applying a compensation price of 70,000 VND/m² for perennial crop land with housing in the city center. She argued that the compensation price was inappropriate and requested cancellation of the acquisition and compensation decisions.³⁰

Explaining why land compensation prices have not approached market prices, some scholars provide various reasons. Among these, the timing for

²⁹ Hoang Kim Huyen & Nguyen Thi Ngoc Ha, Causes of failure of the policy mechanism for regulating land value increment in Vietnam, Proceedings of the National Scientific Conference: Resolution 18/NQ-TW/2022 and issues raised in amending the 2013 Land Law, National Economics University, National Economics University Publishing House, Hanoi (2022) at 165.

³⁰ Judgment 345/2022/HC-PT, on the lawsuit against decisions on recovery, compensation, and support when recovering land (May 17, 2022).

determining specific land prices remains unclear, as Clause 2, Article 74 of the 2013 Land Law stipulates that the specific land prices are decided by provincial People's Committees at the time of land acquisition decisions. However, there are still no guiding documents for “the timing of land acquisition decisions”.³¹ To resolve these inadequacies, the 2024 Land Law was promulgated with 05 articles on land prices, compared to the 2013 Land Law with many innovations such as: (i) abolishing land price framework regulations; (ii) stipulating 05 land pricing bases in Clause 2, Article 158, specifically regulating land pricing methods including: comparison method, income method, residual method, and land price adjustment coefficient method, while assigning the Government to regulate other land pricing methods beyond these 04 methods after approval by the National Assembly Standing Committee; stipulating cases and conditions for applying land pricing methods; cases where applying land pricing methods

³¹ Phan Trung Hien, *Determining Land Prices for Calculating Compensation When the State Recovers Land*, (1+2) LEGISLATIVE RESEARCH JOURNAL 98-99 (2017).

to determine specific land prices yields results lower than land prices in the Land Price Table shall use prices in the Land Price Table; (iii) specifically stipulating principles, bases, and land pricing methods in Clauses 5, 6 of Article 158; (iv) separating content regulations on land price tables and specific land prices into 02 separate articles: Article 159 and Article 160; (v) stipulating land price table construction for each land plot based on value zones and standard land plots; (vi) stipulating Land Price Table Appraisal Councils and Specific Land Price Appraisal Councils.³²

Simultaneously, clearly stipulating that competent People's Committees must issue specific land price decisions within no more than 180 days from the time of land price determination for cases of State land allocation, land lease, land use purpose conversion permission, land use extension, land use term adjustment, land use form conversion, land allocation and lease decision adjustment, detailed planning

³² Chau Hoang Than, Land price regulations in the 2024 Land Law - New features and impacts, National Scientific Conference 2024 on Economics, Law, Management and Sustainable Development under the impact of the 2024 Land Law, University of Economics Ho Chi Minh City, National University Ho Chi Minh City Press (2024), at 410.

adjustment; For cases applying land prices in land price tables to calculate land use fees and land rental fees, competent People's Committees must record land prices in land allocation, land lease, land use purpose conversion permission, land use extension, land use term adjustment, and land use form conversion decisions.

The regulation expands the composition of the Specific Land Price Appraisal Council, which, in addition to specialized agencies under People's Committees, may invite representatives of land price determination consulting organizations and land price experts to participate as Council members, along with Vietnam Fatherland Front Committees at the same level and other socio-political organizations to participate in land price appraisal meetings to ensure independence and objectivity in the pricing process.³³ However, this regulation still has issues that need consideration:

³³ Le Minh Ngan, New points of the 2024 Land Law and some notes for the Justice Sector. Conference documents on disseminating and implementing the 2024 Land Law of the Justice sector, Hanoi (Mar. 22, 2024), at 15.

First, based on Decree No. 71/2024/ND-CP on land prices, this document has clarified the procedures and content for land price determination, specifically stipulating factors affecting land prices. Accordingly, factors affecting land prices for non-agricultural land include the location and position of land plots and areas; traffic conditions: width, road surface structure, adjacency to one or multiple road fronts; water supply and drainage conditions, electricity supply, etc. However, Vietnam has not yet developed a set of criteria for inspecting and evaluating specific land pricing work at the local level, leading to consequences where land price determination lacks consistency and equity between localities in methods and implementation procedures.

Through research conducted with 180 officials in localities such as Quang Ninh, Hai Phong, and Hai Duong, using multivariate linear regression analysis and AHP methods, the research team of Bui Thi Then, Bui Thi Cam Ngoc, and Dang Thi Hang designed a research scale including 05 criteria groups: (i) Principle compliance; (ii) Land pricing methods; (iii)

Evaluation of specific land pricing; (iv) Land price determination consulting organizations; (v) Infrastructure facilities. Research results show that the land pricing methods criteria group has the most influence on the inspection and evaluation of specific land pricing work at 34.8%; land pricing organization criteria at 24.9%; specific land prices at 24.5%; principle compliance evaluation criteria group at 10.5%; and infrastructure only accounts for 5.4%. This shows that to conduct land pricing objectively and fairly, issuing a set of criteria for inspecting and evaluating specific land pricing work at the local level is necessary in the current period.³⁴ This aligns with International Valuation Standards (IVS), issued by the International Valuation Standards Council (IVSC) and applied in over 100 countries. Among these, IVS 400, Real Estate Rights clearly stipulates factors affecting real estate value, including: Geographic location, Legal status, Infrastructure, Land use purpose,

³⁴ Bui Thi Then, Bui Thi Ngoc Cam, & Dang Thu Hang, *Developing Criteria for Inspection and Evaluation of Specific Land Valuation Work at the Local Level*, 52 JOURNAL OF NATURAL RESOURCES AND ENVIRONMENTAL SCIENCES 75 (2024).

Environmental conditions.³⁵ Additionally, according to RICS guidance, Global Valuation Standards, the Royal Institution of Chartered Surveyors (RICS) issued the Red Book, including global valuation standards incorporating IVS principles. RICS requires valuation experts to comply with strict valuation processes, including: Determining valuation purposes; Selecting appropriate valuation methods; Analyzing factors affecting real estate value; Reporting valuation results transparently.³⁶

Second, based on Clause 1, Article 158 of the 2024 Land Law, determining land pricing principles, the following principles must be ensured:

- a) Land pricing methods according to market principles;
- b) Compliance with correct methods, procedures, and land pricing processes;

³⁵ IVSC, New edition of the International Valuation Standards (IVS) published, <https://ivsc.org/new-edition-of-the-international-valuation-standards-ivs-published/#:~:text=Regularly%20updated%20by%20the%20IVSC's,for%20download%20through%20IVS%20Online>.

³⁶ RICS, International Valuation Standards (IVS), <https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/valuation-standards/red-book/international-valuation-standards>.

c) Ensuring truthfulness, objectivity, openness, and transparency;

d) Ensuring independence between land price determination consulting organizations, Land Price Table Appraisal Councils, Specific Land Price Appraisal Councils, and agencies or persons with authority to decide land prices;

e) Ensuring harmony of interests between the State, land users, and investors. Regarding this principle, it is noted that the market: although land pricing principles are based on market principles, the land use rights market in Vietnam is not yet truly complete and transparent, with most land transactions still occurring off-exchange, lacking complete information. Many “underground” transactions still exist, with declarations of prices lower than the actual reality, to reduce taxes and fees being common. Specifically: “In reality, in Hanoi City, there exists a situation where taxpayers declare real estate transfer prices in purchase contracts, transfer contracts, or tax determination declarations that do not match actual transactions, leading to under-declaration of obligations to the state

budget,”³⁷ which leads to the consequence that the database for determining market-based land prices is not yet accurate.

The lack of a synchronized, accurate, and timely updated land database is one of the major barriers to market-based land pricing. Although the 2024 Land Law has stipulated the construction of a national land database, to date, implementation has not been completely synchronized nationwide. According to information from the Ministry of Natural Resources and Environment, as of now, the national land database application model and software have been deployed in 63 provinces and cities, but only 32 localities have implemented synchronized and unified data structure connectivity with the Ministry's database. The remaining provinces have been operating but have not achieved complete synchronization.³⁸

³⁷ Tram Anh, What Does the Hanoi Tax Department Recommend If You “Falsely Declare” Real Estate Transfer Prices Lower Than Actual Selling Prices?, VnEconomy (2022), <https://vneconomy.vn/techconnect/lo-khai-gian-gia-chuyen-nhuong-bat-dong-san-thap-hon-gia-ban-thuc-te-cuc-thue-ha-noi-khuyen-nghi-gi.htm>.

³⁸ Hong Huong, *Towards Meeting National Land Database Standards* (June 2025).

Third, land compensation prices for land acquisition cases under Article 78 for national defense and security purposes and Article 79 for land acquisition for socio-economic development in national and public interests will essentially not differ in price determination principles, and both are calculated for damage compensation according to market principles and determined at the time of land acquisition decisions. However, in the author's view, although these 02 land acquisition cases are similar in content, serving community interests, the land acquisition case under Article 79 of the 2024 Land Law presents an intersection between economic and community factors, so land prices for damage compensation calculation should differ between these 02 cases.

When comparing experience in India, according to Article 22, Part 3 of the Land Acquisition Act, in cases where land is needed for economic development, the State calculates compensation according to the market value of land, and land damage will be considered to decide compensation levels at the time of land

acquisition notification. In addition to market price calculations, courts may consider adding 30% to the compensation value, as this is a case of mandatory land acquisition.³⁹ Referring to the same issue with experience in Taiwan, according to Taiwan's Land Acquisition Law 2000, real estate valuation needs to distinguish between land value and assets created on land. Land compensation prices are values at the time of land allocation, and compensation values for construction works on land are calculated according to replacement prices under equivalent conditions.⁴⁰ Through this, land compensation prices for public interest purposes in some countries have compensation calculations higher than the market prices. Because ultimately, this is a mandatory land transfer mechanism, which may go against land users' wishes.

Fourth, Taiwan has many similarities with Vietnam. The basic difference is that the authority to

³⁹ Ministry of Natural Resources and Environment, “*Foreign Experience in Land Management and Law*” (Sep. 2012), at 19.

⁴⁰ Dang Hung Vo, “International Experience in Land Price Management” (2012), <https://tapchitaichinh.vn/nghien-cuu--trao-doi/trao-doi-binh-luan/kinh-nghiem-quoc-te-ve-quan-ly-gia-dat-20380.html>.

decide land prices and compensation values belongs to valuation committees, comprising multiple decision-making members, not decided by administrative agencies, as in Vietnam. Notably, at the provincial level, there are specialized land price management agencies that assist local leaders, independent of financial management agencies and land management agencies. Vietnam can consider Taiwan's experience in applying mechanisms for assigning responsibility for market-based land price decisions and compensation levels to a land price valuation committee. Laws can assign various tasks related to land prices to this committee, such as resolving land price disputes and handling land price complaints.⁴¹

⁴¹ Dang Hung Vo, "International Experience in Land Price Management" (2012), <https://tapchitaichinh.vn/nghien-cuu--trao-doi/trao-doi-binh-luan/kinh-nghiem-quoc-te-ve-quan-ly-gia-dat-20380.html>.

D. Balancing Interests Through Support Policies

1. Support Policies for Training, Career Transition, and Job Seeking

In the context of rapid urbanization, industrialization, and the implementation of socio-economic development projects, the acquisition of agricultural land has significantly impacted the livelihoods of a portion of the population. To ensure the legitimate rights and interests of those whose land is recovered, the State has issued support policies for vocational training, job transition, and seeking new employment opportunities. These policies not only help people adapt to new socio-economic conditions but also promote sustainable labor restructuring, improve human resource quality, and contribute to social security stability in localities where land acquisition occurs. However, while on average, each hectare of recovered land affects the employment of 10 workers⁴², research by the Vietnam Academy of Social

⁴² Pham Thu Thuy, *Solving Employment and Protecting Sustainable Livelihoods for People Whose Agricultural Land Is Recovered*, 4 JOURNAL OF LEGAL STUDIES 56 (2023).

Sciences shows that: “only about 10% of farmers whose land was recovered found new employment, nearly 60% of workers whose land was recovered continued with agriculture; nearly 30% of workers whose land was recovered had jobs but were unstable (working as construction assistants, scrap dealers, motorcycle taxi drivers, etc.). What is concerning is that 53% of households experienced reduced income compared to before land acquisition, and only 13% of households became better off.”⁴³

To address this issue, Articles 108 and 109 of the 2024 Land Law provide additional support provisions for those whose land is recovered. New regulations include support for training, career transition, and job seeking for vulnerable groups with limited working capacity such as individuals under social protection, monthly social allowance beneficiaries, war invalids, sick soldiers, and families of martyrs; support for relocating livestock for households; and amendments to career transition and job seeking support regulations

⁴³ Tran Thi Minh Ngoc, *Employment of Farmers in the Process of Industrialization and Modernization of the Red River Delta Region by 2020*, National Political Publishing House, Hanoi (2010), at 123, 124.

by removing the “working age” condition for “individuals directly engaged in agricultural production.” These are new provisions aimed at facilitating propaganda and mobilizing people to comply with land acquisition policies, demonstrating the coordination of various policies related to people's rights and interests.⁴⁴ Regarding the mechanism for balancing interests through support policies, certain obstacles still exist:

First, the law on support for training, career transition, and job seeking when the State recovers land for socio-economic development in national and public interest has been guided in Article 19, Section 4, Chapter II of Decree 88/2024/ND-CP. However, similar to the 2013 Land Law, the forms of support for training, career transition, and job seeking in Article 109 of the 2024 Land Law do not specify minimum land area conditions for acquisition. This leads to cases where only a few square meters of agricultural land are

⁴⁴ Do Thi Viet Ha, *Some new points of the Land Law: Important foundation for resolving difficulties and obstacles in practice in Bac Giang and solutions for organizing law implementation*, Document presented at the Conference on Dissemination and Implementation of the 2024 Land Law of the Justice Sector, Hanoi (Mar. 22, 2024).

recovered, yet beneficiaries still receive the same policy benefits as those significantly affected. Logically, this needs reconsideration, as in reality, people are not losing their livelihoods entirely. Additionally, Clause 2 of Article 109 of the 2024 Land Law states: “Cash support not exceeding 5 times the price of similar agricultural land in the local land price table for the entire area of recovered agricultural land, with the supported area not exceeding the local agricultural land allocation limit.” The law only quantifies the maximum support limit of not more than 5 times the agricultural land price, without indicating a minimum limit. This may lead to disparities in support amounts between localities.⁴⁵

When comparing law implementation at the local level, there is a lack of consistency and equity among subjects whose agricultural land is recovered. Specifically, according to Article 13 of Decision 54/2024/QĐ-UBND of Cao Bang Province on

⁴⁵ Phan Trung Hien, *Compensation, Support, Resettlement - Results from Surveying Households Whose Land Was Recovered in Can Tho City*, (In V.V. Thang, Ed.) *THE ROLE OF HIGHER EDUCATION IN SOCIO-ECONOMIC DEVELOPMENT* (2014), at 389-390.

compensation, support, and resettlement regulations when the State recovers land in Cao Bang Province, the support level is set at 3.5 times the agricultural land price; Article 9 of Decision 38/2024/QĐ-UBND of Nam Dinh Province issued on September 24, 2024, sets the support level for training, career transition, and job seeking at 3 times the agricultural land price; Article 14 of Decision 31/2024/QĐ-UBND of Quang Nam Province dated October 25, 2024, sets the support level at 3.5 times the agricultural land price. Specifically, Decision 45/2024/QĐ-UBND applicable to Bac Lieu Province sets the cash support level at 2.0 times the agricultural land price.⁴⁶

Second, upon closer examination, compensation and support policies designed to balance the interests of affected beneficiaries remain largely formalistic. These policies are typically reactive, meaning that support mechanisms are only activated when a type of damage is explicitly listed in the law. As a result, the

⁴⁶ Nguyen Thanh Phuong & Tran Thi Thu Van, *Law on Support for Training, Career Conversion, and Job Search in Cases Where the State Recovers Agricultural Land Under The 2024 Land Law*, 35 JOURNAL OF SCIENCE & DEVELOPMENT ECONOMICS 83-85 (2025).

deeper and longer-term socio-economic impacts of land acquisition on affected individuals, especially the disruption to livelihoods during and after displacement, are often overlooked or insufficiently addressed. To provide a more holistic and accurate basis for support, many countries have adopted the use of Livelihood Profiles. These profiles serve as structured frameworks for capturing detailed information about how households earn, manage, and sustain their economic lives. A Livelihood Profile typically includes data on both primary and secondary sources of income, whether derived from agricultural or non-agricultural activities. It also maps out how households organize their economic activities—what they produce, whom they sell to, and the level of income generated.

In addition, these profiles document household assets such as land, livestock, production tools, and the skills of laborers. They also assess key factors such as production and consumption costs, market access, credit availability, and access to vocational training. Through this comprehensive lens, the actual impact of

land acquisition on people’s lives can be quantified more effectively. In international practice, this data is often used as a basis for determining the extent of support required to maintain or restore livelihoods. The application of these criteria is typically summarized and operationalized using models such as those illustrated in Table 1.

Table 1: Criteria for Determining Support Based on Livelihood Disruption Due to Land Acquisition

Criteria	Before Acquisition	After Acquisition	Notes
Agricultural income	80% of the total income.	0%	Need vocational training support.
Total production assets	3 hectares of land, two tractors.	No land remaining.	Startup capital needed.
Other income assets	None	Freelance labor	Low income, employment support needed.

The application of livelihood profiles in the context of land acquisition holds significant value in accurately assessing damage beyond the mere measurement of recovered land area. By integrating livelihood data, the assessment process extends to capture disruptions to income sources, employment capacity, and overall household economic stability. This enables a more

nuanced understanding of the socio-economic impacts of land acquisition, ensuring that compensation and support measures are not only legally compliant but also substantively fair and effective. Livelihood profiles allow for differentiated support based on the severity of impact. Severely affected households, such as those that lose their primary or entire sources of income, can be identified as priority beneficiaries for comprehensive interventions, including vocational training, resettlement assistance, and job creation programs.⁴⁷ Conversely, households experiencing minimal disruptions may only require limited or no support. This stratified approach minimizes the inefficient allocation of public resources and avoids blanket compensation schemes that extend benefits to individuals or households that are only marginally affected.

Moreover, the use of livelihood profiles enhances post-acquisition monitoring by providing a structured

⁴⁷ Frimpong, A., *Factors Influencing the Effects of Large-Scale Land Acquisition on the Livelihood of Smallholder Farmers in the Pru District of Ghana*, 16 EUROPEAN SCIENTIFIC JOURNAL 1857-7881 (2020).

mechanism to track the recovery of livelihoods and assess the real-world efficacy of implemented support policies. Monitoring this trajectory ensures that assistance is adjusted responsively and that policy interventions remain aligned with ground realities. Several developing countries have already adopted livelihood profiling as a standard component of land acquisition frameworks. For example, Ghana has operationalized a Land Acquisition and Livelihood Policy Framework (LALPF) to guide its urban development and infrastructure projects. This framework has facilitated a comprehensive understanding of community-level livelihood systems, spanning agriculture, livestock, handicrafts, and other economic activities, thus enabling the identification of the most vulnerable populations.⁴⁸ Based on these insights, targeted compensation and support programs are designed to address actual needs, rather than relying on generalized assumptions. The Ghanaian

⁴⁸ Mensah, R.O. & Quansah, C., *Effects of Large-Scale Land Acquisition on the Livelihood Outcomes of Smallholder Farmers in the Pru District of Ghana*, 11 INTERNATIONAL JOURNAL OF BUSINESS AND SOCIAL SCIENCE 83-94 (2020).

experience demonstrates the practical utility of integrating socio-economic data into land governance. It highlights how evidence-based profiling can inform equitable compensation strategies and enable more adaptive, just, and sustainable resettlement outcomes.⁴⁹ As such, livelihood profiling should be viewed as a foundational tool in modern land acquisition processes, particularly in contexts where socio-economic resilience is tightly linked to land-based livelihoods.

2. Support Policies for Livelihood Stabilization When the State Recovers Land

Compared to previously, the 2024 Land Law has separated the support mechanisms for livelihood stabilization and production into two distinct provisions, instead of integrating them as before. Additionally, lawmakers have also removed the condition requiring land users to be directly engaged in

⁴⁹ World Bank, Land Acquisition and Livelihood Policy Framework (2020), at 12-14. Retrieved from <https://documents1.worldbank.org/curated/en/431721608298441576/pdf/Land-Acquisition-and-Livelihood-Policy-Framework.pdf>.

agricultural production to qualify for policy benefits. Accordingly, in Article 19 of Decree 88/2024/ND-CP, livelihood stabilization support has been specifically explained. From the provisions on conditions used as a basis for determining livelihood support amounts when the State recovers agricultural land, several observations can be summarized:

First, Decree 88/2024/ND-CP still maintains the spirit of the previous Decree 47/2014/ND-CP when establishing multiple land acquisition thresholds to ensure equity for land users. However, this change is not entirely comprehensive and does not fully meet social requirements. Cases may occur where households whose land acquisition is negligible still receive support policies (for example, losing $100\text{m}^2/200\text{m}^2$ will be converted to 50% of the existing agricultural land). Conversely, subjects with land acquisition areas many times larger may not be considered for support (for example, losing $3,000\text{m}^2/20,000\text{m}^2$ currently owned), showing that there will be cases of large land area loss, but the percentage conversion ratio over existing land area is

quite small. Therefore, this issue needs to be considered and corrected promptly.

Second, livelihood stabilization support regulations are determined according to each acquisition decision, showing that there will be cases affected by multiple different acquisition decisions. However, according to each land acquisition decision, the lost land is fragmented. Even though the total accumulated lost land area is quite large, according to each separate decision, it will not meet the ratio for support consideration.⁵⁰ Additionally, it is noted that in the Constitution and related laws concerning the rights, responsibilities, and obligations of cadres, civil servants, public employees, retirees, and monthly salary and allowance recipients from the budget, the law does not restrict rights nor prohibit these subjects from engaging in agricultural production. In practice, income from agricultural production is still a major, primary income source for many people receiving monthly salaries and allowances from the budget. The

⁵⁰ Phan Trung Hien, *What You Need to Know about Compensation, Support, and Resettlement When the State Recovers Land*, Truth National Political Publishing House (2021), at 265.

classification of support recipients according to Decree 88/2024/ND-CP needs more specific guidance.

Third, the support amount calculated based on rice prices, then converted to money, appears illogical, maintaining the thinking from the 2013 Land Law. If this were initially determined according to regional minimum wage levels, it would appear more reasonable and fair among subjects, given the fact that rice prices will have certain disparities.⁵¹ In essence, the term “livelihood stabilization” must encompass the most comprehensive values, such as eating, housing, transportation, entertainment, etc. Pricing based on rice value cannot reflect the core essence of support.⁵²

Fourth, the current law application regarding support lacks consistency and equity according to the principles in Article 91 of the 2024 Land Law. Specifically, Clause 2 of Article 19 of Decree 88/2024/ND-CP stipulates: “In cases where

⁵¹ Pham Van Vo, *The Issue of Support When the State Recovers Land Under the 2013 Land Law*, 1 JOURNAL OF LEGAL STUDIES, 63 (2015).

⁵² Nguyen Thanh Phuong, *Law on Support for Livelihood Stabilization When the State Recovers Agricultural Land, and Some Recommendations for Improvement*, 11 JOURNAL OF DEMOCRACY & LAW 332 (2019), at 42–47.

households and individuals currently using land as specified in Clause 1 of this Article have less than 30% of their agricultural land area in use recovered; households and individuals using land who do not meet conditions for land compensation or due to receiving contracted land for agricultural, forestry, aquaculture, or salt-making purposes from state-owned agricultural or forestry farms or agricultural and forestry companies converted from state-owned agricultural and forestry farms, agricultural production groups, agricultural cooperatives and having land use contracts, then the Provincial People's Committee shall decide the support level, support duration, and periodic support payment schedule appropriate to each specific case but not exceeding the support level specified in Clause 1 of this Article.” Previously, cases with land acquisition below 30% of the total area in use would not receive support or would receive different support mechanisms depending on each locality. However, according to the spirit of Clause 2, Article 19 of Decree 88/2024/ND-CP, cases with land acquisition below 30% of agricultural land area in use may still receive

livelihood stabilization support, provided it does not exceed the support level specified in Clause 1 of this Article. This regulation leads to the consequence that cases with land acquisition below 30% and cases with acquisition from 30-70% of agricultural land area may receive the same support.

This inconsistent regulation leads to consequences in local law application, where agricultural land acquisition cases below 30% of the area may still receive support policies similar to cases with acquisition from 30-70% of the area. Specifically, Article 10 of Decision 45/2024/QĐ-UBND of Bac Lieu Province stipulates: “Households and individuals currently using agricultural land as specified in Clause 2, Article 19 of Government Decree No. 88/2024/ND-CP having less than 30% of their agricultural land area in use recovered; households and individuals using agricultural land who do not meet conditions for land compensation or due to receiving contracted land for agricultural, forestry, aquaculture, or salt-making purposes from state-owned agricultural or forestry farms or agricultural and forestry companies converted

from state-owned agricultural and forestry farms, agricultural production groups, agricultural cooperatives and having land use contracts shall receive livelihood stabilization support for 6 months if not required to relocate residence and for 12 months if required to relocate residence; in cases requiring relocation to areas with difficult or especially difficult socio-economic conditions, the support period is 24 months.”

Sixth, one of the principles to be observed according to Clause 1, Article 91 of the 2024 Land Law is “public disclosure, in accordance with legal provisions.” However, when applied locally, this principle is still not ensured, as the law's application has not clearly distinguished specific support amounts. Specifically, for cases not meeting compensation requirements, the State may consider applying “other support” mechanisms. However, Article 16 of Decision 45/2024/QĐ-UBND of Bac Lieu Province regarding other support mechanisms still contains many inadequacies, when “other support”

encompasses production and business stabilization support, and livelihood stabilization support.

The above issue shows that localities have not clearly identified which subjects qualify for livelihood stabilization support policies and which subjects do not qualify and should be considered for other support. Local regulations lacking a scientific basis may lead to the consequence that all subjects whose agricultural land is recovered, regardless of the acquisition area, are calculated and considered for livelihood stabilization support policy benefits, which need to be reviewed and amended in the future.⁵³

III. RECOMMENDATIONS FOR EQUITABLE LAND ACQUISITION

A. Clearly Define Support Recipients and Compensation Criteria

Land acquisition for socio-economic development remains a highly sensitive and multifaceted issue,

⁵³ Danh Thanh Y, “Law on Support When the State Recovers Agricultural Land from Individuals – Practice in Hong Dan District, Bac Lieu Province,” Master’s thesis, Supervisor: Assoc. Prof. Dr. Phan Trung Hien, Mekong University (2025), at 56.

primarily because it involves balancing the interests of various stakeholders, particularly the rights and well-being of affected residents. One critical recommendation in addressing this challenge is the issuance of clear and specific regulations that define who qualifies as a support recipient. This should encompass not only individuals whose land is formally acquired but also those who are indirectly affected by the acquisition process. Implementing such a framework would represent a significant step toward enhancing equity, transparency, and public trust in the governance of land acquisition. For instance, Tran identifies a major gap in current practice to be: lack of clarity regarding eligibility for support, which has led to numerous cases where residents remain uncertain about their rights and entitlements. This ambiguity often results in prolonged grievances and complaints.⁵⁴ By explicitly defining support recipients—including people residing near acquisition zones who may not

⁵⁴ Tran, Cong Lap, *The Current Status of Compensation, Support, and Resettlement when the State Acquires Land for Socio-economic Development*, 6 INTERNATIONAL JOURNAL OF LAW AND POLITICS STUDIES 27 (2024).

hold formal land titles—legislation would empower residents to understand and assert their rights more confidently, while fostering broader community participation in the decision-making process. Such inclusivity helps reduce social tensions and preempt conflicts commonly associated with land acquisition.

Equally important is the need to establish precise and scientifically grounded criteria for determining damages. Compensation should not be restricted to the market value of the land alone but must also account for property loss, disruption to livelihoods, and less tangible yet significant effects such as psychological distress, cultural dislocation, and the erosion of community ties. Without well-defined and transparent criteria, compensation assessments risk appearing arbitrary or insufficient, thereby fueling dissatisfaction and opposition within affected communities.⁵⁵ Developing these standards through expert consultation and participatory research ensures that damage assessments are both rigorous and socially

⁵⁵ Johnson, Craig and Arpana Chakravarty, *Re-Thinking the Role of Compensation in Urban Land Acquisition: Empirical Evidence from South Asia*, 2 LAND 278 (2013).

legitimate. Furthermore, a fair and coherent compensation plan strengthens public confidence in the intentions and practices of governing institutions. When residents perceive that they are being treated with fairness and dignity—reflected in equitable compensation for the totality of their losses—they are more likely to cooperate with land acquisition processes. This cooperation, in turn, facilitates the smoother and more timely implementation of socio-economic development projects. Ultimately, introducing clear regulations on both support recipients and damage assessment will enhance the overall effectiveness of land acquisition policies. Beyond ensuring legal compliance, such measures serve to protect residents' rights, promote social stability, and support more sustainable and inclusive development outcomes.

B. Develop the Concept of “Damages from State Land Acquisition”

Land acquisition for socio-economic development represents a complex and often contentious process,

primarily due to the competing interests of various stakeholders, particularly those of the affected residents. A crucial step toward ensuring fairness and transparency in this process is the formulation of specific regulations that clearly define support recipients. These regulations should encompass not only individuals whose land is formally expropriated but also those indirectly impacted by the land acquisition process. Such clarity is vital in promoting equity and fostering greater public trust in land governance. At present, many affected individuals remain uncertain about their eligibility for support, which often results in prolonged grievances and disputes.⁵⁶ By clearly identifying all eligible support recipients, including those residing near, but not owning, the acquired land, laws can help residents better understand their entitlements and engage more effectively in the compensation process. This clarity reduces perceptions of bias or exclusion and minimizes social tension associated with land acquisition.

⁵⁶ Johnson, Craig and Arpana Chakravarty, *Re-Thinking the Role of Compensation in Urban Land Acquisition: Empirical Evidence from South Asia*, 2 LAND 278 (2013).

Equally important is the need for clearly defined criteria to determine the full scope of damages. Compensation must not be limited to the market value of land but should also account for damage to property, disruptions to livelihoods, and non-material losses such as psychological stress and cultural disintegration. Without such comprehensive and scientifically informed criteria, compensation processes may appear arbitrary or inadequate, exacerbating dissatisfaction within the affected communities.⁵⁷ Establishing such criteria through expert consultation and participatory research methods ensures that damage assessments are both credible and equitable. Moreover, a transparent and fair compensation framework plays a critical role in building trust between residents and government institutions. When communities perceive that they are being treated with dignity and fairness, evidenced by comprehensive and just compensation, they are more likely to cooperate with land acquisition initiatives.

⁵⁷ Tuan, Nguyen Tran & Gábor Hegedűs, *Land Compensation and Policy Enforcement in Vietnam: A Case Study in Danang*, 30 REAL ESTATE MANAGEMENT AND VALUATION 34 (2022).

This cooperation is essential for the efficient and timely implementation of development projects. Overall, the introduction of specific regulations that define support recipients and outline clear damage assessment criteria is not only a legal necessity but also a social imperative. These measures will enhance the overall effectiveness of land acquisition policies, safeguard the rights of affected populations, and promote inclusive and sustainable socio-economic development.

C. Regulating Interests Through Various Forms of Compensation

Applying diverse compensation methods in land acquisition is a critical recommendation aimed at safeguarding the rights of affected residents while promoting conditions for long-term, sustainable development. In the current landscape, where land acquisition processes are frequently met with public resistance, the pursuit of equitable and comprehensive compensation strategies has become more urgent than

ever.⁵⁸ These methods must go beyond traditional monetary compensation to encompass broader mechanisms that facilitate livelihood restoration and successful reintegration into the community. One such approach is land-for-land compensation, which offers displaced individuals an alternative form of restitution that preserves their productive capacity. Rather than receiving only financial compensation, affected individuals can be allocated equivalent land in other locations, allowing them to continue agricultural or other income-generating activities. This strategy not only sustains residents' livelihoods but also fosters a sense of continuity and security, reducing the psychological and economic shocks of displacement. Moreover, land-for-land compensation can mitigate large-scale rural-to-urban migration, thereby easing demographic pressures on urban infrastructure and public services.

Career transition support is another essential dimension of a modern compensation framework. The

⁵⁸ Kebede, Belaynesh & K. N. Singh, *Implication of Land Acquisition on the Livelihood Assets of Farm Households in Sebeta Hawas and Sululta Woredas of Oromia, Ethiopia*, 87 GEOJOURNAL 4491 (2022).

loss of land often entails the loss of a primary means of subsistence, particularly in agrarian communities. In such contexts, vocational training, entrepreneurship grants, and job placement services become crucial tools for resilience. These initiatives not only empower individuals to rebuild their economic lives but also contribute to the overall development of human capital in affected regions. By investing in residents' skills and employability, career transition support ensures that compensation is not merely reactive but developmental, equipping individuals with tools for long-term adaptation and growth. Equally important is the facilitation of access to financial support mechanisms. Affected residents often face challenges in securing capital to rebuild or re-establish their livelihoods. Government-backed support funds, preferential credit schemes, or low-interest loans can provide the necessary financial cushion during the transition period. When structured appropriately, these mechanisms create a favorable economic environment that reduces vulnerability and encourages self-reliance. This approach not only speeds up the post-acquisition

recovery process but also contributes to social stability and economic continuity within the community.

IV. CONCLUSION

Land acquisition for socio-economic development remains a complex process involving competing interests, particularly those of affected communities. To promote fairness and sustainability, it is essential to adopt a comprehensive understanding of damages, encompassing both material and non-material losses, and to implement diverse compensation methods such as land-for-land, livelihood restoration, and financial support. These approaches help protect residents' rights, support long-term livelihood recovery, and foster social stability. Equally, transparent monitoring and community participation are vital to ensuring fair implementation and building public trust. Together, these measures form the foundation for equitable and sustainable land acquisition practices.

VIETNAM'S ANTI-DUMPING LEGAL FRAMEWORK ON CORRELATION WITH INTERNATIONAL COMMITMENTS AND IN PRACTICE

Ho Ngoc Hien¹ and Le Lan Anh²

I. INTRODUCTION

Many countries must commit to removing or reducing non-tariff barriers while participating in trade liberalization and international economic integration. This has created a more open and favorable legal corridor for imported goods to have the opportunity to compete efficiently with domestic goods. The fact that imported goods have flooded the import market and, in some cases, are dumped has created pressure on output for the same or similar goods produced in the importing country's market, profits, and jobs, even

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causing damage to the similar manufactured goods of domestic manufacturers. Therefore, many countries have had to issue anti-dumping laws to protect their domestic production against the dumping of imported goods. The anti-dumping law is an inevitable need to protect domestic production from the unfair competition of dumping imported goods.

Most countries have developed anti-dumping legislation to implement it legally and effectively. Importing countries have the right to enact anti-dumping laws based on the general guidelines outlined in the World Trade Organization (WTO) Anti-Dumping Agreement (ADA). The contents of anti-dumping laws usually include several basic regulations, such as those on the determination of dumping, the assessment of material damage to domestic manufacturers in importing countries, the establishment of a causal relationship between dumping and material damage, specific anti-dumping measures, and the procedures for reviewing the application of anti-dumping tax. The anti-dumping

process is conducted in a specific order based on the anti-dumping laws of the importing country.

II. LITERATURE REVIEW

According to a World Bank Report by Bruce Yandle and Elizabeth M. Young on Dumping, Anti-dumping, and Efficiency, dumping is a form of price discrimination in international trade.³ It involves selling goods in the importing country's market at a lower price than the market price of the same goods elsewhere. From the perspective of consumers, the authors argue that increasing supply in the importing country's market benefits consumers, as they can buy goods at lower prices. They contend that low prices for goods should be encouraged and not punished. However, they also stress that dumping should not be used to clear domestic excess inventories or to weaken competitors. The debate over whether to allow dumping in international trade and whether anti-dumping measures are necessary continues to generate

³ Bruce Yandle & Elizabeth M. Young, World Bank Report (1987).

diverse opinions among researchers worldwide. Sharing Yandle and Young's view on not using anti-dumping measures, Raj Bhala, in his work "Rethinking Antidumping Law" from the College of William & Mary Law School, presents several arguments against such measures.⁴ Bhala believes that many businesses sell goods at low prices not to engage in unfair competition but to address routine business circumstances.⁵ His research emphasizes the need for global anti-dumping measures due to their anti-competitive and trade-restrictive nature.⁶ If other countries impose anti-dumping measures, they must also develop their policies.

Bruce A. Blonigen and Thomas J. Prusa, in their study "Antidumping," published by the National Bureau of Economic Research, report an increasing trend in anti-dumping cases and conclude that these measures are some of the most significant trade policy

⁴ Raj Bhala, "Rethinking Antidumping Law," College of William & Mary Law School (2002).

⁵ *Id.*

⁶ *Id.*

obstacles to international trade.⁷ Over the past 25 years (up to the time of their analysis), countries have increasingly used anti-dumping measures to protect their import-competing industries. Additionally, they point out that while anti-dumping policies have become a central research subject and are influenced by political and economic factors, the unique combination of political manipulation, incentives, and intrigue surrounding these instruments has sparked widespread research interest worldwide. In a study of recent US anti-dumping trends, Shelby Anderson, William Isasi, and David Lindgren, in “Trade Wars: Anti-Dumping And Countervailing Duty Trends,” analyzed the legal, strategic, and economic aspects of the administration’s trade policies.⁸ They assessed the implications of recent changes for the country and the global trading system. Their findings reveal that the aggressive use of anti-dumping measures and the enforcement of countervailing duties by the US are

⁷ Bruce A. Blonigen & Thomas J. Prusa, *Anti-dumping*, National Bureau of Economic Research, NBER Working Paper No. w8398, 7-8 (July 2001).

⁸ Shelby Anderson, William Isasi, and David Lindgren, “Trade Wars: Anti-Dumping And Countervailing Duty Trends” (2018).

creating new challenges for foreign companies and US importers.

Although the anti-dumping law is supposed to ensure fairness in international trade, it also serves other purposes. Developing countries like India and Brazil utilize anti-dumping measures to protect their nascent industries. Meanwhile, for developed countries, anti-dumping law acts as a tool to restrict market opening and limit penetration from developing nations.⁹ The anti-dumping law has become an essential legal instrument for both developing and developed countries to address acts of dumping of imported goods, ensuring a fair competitive environment, and, at times, serving as a means for countries to retaliate against one another. Based on the WTO's framework rules, countries develop procedures to identify practices deemed dumping and apply anti-dumping measures against imported goods.

The WTO Anti-dumping Agreement (ADA) provides specific provisions on anti-dumping

⁹ Vu Thi Nhu Hang, *Comparison of Anti-dumping Laws between Vietnam and the United States*, Master's thesis, Hanoi, 8 (2014).

measures promulgated by WTO members. The provisions of this Agreement are binding on all WTO members. In other words, each WTO member country has the right to enact and apply its anti-dumping laws, but must fully comply with the mandatory provisions on the content and procedures in the WTO's ADA regulation. The domestic legislation of each country may be specific, but must not be contrary to the relevant provisions of this Agreement of the WTO.

Member States are obligated to ensure that their regulations and enforcement related to anti-dumping measures are consistent with the principles of the ADA.¹⁰ Suppose it is found that a member country has a legal provision or its investigation agency that is, in fact, inconsistent with the provisions of the WTO. In that case, it may file a complaint against this to the WTO, and the WTO dispute settlement procedures will settle it.¹¹ As a member of the WTO, the anti-dumping

¹⁰ Bruce A. Blonigen & Thomas J. Prusa (2001).

¹¹ Nguyen Thi Thu Hien, *Anti-dumping Dispute Settlement within the WTO Framework and the Participation of Developing Countries and Vietnam- Theoretical and Practical Issues*, Doctoral thesis in jurisprudence, Hanoi, 37 (2014).

regulations in Vietnam are greatly influenced by WTO agreements, specifically the anti-dumping agreement.

III. METHODOLOGY

Based on multilateral agreements related to anti-dumping commitments that Vietnam has signed with international organizations such as the WTO, CPTTP, and EVFTA, it shows that Vietnam proactively participates in these mechanisms to ensure fair competition in international trade. Regulations on determining dumping actions and applying anti-dumping measures of the Anti-Dumping Agreement, the article sheds light on the specifics of Vietnam's current anti-dumping law related to the provisions on anti-dumping measures and the practice of applying these measures, thereby providing recommendations for Vietnam in solving anti-dumping lawsuits against the dumped imported goods in the Vietnamese market.

IV. RESULTS AND DISCUSSION

A. Vietnam's Participation in the International Anti-Dumping Legal System

On January 11, 2007, Vietnam officially became the 150th member of the WTO, also accepted the status of being a developing country, and was treated as a non-market economy. Since Vietnam has had full rights and obligations and enjoyed special and differential treatment for developing members in dispute settlement at the WTO to protect legitimate interests. By the end of November 2021, there were 41 disputes at WTO involving Vietnam, in which Vietnam plays the role as a complainant 5 cases (in which 4 cases involved in anti-dumping files), as a respondent 0 case(s), and as a third party 36 case(s). From there, the agreements under the WTO system will govern and regulate Vietnam's trade in goods, and the basic Agreement in the field of trade in goods is the 1994 General Agreement on Tariffs and Trade, often known as GATT 1994. One of the critical issues of

GATT is anti-dumping (Article VI), which is specified in the Anti-dumping Agreement (ADA).

1. Vietnam and the Anti-dumping Agreement (ADA)

Vietnam has committed to fully applying the provisions of the Anti-dumping Agreement from the date of accession to the WTO without any transition period. Vietnam ensures that any legal documents of Vietnam on the application of anti-dumping measures in force at the time of Vietnam's accession to the WTO are consistent with the WTO's provisions on anti-dumping. Moreover, Vietnam will only apply anti-dumping measures once the legal documents are entirely consistent with the provisions of the Anti-dumping Agreement.

The Anti-dumping Agreement provides for the following specific groups of issues: the first is the provision of content: which includes detailed provisions on how and criteria for determining dumping, damage, and causality between dumping and injury; the second is procedural regulations: including

provisions related to the investigation procedures for imposition of anti-dumping tax; the third is the provision of the procedure for settling disputes between member states concerning anti-dumping duties: the provisions of Article 17 of the ADP, including the rules applicable to the settlement of disputes between members of WTO concerning a member's measure of imposition of anti-dumping duty; the fourth is the regulation on the authority of the Commission on Anti-dumping Practices (Committee on Anti-dumping Practices): includes regulations on the membership, functions, and activities of the Commission in the process of administering on anti-dumping measures taken in member countries.

2. Vietnam and The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

Vietnam officially joined the CPTPP on November 12, 2018, and the Agreement took effect on January 14, 2019. The CPTPP Agreement consists of 07 Articles and 01 Appendix stipulating the relationship with the

TPP Agreement, which has been approved by 12 countries, including Australia, Brunei Darussalam, Canada, and Chile. The United States, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam signed on February 6, 2016, in New Zealand phosphorus, as well as handled other issues related to the validity, withdrawal from, or accession to the CPTPP. According to this Agreement, CPTPP countries commit to eliminating from 97% to 100% of import tax lines for goods originating from Vietnam, depending on the commitments of each country. Almost all of Vietnam's exports to other CPTPP countries will be eliminated as soon as the Agreement comes into effect or according to the schedule.¹² Accordingly, Vietnam will eliminate import tax on 66% of tariff lines as soon as the Agreement comes into effect and 86.5% of tariff lines after three years from the date of entry into force of the Agreement. The

¹² Kim Thi Hanh, *Completing the Anti-dumping Law*, LEGISLATIVE RESEARCH JOURNAL PUBLICATION, No. 22 (230) (Nov. 2012).

remaining items have a tax reduction schedule from 5 to 10 years.¹³

3. Vietnam and the EU-Vietnam Free Trade Agreement (EVFTA)

On June 30, 2019, Vietnam and the EU officially signed the EVFTA. The Agreement consists of 17 Chapters, 2 Protocols, and several memorandums of understanding, with the main contents being: trade in goods (including general provisions and commitments to open markets), rules of origin, customs and trade facilitation, food hygiene and safety measures (SPS), technical trade barriers (TBT), trade in services (including general regulations and commitments to open markets), investment, trade remedies, competition, state-owned enterprises, government procurement, intellectual property, trade, and sustainable development, cooperation and capacity building, legal issues institutional theory.

¹³ Nguyen Hop Toan, TEXTBOOK OF ECONOMIC LAW, National Economics University (2013).

Implementing commitments under this Agreement, "For Vietnam's exports, as soon as the Agreement comes into effect, the EU will eliminate import taxes on about 85.6% of tariff lines, equivalent to 70.3% export turnover of Vietnam to the EU. After 07 years from the date of entry into force of the Agreement, the EU will eliminate import tax on 99.2% of tariff lines, equivalent to 99.7% of Vietnam's export turnover. For the remaining 0.3% of export turnover, the EU committed to giving Vietnam a tariff quota with an import tax within the quota of 0%. Thus, nearly 100% of Vietnam's exports to the EU will be eliminated after a short roadmap. So far, this is the highest level of commitment that a partner gives to Vietnam in FTAs that have been signed. This benefit is significant when the EU is continuously one of the two largest export markets.

In contrast, Vietnam commits to eliminating tariffs for EU exports as soon as the Agreement comes into effect, with 48.5% of tariff lines (accounting for 64.5% of import turnover). Then, after seven years, 91.8% of tariff lines, equivalent to 97.1% of export turnover

from the EU, were eliminated by Vietnam. After ten years, the level of tariff elimination is about 98.3% of tariff lines (accounting for 99.8% of import turnover). For the remaining 1.7% of the EU's tariff lines, they apply a 10-year import tax elimination roadmap or tariff quotas according to WTO commitments (Nam VT, 2015).¹⁴

B. Anti-dumping Measures Regulations under the Vietnamese Legal System

Anti-dumping is one of the trade defense measures applied by the state to deal with the negative effects of dumped products in the market. The most commonly applied measure is to impose taxes to eliminate the “unfair” price advantage of these products. In recent years, Vietnam has actively participated in the process of deep international economic integration. In the international trade institutions of which Vietnam is a member, there are regulations on anti-dumping of imported goods. WTO has regulations in Article VI of

¹⁴ Tran Van Nam (Ed.), TEXTBOOK OF INTERNATIONAL COMMERCIAL LAW, National Economics University (2015).

GATT and the Anti-Dumping Agreement (ADA). Regional agreements and free trade agreements also have regulations on this issue. When participating in international trade transactions, Vietnamese goods may be investigated by the importing country and subject to anti-dumping measures. At the same time, Vietnam also has the right to investigate and apply anti-dumping measures to imported goods determined to be dumped.

In order to meet the requirements of the integration process and accession commitments, Vietnam has gradually built and perfected the legal framework on anti-dumping of imported goods. In 2004, Vietnam issued the Anti-Dumping Ordinance on Imports, providing the first legal basis for Vietnam to conduct investigations and apply anti-dumping measures on imported goods. In 2017, the Law on Foreign Trade Management 2017 was passed by the National Assembly, marking an important step forward in perfecting the law regulating international trade activities in general and in the field of anti-dumping on imported goods in particular. In the past 10 years, from

the anti-dumping case on imported stainless steel, Vietnam has also conducted additional investigations and imposed anti-dumping taxes. The practice of applying the law in this field shows that there are still certain limitations and shortcomings. Within the framework of the WTO, Vietnam has just participated in the process of resolving anti-dumping disputes as a plaintiff and a third party. However, in the context of Vietnam stepping up the application of trade defense measures in general and anti-dumping measures on imported goods in particular, Vietnam can completely become a defendant in lawsuits at the WTO. Therefore, it is necessary to study Vietnam's anti-dumping laws on imported goods and review them to ensure their compliance with WTO regulations and international trade institutions that Vietnam has participated in.

Regarding anti-dumping measures:

In Clause 2, Article 77 of the Law on Foreign Trade Management 2017 in Vietnam, anti-dumping measures include:¹⁵

(1) Application of anti-dumping duties

Anti-dumping tax is an additional import tax applied in cases where dumped goods imported into Vietnam cause or threaten to cause significant damage to the domestic manufacturing industry or prevent the formation of a domestic manufacturing industry.

Conditions for applying anti-dumping duties:

- Imported goods dumped in Vietnam, and the dumping margin must be specifically determined.
- The dumping of goods is the cause of or threatens to cause significant damage to the domestic manufacturing industry, or prevents the formation of a domestic manufacturing industry.¹⁶

(2) Commitment to eliminating dumping by organizations and individuals producing and exporting goods subject to anti-dumping measures with the Investigation Authority of Vietnam or domestic

¹⁵ Law on Foreign Trade Management, Article 77, Clause 2 (2017).

¹⁶ Law No. 107/2016/QH13, on Export and import duties, Article 4, 12 (Apr. 6, 2016); also, Law 05/2017/QH14 Foreign Trade Management in Vietnam.

manufacturers, if approved by the Investigation Authority.

Regarding conditions for applying anti-dumping measures:

Anti-dumping measures are applied to imported goods when all the conditions specified in Article 78 of the Law on Foreign Trade Management 2017 are met, as follows:¹⁷

- Goods imported into Vietnam are dumped with a specifically determined dumping margin, except for the case specified in Clause 2, Article 78 of the Law on Foreign Trade Management 2017;¹⁸
- The domestic industry is significantly damaged or is threatened with causing significant damage or preventing the formation of the domestic industry;
- There is a causal relationship between the import of dumped goods as prescribed in Point a, Clause 1, Article 78 of the Law on Foreign Trade Management 2017 and the damage to the domestic manufacturing industry as prescribed in Point b, Clause 1, Article 78 of the Law on Foreign Trade Management 2017.¹⁹

In addition, Clause 2, Article 78 of the Law on Foreign Trade Management 2017 stipulates: anti-

¹⁷ Law on Foreign Trade Management, Article 78 (2017).

¹⁸ *Id.* at Clause 2.

¹⁹ *Id.* at Clause 1(a) and (b).

dumping measures shall not be applied to imported goods with a dumping margin not exceeding 2% of the export price of goods to Vietnam.²⁰

At the same time, in the case of imported goods originating from a country with a volume or quantity not exceeding 3% of the total volume or quantity of similar goods imported into Vietnam and the total volume or quantity of goods originating from countries meeting the above conditions does not exceed 7% of the total volume or quantity of similar goods imported into Vietnam, these countries are excluded from the scope of anti-dumping measures.

Regarding measures to apply anti-dumping tax, according to Article 12 of the Law on Export Tax and Import Tax 2016, the conditions for applying anti-dumping tax are: Dumping import goods in Vietnam and the dumping margin must be specified; the dumping of goods causes or threatens to cause material injury to a domestic industry or prevents the formation of a domestic industry.²¹ In the principle of

²⁰ *Id.* at Clause 2.

²¹ Law on Export Tax and Import Tax, Article 12 (2016).

application: anti-dumping duties shall be applied only to the extent necessary and reasonable to prevent or limit significant damage to the domestic industry; the application of anti-dumping tax is carried out when the investigation has been conducted and must be based on the investigation concluded under the law; anti-dumping tax is applied to goods dumped into Vietnam; and the application of anti-dumping tax must not cause damage to domestic socio-economic interests. The time limit for the application of anti-dumping tax shall be at most five years from the effective date of the decision on the application. In case of necessity, the decision to apply an anti-dumping duty may be extended.

Regarding the measure of commitment, according to Clause 2, Article 81 of the Law on Foreign Trade Management 2017, after the preliminary conclusion and before the end of the investigation, the producer and exporter of the investigated goods can make a commitment to the Investigation Agency on the voluntary adjustment of the selling price or voluntary restriction of the volume and quantity of the

investigated goods exported to Vietnam.²² However, the investigating agency may accept, not accept, or propose to adjust the contents of the commitment based on consulting organizations and individuals representing the domestic manufacturing industry.²³

The commitment will include the following main contents: Scope of goods; the reference price includes self-determined price, price increase, price adjustment plan; periodic notification obligations; the obligation to cooperate with the investigating authority in the process of implementing the commitment; and other contents determined by the investigating authority to be appropriate. The above commitments will be considered based on: the application of the commitment is likely to remedy significant injury or threaten to cause significant damage to the domestic industry, or significantly prevent the formation of a domestic industry, of the domestic manufacturing industry; the current management mechanism can

²² Law on Foreign Trade Management, Article 81, Clause 2 (2017).

²³ Decree 10/2018/ND-CP (2018), detailing several articles of the law on foreign trade management on trade remedies.

effectively monitor the implementation of commitments; the ability to evade anti-dumping and anti-subsidy measures through commitments; and other factors that the investigating authority determines to be appropriate.²⁴

C. Anti-dumping Investigation Conducted by Vietnam on Imported Goods in Practice

Anti-dumping measures have been applied to protect the domestic industry and remove difficulties for Vietnamese enterprises' production and business. Accordingly, until the end of 2015, Vietnam had only investigated and applied two trade remedies for cooking oil and cold rolled stainless steel (stainless steel). However, only in the period 2016 to 2022, the Ministry of Industry and Trade of Vietnam initiated an investigation and applied 25 trade remedy measures to protect production activities of domestic manufacturing industries, specifically against products such as DAP/MAP fertilizer, monosodium glutamate (self-defense and anti-dumping), iron and steel

²⁴ Decree 10/2018/ND-CP (2018).

products such as billet, long steel, galvanized steel, section steel, colored corrugated iron, aluminum profiled bar, film BOPP, filament yarn, HFCS liquid sugar, cane sugar.

In September 2022, the Ministry of Industry and Trade applied temporary anti-dumping measures on some furniture products; it stopped applying safeguard measures to some DAP/MAP fertilizer products. In August 2022, anti-circumvention measures for several cane sugar products, anti-dumping measures on some welding materials products, and anti-dumping measures on some products were implemented. H-shaped steel products; In May 2022, stop applying anti-dumping measures for some galvanized steel products.

The Ministry of Industry and Trade issued Decision No. 132 on keeping the application of anti-dumping measures for several cold-rolled (cold-pressed) steel products in coils or sheets of Chinese origin imported into Vietnam. Thus, the above products are subject to anti-dumping tax rates ranging from 4.43 to 25.22%, depending on the specific product and export enterprises. Related to the above

case, on September 3, 2019, many domestic steel manufacturing enterprises submitted dossiers requesting anti-dumping investigations for some Chinese steel products imported into Vietnam. The Ministry of Industry and Trade has decided to investigate the case under regulations. The results show that, in some Chinese steel products, there are factors with anti-dumping actions of foreign manufacturers and exporters and the threat of material injury to the domestic industry. In anti-dumping cases, from 2013 to 2023, Vietnam has investigated 16 anti-dumping cases against goods imported from countries such as China, Korea, Thailand, Malaysia, and Indonesia, of which the majority of cases come from China.²⁵

The application of anti-dumping measures also caused the massive import growth of these products to decrease significantly. As for galvanized steel products, each year, imports doubled compared to the previous year; after applying anti-dumping measures,

²⁵ Trade Remedy Authority of Vietnam, Cases Documents (2023), <http://www.trav.gov.vn/?page=case-prosecute>.

the import volume decreased significantly. By using trade remedy measures, some enterprises have significantly improved their production and business situation, escaped losses, and gradually stabilized production, such as Hai Phong DAP Fertilizer Company and Viet Trung Steel Company.²⁶

However, some provisions of the law on the anti-dumping of goods imported into Vietnam are general and lack specific regulations that businesses can apply immediately without any further explanation. Vietnam's anti-dumping legal regulations are scattered in many legal documents; the content of these regulations is still a "framework," adjusting issues of principle without going into details. Besides, the anti-dumping investigation in Vietnam is still being conducted under international law, specifically the Anti-dumping Agreement, which has yet to be fully codified into the national law, for example, lack of provisions on articles of association. Specific

²⁶ VCCI, Lists of Anti-dumping Cases Conducted by the Vietnam Authority against Foreign Imports (2023, 2024), <https://antidumping.vn/download/f5898/thong-ke-cac-vu-dieu-tra-ap-dung-bien-phap-chong-ban-pha-gia-do-viet-nam-tien-hanh-voi-hang-nhap-kha.pdf>.

conditions and the way to calculate the normal value according to different calculation methods, the specific method of determining damage to the domestic industry, and regulations on the conditions for applying the measure of price.

In addition, the investigation process to apply anti-dumping measures takes a long time, causing domestic enterprises to suffer damage from dumping. Besides, Vietnamese enterprises often neglect anti-dumping issues and the damage it cause, so many dumping cases have been ignored. In addition, there are several reasons that the domestic industry does not submit a request for investigation to apply anti-dumping measures, such as enterprises in the industry cannot agree with each other in terms of benefits, in terms of responsibility for filing, or do not want their business information to be revealed.

V. CONCLUSION AND RECOMMENDATIONS

In the global trend, when tariff barriers of many countries are removed, in addition to having many market opportunities for Vietnamese products and

services abroad, Vietnamese businesses must also compete with each other to maintain their domestic market and market share. Therefore, building the anti-dumping law is a practical need for developing the country's economy. However, if the anti-dumping law is abused to protect the manufacturing industry, it will lead to a monopoly, causing damage to the economy and consumers; the competitiveness of this manufacturing industry will be destroyed, especially since this action will violate international commitments and agreements.

With the current Vietnamese legal system on anti-dumping, Vietnamese manufacturing industries can completely use the lawsuit to request the application of anti-dumping measures to deal with the phenomenon of foreign goods being imported at dumping prices in Vietnam, causing damage. However, to use this tool effectively, to improve Vietnam's anti-dumping regulations, some recommendations should be considered as follows:

Firstly, specific provisions on the case where the state agency initiates the dumping investigation by

itself without the enterprise applying, including provisions such as: which agency has the right to initiate an anti-dumping investigation by itself; procedures for initiating an investigation, and a competent authority to approve the self-initiation of an investigation.

Second, collect and prepare data and evidence regarding foreign goods being dumped (according to the prescribed calculation formula) and on the damage caused by such dumping to the manufacturing industry (with factors proving damage according to regulations) to ensure that the lawsuit is accepted. Fully prepare the necessary resources for the lawsuit (both financial and human) because legal proceedings are often lengthy, with high demands for evidence and arguments. The provisions regarding evidence in the investigation and application of anti-dumping measures need to clearly include the following contents: identify the source of evidence; procedures for handing over the evidence; procedures for verification and collection of evidence; on-site investigation procedures; procedures for soliciting expertise and examining evidence alleged to

be forged; and procedures for entrusting evidence collection.

Third, it is necessary to have an independent monitoring or consulting organization to advise the anti-dumping agency in some necessary cases.

VIETNAM'S CULTURAL DIPLOMACY WITH ASEAN (1995–2025): FROM THEORY TO PRACTICE AND LESSONS LEARNED

Mai Quoc Dung¹

I. INTRODUCTION

The 21st century marks a profound transformation in international relations, where non-traditional factors, particularly culture, are increasingly asserting their strategic position and importance. Cultural diplomacy, inherently an exchange, interaction, and promotion of cultural values between nations, has evolved beyond mere cultural exchange activities to become a sharp instrument in foreign policy. Joseph S. Nye Jr., a pioneer of the “soft power” concept, emphasized that: “Soft power is the ability to get what you want through attraction rather than coercion or payment.”²

¹ Ho Chi Minh City University of Industry and Trade, Vietnam.

² J. S. Nye, Jr., *SOFT POWER: THE MEANS TO SUCCESS IN WORLD POLITICS* (2004), at 10.

In this context, culture serves as a core resource that generates this attraction, enabling a nation to build a positive image, foster trust, gain support, and advance foreign policy objectives peacefully and sustainably. Milton C. Cummings Jr. also affirmed the indispensable role of cultural diplomacy, asserting that it is not merely a supplementary soft tool but a core component of foreign policy strategy, directly impacting how other nations perceive and interact with a country.³ For this reason, cultural diplomacy has become an inseparable and increasingly prioritized part of many countries' foreign policy strategies worldwide, especially in an environment of global integration and competition.

Within the Southeast Asian context, where cultural, historical, and institutional diversity coexists with common integration goals, cultural diplomacy plays an even more crucial role. Since its establishment in 1967, the Association of Southeast Asian Nations (ASEAN) has continuously evolved

³ M. C. Cummings, *Cultural Diplomacy and the United States Government: A Survey*, Center for Arts and Culture (2004).

from an initial loose cooperative bloc into a robust Community based on three main pillars: the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC).⁴ The formation of the ASCC clearly demonstrates member states' recognition of the importance of culture and people in building a unified regional identity, fostering cohesion, and improving the quality of life for their citizens.⁵ Within the ASCC framework, cultural diplomacy serves not only as a bridge between diverse cultures but also as a powerful catalyst, bringing member states closer, sharing common values, jointly addressing social issues, and building a common prosperous future. As T. M. H Duong pointed out, “cultural diplomacy is highly regarded as 'soft power' in protecting national interests and enhancing national standing in the international

⁴ ASEAN, *The ASEAN Charter*, ASEAN Secretariat (2007), <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>.

⁵ ASEAN Secretariat, *ASEAN Community Vision 2025*, ASEAN Secretariat (2015), <https://www.asean.org/wp-content/uploads/images/2015/November/aec-page/ASEAN-Community-Vision-2025.pdf>.

arena,” contributing to establishing a peaceful, stable environment and promoting mutually beneficial cooperation in the region.⁶

In this dynamic regional integration landscape, Vietnam, as an active, proactive, and responsible member of ASEAN, has always deeply understood the strategic importance of cultural diplomacy in achieving its foreign policy objectives. Since joining ASEAN in 1995, Vietnam has consistently strived to contribute to the bloc's overall development, especially in the fields of culture, sports, and tourism. Vietnamese culture, with its thousands of years of history and rich diversity, holds immense “soft power” to promote the national image, attract partners, and contribute to building an ASEAN Community oriented towards its people, centered on its people, socially responsible, and harmonious “for the future of a united and strong ASEAN

⁶ T. M. H. Duong, *Ngoại giao văn hóa góp phần thực hiện chính sách tích cực, chủ động hội nhập quốc tế*. [Cultural diplomacy contributes to implementing an active and proactive international integration policy.], *Tạp chí điện tử Lý luận Chính trị* (2023), <https://lyluanchinhtri.vn/ngoi-giao-van-hoa-gop-phan-thuc-hien-chinh-sach-tich-cuc-chu-dong-hoi-nhap-quoc-te-81.html>.

Community.”⁷ Vietnam's foreign policy consistently prioritizes culture as a pillar, reflected in the resolutions and directives of the Party and State.⁸ As D. H Vu emphasized, cultural diplomacy is a special field of diplomatic activity, involving the use of culture as both an object and a means to achieve the fundamental goals of a nation's foreign policy, creating a positive image of the country, and promoting national culture and language.⁹

However, the practical implementation of cultural diplomacy always comes with many challenges, requiring flexibility, creativity, and sustainable resources. Although Vietnam has made significant achievements in enhancing its position and image through cultural activities, there are still gaps and limitations that need to be identified and

⁷ T. T. Y. Nguyen, *Ngoại giao văn hóa Việt Nam với ASEAN trong thời kỳ hội nhập* [Vietnam's cultural diplomacy with ASEAN in the period of integration], Doctoral dissertation in Cultural Studies, Hanoi University of Culture (2016), at 61.

⁸ T. T. M. Tran, *Phát huy kinh tế di sản văn hóa - động lực cho phát triển kinh tế - xã hội* [Promoting cultural heritage economy - a driving force for socio-economic development] (2024).

⁹ D. H. Vu, *Ngoại giao và công tác ngoại giao* [Diplomacy and diplomatic work], National Political Truth Publishing House (2009), at 311.

overcome. H. S. Bui analyzed that “international integration is an objective trend today, bringing both opportunities and challenges for the development of countries worldwide in many fields, including culture.”¹⁰ The question is how Vietnam–ASEAN cultural diplomacy can maximize its effectiveness in the context of increasingly deep integration, fierce cultural competition, and rapid changes in information technology. Researching, evaluating practical activities, and drawing lessons learned are extremely necessary to optimize the cultural diplomacy strategy in the future.

Stemming from the aforementioned context and practical issues, this paper will systematically analyze Vietnam's cultural diplomacy with ASEAN. Specifically, the paper will clarify the concept and theoretical basis of cultural diplomacy in international relations and the ASEAN region,

¹⁰ H. S. Bui, Chính sách văn hóa ở nước ta trong bối cảnh hội nhập quốc tế hiện nay [Cultural policy in our country in the current context of international integration]. *Tạp chí Cộng sản* (2024), https://www.tapchicongsan.org.vn/media-story/-/asset_publisher/V8hnp4dK31Gf/content/ chinh-sach-van-hoa-o-nuoc-ta-trong-boi-can-hoi-nhap-quoc-te-hien-nay.

providing a solid theoretical foundation for examining the practical implementation of Vietnam's cultural diplomacy activities with ASEAN member states. These activities will be comprehensively evaluated, including prominent successes that have contributed to promoting Vietnam's image and strengthening regional friendship, as well as existing limitations that need to be overcome to enhance effectiveness. Finally, based on these in-depth analyses, the paper will draw important lessons learned and propose specific policy recommendations to improve the effectiveness of Vietnam–ASEAN cultural diplomacy in the current era of integration.

The research objective of this paper is to provide a comprehensive and in-depth overview of Vietnam–ASEAN cultural diplomacy. Specific objectives include: Analyzing the theories and roles of cultural diplomacy in modern foreign policy and within the ASEAN Community context; Systematizing and evaluating the current state of cultural diplomacy activities implemented by Vietnam with ASEAN,

identifying prominent achievements as well as existing challenges and limitations; Proposing feasible, strategic, and highly applicable solutions to enhance the effectiveness of Vietnam's cultural diplomacy activities with ASEAN, thereby promoting the sustainable development and cohesion of the ASEAN Community.

II. THEORETICAL BASIS OF CULTURAL DIPLOMACY AND VIETNAM – ASEAN RELATIONS

A. Concept and Role of Cultural Diplomacy

In the context of contemporary international relations, cultural diplomacy has emerged as an essential tool, complementing and sometimes substituting traditional diplomatic methods. This concept has continuously evolved and expanded, reflecting the complexity of transnational interactions in a globalized world.

1. Defining Cultural Diplomacy: Soft Power, Cultural Exchange, and National Image Promotion

Cultural diplomacy, in essence, is the exchange of ideas, information, art, and other aspects of culture between nations and peoples to enhance mutual understanding.¹¹ This is not merely about showcasing artworks or organizing festivals, but also a process of building people-to-people bridges, creating empathy and connection. One of the foundational concepts explaining the power of cultural diplomacy is “soft power,” proposed by Joseph S. Nye Jr.¹² According to Nye, soft power is the ability to influence others to get what you want through the attraction of culture, political values, and foreign policy, rather than through coercion or payment. He argued that, in an increasingly complex world, hard power (military, economic) is insufficient to solve all problems, and soft power

¹¹ M. C. Cummings, *Cultural Diplomacy and the United States Government: A Survey*, Center for Arts and Culture (2004).

¹² J. S. Nye, Jr., *BOUND TO LEAD: THE CHANGING NATURE OF AMERICAN POWER* (1990); J. S. Nye, Jr., *SOFT POWER: THE MEANS TO SUCCESS IN WORLD POLITICS* (2004).

becomes a key factor in building consensus and establishing sustainable influence.¹³

Cultural diplomacy is the concrete manifestation of soft power, focusing on using cultural elements to achieve diplomatic objectives. It encompasses a diverse range of activities such as art exchanges, academic exchanges, cultural exhibitions, scientific cooperation, and tourism promotion. These activities not only help a nation introduce its identity and values but also create a “common space” for dialogue and cooperation. Nicholas J. Cull views cultural diplomacy as part of public diplomacy, focusing on influencing the attitudes and behaviors of foreign publics through cultural activities to foster understanding and a positive image. Through this, cultural diplomacy helps build a “nation brand,” an intangible but immensely valuable asset in the competitive international environment.¹⁴ T. T. Y Nguyen, in her dissertation, also emphasized:

¹³ J. S. Nye, Jr., *SOFT POWER: THE MEANS TO SUCCESS IN WORLD POLITICS* (2004).

¹⁴ N. J. Cull, *PUBLIC DIPLOMACY: FOUNDATIONS FOR GLOBAL ENGAGEMENT IN THE DIGITAL AGE* (2019).

“Cultural diplomacy is a specific diplomatic field involving the establishment, development, and maintenance of relations with other countries in the cultural sphere to promote, exchange culture, and leverage the soft power of culture to achieve national foreign policy objectives.”¹⁵ This reflects a profound awareness of culture's potential in serving national interests.

2. The Importance of Cultural Diplomacy in International Relations and Regional Integration

In a multipolar, interdependent world, the importance of cultural diplomacy is increasingly affirmed in many aspects.

First, it is an effective tool for building trust and mutual understanding between nations. When the public and elites of one country understand the culture, history, and people of another, prejudices and misunderstandings can be resolved, thereby

¹⁵ T. T. Y. Nguyen, *Ngoại giao văn hóa Việt Nam với ASEAN trong thời kỳ hội nhập* [Vietnam's cultural diplomacy with ASEAN in the period of integration], Doctoral dissertation in Cultural Studies, Hanoi University of Culture (2016), at 26.

creating a solid foundation for political and economic cooperation. J. Melissen asserted that public diplomacy, including cultural diplomacy, is essential to bridging the perception gap between nations.¹⁶

Second, cultural diplomacy helps enhance national influence and standing in the international arena. By promoting unique and attractive cultural values, a nation can generate strong appeal, thereby increasing its ability to lead and shape global trends. This is particularly important for developing countries like Vietnam, where hard power is still limited. M.P. Doan clearly stated that cultural diplomacy “demonstrates its pervasive reach, effectiveness, and practicality; it helps strengthen our country's foreign relations at both the state-to-state level and fosters good relations between Vietnamese people and other countries,” affirming national

¹⁶ J. Melissen, *THE NEW PUBLIC DIPLOMACY: SOFT POWER IN INTERNATIONAL RELATIONS* (2005).

identity and enhancing its standing and prestige in the international arena.¹⁷

Third, cultural diplomacy contributes to socio-economic development through promoting tourism, attracting investment, and facilitating cultural exchange. When culture is widely promoted, it stimulates the desire for discovery and experience, thereby generating direct and indirect economic benefits. This is an aspect that many countries, including Vietnam, are actively exploiting.

Fourth, in the context of regional integration like ASEAN, cultural diplomacy is a key factor in building a cohesive community with a shared identity. ASEAN is not merely an economic or political alliance but also a diverse cultural community. Cultural diplomacy helps member states find commonalities, respect differences, and

¹⁷ M. P. Doan, *Ngoại giao văn hóa nâng tầm vị thế Việt Nam trên trường quốc tế*. [Cultural diplomacy enhances Vietnam's position in the international arena.], *Tạp chí Việt Nam hội nhập* (2024), <https://vietnamhoinhap.vn/vi/ngoi-giao-van-hoa-nang-tam-vi-the-viet-nam-tren-truong-quoc-te-46642.htm>.

collectively build the “ASEAN Way.”¹⁸ It facilitates multilateral cooperation initiatives in various fields such as heritage preservation, artistic development, and academic exchange, contributing to the achievement of the ASEAN Socio-Cultural Community's goals.

B. Context of Formation and Development of Vietnam – ASEAN Relations

Understanding the formation and development process of ASEAN, as well as Vietnam's accession and deep integration into the bloc, provides the basis for evaluating Vietnam's cultural diplomacy strategy within the regional framework.

1. The Genesis and Evolution of ASEAN

ASEAN was established on August 8, 1967, in Bangkok, Thailand, by five original member states: Indonesia, Malaysia, the Philippines, Singapore, and

¹⁸ A. Acharya, *CONSTRUCTING A SECURITY COMMUNITY IN SOUTHEAST ASIA: ASEAN AND THE PROBLEM OF REGIONAL ORDER* (3rd ed.) (2009), <https://fmc90.wordpress.com/wp-content/uploads/2010/05/constructing-a-security-in-asean.pdf>.

Thailand.¹⁹ The organization's initial objectives primarily focused on promoting economic, social, and cultural cooperation, while maintaining peace and stability in Southeast Asia amidst the Cold War and geopolitical instability. The Bangkok Declaration was ASEAN's founding document, laying the groundwork for fundamental principles such as non-interference in each other's internal affairs, peaceful dispute resolution, and respect for national independence and sovereignty.

Over five decades, ASEAN has continuously expanded and evolved, admitting Brunei (1984), Vietnam (1995), Laos and Myanmar (1997), and Cambodia (1999), completing the vision of an ASEAN comprising all 10 Southeast Asian nations. From a loose organization, ASEAN has transformed into a Community with deeper integration goals, culminating in the establishment of the ASEAN Community in 2015 with three pillars: APSC, AEC,

¹⁹ ASEAN. *The ASEAN Declaration (Bangkok Declaration)*. ASEAN Secretariat (1967), <https://agreement.asean.org/media/download/20140117154159.pdf>.

and ASCC.²⁰ This development reflects the regional leaders' vision for a peaceful, stable, prosperous, and cohesive Southeast Asia. According to Acharya, the “ASEAN Way” – a method of dialogue, consensus, and non-interference – has become a unique model in regional cooperation.^{21\}

2. Vietnam's Accession and Deep Integration into ASEAN

Vietnam officially became the 7th member of ASEAN on July 28, 1995. This event marked a crucial historical milestone in Vietnam's foreign policy, shifting from confrontation to regional and international integration.²² Joining ASEAN not only

²⁰ ASEAN Secretariat, *ASEAN Community Vision 2025*, ASEAN Secretariat (2015), <https://www.asean.org/wp-content/uploads/images/2015/November/aec-page/ASEAN-Community-Vision-2025.pdf>.

²¹ A. Acharya, *CONSTRUCTING A SECURITY COMMUNITY IN SOUTHEAST ASIA: ASEAN AND THE PROBLEM OF REGIONAL ORDER* (3rd ed.) (2009), <https://fmc90.wordpress.com/wp-content/uploads/2010/05/constructing-a-security-in-asean.pdf>.

²² H. Vu, *Dấu ấn Việt Nam trong ASEAN: Đồng hành, lớn mạnh cùng năm tháng* [Vietnam's imprint in ASEAN: Accompanying and growing with time]. *Tạp chí Cộng sản* (2023), <https://www.tapchicongsan.org.vn/web/guest/quoc-phong-an-ninh-oi-ngoi1/-/2018/828918/dau-an-viet-nam-trong-asean--dong-hanh%2C-lon-manh-cung-nam-thang.aspx>.

helped Vietnam break through the embargo and expand economic-political relations but also affirmed Vietnam's desire for a peaceful, stable, and cooperative Southeast Asia.

Since then, Vietnam has actively participated in all areas of ASEAN cooperation. From fulfilling trade liberalization commitments within the AEC to contributing to regional security initiatives in the APSC, and especially actively participating in ASCC activities. Vietnam has proactively proposed numerous initiatives and contributed to the drafting of important ASEAN documents such as the ASEAN Charter and the Master Plans for the ASEAN Community.²³ As a rotating ASEAN Chair multiple times (2010, 2020), Vietnam has demonstrated its ability to lead and coordinate the bloc's cooperative efforts, affirming its position as a responsible and reliable member (Ministry of Foreign Affairs, 2020). This deep integration process has created a favorable

²³ ASEAN, *The ASEAN Charter*, ASEAN Secretariat (2007), <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>.

environment, but simultaneously placed higher demands on Vietnam's cultural diplomacy activities.

3. Cultural Cooperation Framework in ASEAN (ASCC - ASEAN Socio-Cultural Community)

The ASEAN Socio-Cultural Community (ASCC) is one of the three main pillars of the ASEAN Community, playing an essential role in building a people-centered community, promoting environmental sustainability, and social development.²⁴ The ASCC focuses on improving the quality of life for ASEAN citizens through promoting cooperation in fields such as culture, education, health, labor, environment, social development, and disaster management.

Within the ASCC framework, cultural cooperation is particularly emphasized to build a common identity and sense of community. The main objectives of cultural cooperation within ASCC

²⁴ ASEAN Secretariat, *ASEAN Community Vision 2025*, ASEAN Secretariat (2015), <https://www.asean.org/wp-content/uploads/images/2015/November/aec-page/ASEAN-Community-Vision-2025.pdf>.

include: (1) Promoting understanding and appreciation of the region's cultural diversity; (2) Preserving and promoting ASEAN cultural heritage; (3) Encouraging cultural creativity and innovation; and (4) Enhancing cultural exchange among member states and with the outside world.²⁵ To achieve these goals, many cooperation mechanisms and programs have been established, such as the ASEAN Committee on Culture and Information (COCI), the ASEAN Cultural Fund (ACF), and a series of multilateral cooperation activities and projects on arts, heritage, and cultural education. These frameworks and mechanisms have provided a solid foundation and direction for Vietnam's cultural diplomacy activities with ASEAN countries. T. T. Y. Nguyen also dedicated a significant portion of her dissertation to analyzing the structure and functions of ASCC, affirming the importance of this pillar in

²⁵ ASEAN Secretariat, *ASEAN Community Vision 2025*, ASEAN Secretariat (2015), <https://www.asean.org/wp-content/uploads/images/2015/November/aec-page/ASEAN-Community-Vision-2025.pdf>.

shaping the context for Vietnamese cultural diplomacy.²⁶

C. Vietnam – ASEAN Cultural Diplomacy: Objectives and Orientations

With a profound awareness of the strategic role of cultural diplomacy and the importance of relations with ASEAN, Vietnam has set clear objectives and orientations for this activity.

Vietnam's cultural diplomacy with ASEAN is oriented towards achieving multiple intertwined goals, serving both national interests and contributing to the region's overall development. These objectives can be summarized into the following key points:

Enhancing Understanding and Building Trust:
This is the fundamental and overarching objective. Through various cultural exchange and promotion activities, Vietnam aims to genuinely and vividly

²⁶ T. T. Y. Nguyen, *Ngoại giao văn hóa Việt Nam với ASEAN trong thời kỳ hội nhập* [Vietnam's cultural diplomacy with ASEAN in the period of integration], Doctoral dissertation in Cultural Studies, Hanoi University of Culture (2016), at 26.

present its country, people, history, traditional and modern culture, thereby eliminating prejudices and misunderstandings and building mutual trust between the people of Vietnam and the people of other ASEAN countries.²⁷

Promoting National Image and Enhancing Status: Cultural diplomacy helps Vietnam build the image of a peaceful, stable, dynamic, culturally rich, and responsible nation in the region and globally. This not only attracts attention but also contributes to enhancing Vietnam's prestige and influence in regional and international forums.²⁸

Promoting Multi-sectoral Cooperation: Cultural diplomacy extends beyond the cultural sphere, laying the groundwork for economic, tourism, and

²⁷ H. Vu, Dấu ấn Việt Nam trong ASEAN: Đồng hành, lớn mạnh cùng năm tháng [Vietnam's imprint in ASEAN: Accompanying and growing with time]. *Tạp chí Cộng sản* (2023), <https://www.tapchiconsan.org.vn/web/guest/quoc-phong-an-ninh-oi-ngoai1/-/2018/828918/dau-an-viet-nam-trong-asean--dong-hanh%2C-lon-manh-cung-nam-thang.aspx>.

²⁸ T. M. H. Duong, Ngoại giao văn hóa góp phần thực hiện chính sách tích cực, chủ động hội nhập quốc tế. [Cultural diplomacy contributes to implementing an active and proactive international integration policy.], *Tạp chí điện tử Lý luận Chính trị* (2023), <https://lyluanchinhtri.vn/ngoi-giao-van-hoa-gop-phan-thuc-hien-chinh-sach-tich-cuc-chu-dong-hoi-nhap-quoc-te-81.html>.

educational cooperation. Cultural exchange helps create a favorable environment for investment, trade, student exchange, and scientific-technological cooperation. This objective is particularly important in the context of the developing ASEAN Economic Community (AEC) and ASEAN Socio-Cultural Community (ASCC).²⁹

Contributing to Building ASEAN Community Identity: As a responsible member, Vietnam actively participates in cultural cooperation initiatives and activities within the ASEAN framework, aiming to contribute to building a common identity and a sense of a cohesive, harmonious community that respects diversity. This is clearly demonstrated through Vietnam's active participation in ASCC programs and projects.

Preserving and Promoting National Cultural Values: Cultural diplomacy activities are also a way for Vietnam to re-evaluate its cultural values, while

²⁹ T. T. Y. Nguyen, *Ngoại giao văn hóa Việt Nam với ASEAN trong thời kỳ hội nhập* [Vietnam's cultural diplomacy with ASEAN in the period of integration], Doctoral dissertation in Cultural Studies, Hanoi University of Culture (2016).

creating opportunities to learn and absorb the cultural essence of friendly countries, enriching the national culture.

The orientations for Vietnam's cultural diplomacy activities with ASEAN are built upon the foreign policy guidelines of the Communist Party of Vietnam and the foreign policy of the State. Key orientations include:

Proactive and Active International and Regional Integration: Vietnam views integration as an inevitable process, in which cultural diplomacy plays a pioneering role. Vietnam is committed to deep participation in ASEAN activities at all levels, from high-level meetings to people-to-people exchanges.³⁰

Diversifying Forms and Contents of Cultural Diplomacy: Vietnam advocates for continuous innovation and creativity in cultural diplomacy activities, from large-scale events to grassroots exchanges, from traditional art forms to modern

³⁰ Communist Party of Vietnam, *Văn kiện Đại hội đại biểu toàn quốc lần thứ XIII, tập 1* [Documents of the 13th National Congress, Vol. 1], National Political Publishing House (2021).

cultural products. The content also needs to be rich, reflecting both historical depth and the dynamic development of Vietnamese culture.³¹

Emphasizing Promotion and Communication: In the digital age, applying modern information and communication technology to cultural diplomacy is essential. Vietnam is boosting its use of digital platforms and social media to reach a wide audience in ASEAN countries, enhancing the effectiveness of promoting the national image.

Strengthening Inter-agency Coordination: The effectiveness of cultural diplomacy requires close coordination among the Ministry of Foreign Affairs, the Ministry of Culture, Sports and Tourism, other ministries, local authorities, and the business sector and social organizations. This synergy helps optimize resources and create a combined strength for activities.

³¹ T. T. L. Do, Đường lối đối ngoại của Việt Nam trong thời kỳ đổi mới, hội nhập [Vietnam's foreign policy in the period of reform and integration], *Tạp chí Công thương* (2023), <https://tapchicongthuong.vn/duong-loi-doi-ngoai-cua-viet-nam-trong-thoi-ky-doi-moi--hoi-nhap-108280.htm>.

Developing High-Quality Human Resources: Training a contingent of cultural diplomacy officials with deep expertise, broad knowledge of regional and global cultures, strong foreign language skills, and international communication abilities is a crucial orientation for enhancing the capacity to implement activities.³²

Clearly Defining Target Publics: Cultural diplomacy needs to be tailored to specific publics in ASEAN countries, from elites, academics, and businesspeople to young generations and the general public, to maximize impact.

These solid theoretical foundations and clear policy orientations form an important basis for evaluating the practical implementation of Vietnam's cultural diplomacy with ASEAN, thereby identifying successes and limitations to derive valuable lessons learned.

³² T. T. Y. Nguyen, *Ngoại giao văn hóa Việt Nam với ASEAN trong thời kỳ hội nhập* [Vietnam's cultural diplomacy with ASEAN in the period of integration], Doctoral dissertation in Cultural Studies, Hanoi University of Culture (2016), at 125-128.

III. PRACTICAL IMPLEMENTATION OF VIETNAM'S CULTURAL DIPLOMACY WITH ASEAN

Cultural diplomacy is a vital pillar in Vietnam's foreign policy, especially in the context of deep integration into the ASEAN Community. With the diversity and richness of its national culture, Vietnam has actively implemented various activities to foster exchange, promote the country's image and people, and contribute to building a cohesive ASEAN Socio-Cultural Community (ASCC). This section will delve into typical activities, assess achievements, and identify remaining limitations and challenges.

A. Typical Activities and Achievements

Vietnam has implemented a broad spectrum of cultural diplomacy activities with ASEAN, from state-level to people-to-people levels, demonstrating diversity in methods and content. These activities aim not only to introduce Vietnamese culture but also to serve as a bridge for absorbing regional and global

cultural essence, consolidating trust and mutual understanding.

1. Artistic Exchanges: Music Festivals, Art Performances

Artistic exchange is one of the most traditional and effective forms of cultural diplomacy, helping to spread emotions and messages across language barriers. Vietnam regularly sends art troupes to participate in regional and international festivals organized by ASEAN or its member states, while also hosting many major events. Traditional art performances such as *ca tru*, *quan họ* (ca trù, quan họ), water puppetry, along with contemporary acts, have left a deep impression on the ASEAN public. For example, the ASEAN Traditional Music Festival in 2015 and 2022 are typical examples.³³ These events brought together artists and unique musical

³³ H. Duc, Liên hoan Âm nhạc ASEAN 2022: Đoàn kết, sáng tạo - cùng nhau tỏa sáng [ASEAN Music Festival 2022: Unity, creativity - shining together], *Cổng thông tin điện tử Bộ Văn hóa, Thể thao và Du lịch* (2022), <https://bvhttdl.gov.vn/lien-hoan-am-nhac-asean-2022-doan-ket-sang-tao-cung-nhau-toa-sang-20221220150704168.htm>.

forms from across member states, providing opportunities for the regional public to enjoy and understand the richness of ASEAN's musical heritage, including Vietnam's.

Furthermore, Vietnam also actively organizes performances and tours by ASEAN artists in Vietnam, thereby enhancing exchange and mutual learning. These activities are not merely performances but also channels for exchanging experiences, enabling artists to cooperate and create together, contributing to enriching the regional cultural identity. The impact of artistic exchange activities is often direct, creating strong personal experiences and helping to build immediate goodwill. They also help reinforce Vietnam's image as a culturally rich, diverse, and welcoming nation.

2. Cultural Exhibitions: Introducing Heritage, Customs, and Practices

Cultural exhibitions are effective means to visually and deeply introduce Vietnam's tangible and intangible heritage, customs, history, and art to the

ASEAN public. Vietnam regularly participates in exhibitions organized by ASEAN or hosts large-scale events itself. Typical examples include the “ASEAN Cultural Space” Exhibition in Vietnam in 2014, and the ASEAN cultural space at the opening ceremony of AARM-30.³⁴ These exhibitions displayed artifacts, images, traditional costumes, and characteristic cultural features of ASEAN countries, creating an interactive space that helped Vietnamese people and international tourists gain a more comprehensive view of the bloc's cultural diversity.

Additionally, specialized exhibitions on Vietnam's world heritage sites (such as Ha Long Bay, Hoi An Ancient Town, Hue Imperial Citadel Complex), traditional handicrafts, and photographs about the country and people of Vietnam are also regularly organized in ASEAN countries. These activities not only promote culture but also stimulate

³⁴ H. Duc, Liên hoan Âm nhạc ASEAN 2022: Đoàn kết, sáng tạo - cùng nhau tỏa sáng [ASEAN Music Festival 2022: Unity, creativity - shining together], *Công thông tin điện tử Bộ Văn hóa, Thể thao và Du lịch* (2022), <https://bvhttdl.gov.vn/lien-hoan-am-nhac-asean-2022-doan-ket-sang-tao-cung-nhau-toa-sang-20221220150704168.htm>.

curiosity, boost tourism, and create opportunities for partners to learn more about potential cooperation with Vietnam. Exhibitions help convey complex messages visually, strongly impacting public perception.

3. Culinary Diplomacy: Food Festivals

Cuisine is one of the most accessible and globally appealing cultural elements, playing a crucial role in image building and people-to-people connections. Vietnam has actively leveraged the “soft power” of its cuisine in cultural diplomacy activities with ASEAN. Food festivals and Vietnamese food weeks in ASEAN countries and vice versa have been regularly organized. The ASEAN Community Food Festival with International Friends in 2015 and the International Food Festival in 2024 are vivid examples. Here, characteristic Vietnamese dishes such as *pho*, *nem*, *bun cha*, etc., not only satisfy the palates of the public but also tell stories about Vietnamese culture, history, and people.

Culinary diplomacy is not just about introducing dishes; it is also an expression of hospitality, cultural sophistication, and lifestyle. It creates a friendly, relaxed space for people to interact and learn about each other, thereby fostering understanding and goodwill. In the context of integration, cuisine can also become a cultural industry, contributing to economic development and tourism.

4. Educational and Training Exchanges: Student, Lecturer Exchanges, Research Cooperation

Educational and training exchange is a strategic cultural diplomacy channel, with long-term impacts on the perceptions of future generations. Vietnam and ASEAN countries have actively promoted student, lecturer, and scholar exchange programs, as well as cooperation in scientific research. Bilateral and multilateral scholarship programs (e.g., ASEAN scholarships, scholarships from member states to each other) have enabled thousands of Vietnamese

and ASEAN students and researchers to study and learn about each other.

The presence of Vietnamese students and lecturers at ASEAN universities and vice versa not only helps develop individual capacities but also directly contributes to promoting culture, lifestyle, and people. They become unofficial “cultural ambassadors,” helping to break down language and cultural barriers. Joint research on regional issues (climate change, energy security, sustainable development, etc.) also enhances understanding and builds knowledge networks, contributing to the overall development of ASEAN.³⁵

5. Heritage Conservation Cooperation: Multilateral Cooperation Programs in the Region

ASEAN is a region rich in tangible and intangible cultural heritage. Heritage conservation cooperation is an important area of cultural diplomacy,

³⁵ ASEAN Secretariat, *ASEAN Community Vision 2025*, ASEAN Secretariat (2015), <https://www.asean.org/wp-content/uploads/images/2015/November/aec-page/ASEAN-Community-Vision-2025.pdf>.

demonstrating the shared responsibility of nations in preserving cultural values for future generations. Vietnam has actively participated in multilateral cooperation programs within the ASEAN framework to conserve common or related cultural heritage. For example, initiatives on world heritage preservation and intangible heritage recognized by UNESCO often receive close cooperation among countries.

These activities include sharing experiences on conservation techniques, training human resources, and organizing international scientific workshops. Jointly protecting cultural values not only strengthens relations between nations but also raises community awareness of the importance of heritage. Heritage conservation cooperation demonstrates cultural harmony and the shared commitment of ASEAN members, creating a solid foundation for building the bloc's common identity.

6. People-to-People Diplomacy: Youth Exchange Programs, Non-governmental Cultural Initiatives

People-to-people diplomacy, especially youth exchange programs, is a strategic cultural diplomacy channel aimed at building a solid foundation for long-term relations. Vietnam actively participates in and organizes Vietnam–ASEAN youth exchange programs, youth forums, cultural summer camps, etc. These activities provide opportunities for young people from different countries to meet, learn about each other, and form friendships and understanding early on. They are the ones who will inherit and develop relations between nations in the future.

In addition, non-governmental cultural organizations (NGOs) and friendship associations are playing an increasingly important role in promoting people-to-people cultural exchange. These activities are often flexible and reach a wider audience than official diplomacy, contributing to building strong network linkages between communities in the region. People-to-people

diplomacy helps create emotional connections and intellectual alignment, a key factor for sustainable understanding.³⁶

B. Assessment of Advantages

Vietnam's cultural diplomacy activities with ASEAN during the period of integration have achieved remarkable results, evident through the following prominent advantages:

1. Contributing to Mutual Understanding and Building a Friendly, Dynamic Image of Vietnam

This is the most evident advantage. Through the diversity of exchange and promotional activities, the public in ASEAN countries has had the opportunity to access a more authentic and multi-dimensional understanding of Vietnam's land, people, history, culture, and development. Prejudices or misinformation have gradually been dispelled,

³⁶ H. N. Tuch, *COMMUNICATING WITH THE WORLD: US PUBLIC DIPLOMACY OVERSEAS* (1990).

replaced by the image of a peaceful, friendly, hospitable Vietnam, rich in cultural identity and dynamically developing. Cultural events provide a platform for people from ASEAN countries to directly experience the richness of Vietnamese cuisine, the sophistication of traditional art, and the creativity of contemporary Vietnamese culture. This is particularly important in building Vietnam's "attractiveness" in the region.

2. Enhancing Vietnam's Position in the Region and Internationally

Vietnam's proactive participation in and organization of major cultural events within the ASEAN framework, as well as its active contributions to ASCC's common initiatives, have helped to elevate the country's position and prestige. This demonstrates Vietnam's role as a responsible, proactive, and capable leader in non-traditional cooperation areas. The success of events hosted by Vietnam has affirmed Vietnam's organizational and management capabilities and its influence in the

region. This is a crucial factor in implementing Vietnam's independent, self-reliant, multilateralized, and diversified foreign policy.

3. Promoting Tourism, Investment, and Economic Exchange

Although not the sole direct objective, cultural diplomacy has generated positive effects on economic development. When Vietnam's cultural image is widely promoted, tourists from ASEAN and international countries tend to want to explore the country and experience its culture, thereby boosting the tourism industry. The increase in tourists leads to the development of service and trade sectors. Additionally, cultural understanding and goodwill can create a more favorable environment for investment and trade activities. Businesses and investors often tend to collaborate with partners they understand and trust, and culture is one of the factors that build this trust. Cultural diplomacy thus becomes a “soft impetus” for economic relations.

C. Limitations and Challenges

Despite achieving significant advantages, Vietnam's cultural diplomacy activities with ASEAN still face numerous limitations and challenges, requiring synchronized solutions and long-term strategies.

1. Limited Resources (Financial, Human)

One of the biggest barriers to implementing large-scale and effective cultural diplomacy is resources. Financial resources allocated for cultural diplomacy activities are often not commensurate with the potential and stated objectives. This leads to many programs remaining small in scale, having limited widespread impact, or lacking continuity. Furthermore, the specialized human resources for cultural diplomacy are still insufficient and weak. Many leaders and managers at various levels, despite possessing numerous degrees and certificates, have only “standardized” their positions formally; the application of knowledge and skills in practice

regarding expertise, professional skills, foreign languages, informatics, and the skills to confidently work independently in an international environment are very modest.³⁷ The shortage of high-quality human resources affects strategic planning, professional event organization, and effectiveness assessment. This is a common challenge faced by many developing countries when investing in the field of soft power.³⁸

2. Ineffective and Lacking Innovation in Promotion

Although Vietnam has many cultural diplomacy activities, the promotion and communication for these activities are not truly strong and innovative. Information about events often remains limited in scope, failing to reach a wide international and regional audience. The application of digital

³⁷ T. M. T. Tran, *Xây Dựng Đội Ngũ Cán Bộ Có Năng Lực Làm Việc Trong Môi Trường Quốc Tế [Building A Team Of Cadres Capable Of Working In An International Environment]*, 544 TẠP CHÍ LÝ LUẬN CHÍNH TRỊ 84 (2023).

³⁸ J. Melissen, *THE NEW PUBLIC DIPLOMACY: SOFT POWER IN INTERNATIONAL RELATIONS* (2005).

technology and social media to disseminate cultural messages has not been fully exploited and lacks professionalism. Many activities are still formalistic, failing to create breakthroughs or unique imprints. The method of conveying content is sometimes stereotypical, failing to demonstrate the creativity and uniqueness of Vietnamese culture in an attractive way to the modern audience. The lack of cultural products that can quickly spread on digital platforms is an example.³⁹

3. Lack of Synchronized Coordination Among Ministries, Sectors, and Localities

Cultural diplomacy activities often involve multiple ministries (Foreign Affairs, Culture - Sports - Tourism, Education - Training, Information - Communications) and localities. However,

³⁹ S. P. Tran, Phát huy sức mạnh mềm văn hóa Việt Nam theo tinh thần Đại hội XIII của Đảng [Promoting Vietnam's cultural soft power in the spirit of the Party's 13th Congress], *Tạp chí Cộng sản* (2022), https://www.tapchicongsan.org.vn/media-story/-/asset_publisher/V8hhp4dK31Gf/content/phat-huy-suc-manh-mem-van-hoa-viet-nam-theo-tinh-than-dai-hoi-xiii-cua-dang.

coordination among these agencies is sometimes not synchronized, leading to overlapping functions, duplication of activities, or neglecting important areas. The lack of an effective, high-level coordination mechanism can reduce the overall effectiveness of cultural diplomacy programs. This leads to a waste of resources and slows down the implementation of strategic initiatives. The role of the private sector and social organizations has also not been fully promoted in participating in these activities.

4. Difficulties in Accessing and Impacting Diverse ASEAN Audiences

ASEAN is an incredibly diverse region in terms of culture, religion, language, and development levels. Designing cultural diplomacy messages and activities that are appropriate and effectively impact different target audiences in member countries is a major challenge. The cultural needs and tastes of people in Indonesia differ from those in Singapore, and those in the Philippines differ from those in Laos.

The lack of in-depth research on target audiences sometimes leads to “one-way” activities that do not truly “touch” the hearts and minds of local people. The ability to adapt and localize cultural content to create resonance is still limited.

5. Cultural Competition in the Region

Although ASEAN aims for solidarity, there is still a certain degree of cultural competition among member states in promoting their image and attracting international attention. Countries like Thailand, Singapore, and Malaysia, with their economic potential and long-standing experience in cultural diplomacy, often have more systematic strategies and abundant resources. This requires Vietnam to constantly innovate, find its unique, distinctive, and competitive advantages to create its own mark on the regional cultural map. The absence of a strong and consistent “cultural brand” can reduce the ability of international audiences to be attracted to and remember Vietnamese culture.

The practical implementation of Vietnam's cultural diplomacy with ASEAN has achieved certain successes in enhancing understanding, raising its position, and promoting cooperation. However, limitations in resources, professionalism in promotion, coordination, and the ability to adapt to diverse audiences are issues that need to be addressed strategically for Vietnam's cultural diplomacy to truly unleash its full potential.

IV. LESSONS LEARNED AND RECOMMENDATIONS

The analysis of Vietnam's cultural diplomacy with ASEAN has highlighted significant achievements while also pointing out limitations and challenges. From the accumulated experience during the process of integration and development, Vietnam needs to draw profound lessons and propose specific policy recommendations to optimize the effectiveness of cultural diplomacy activities in the future. This is a crucial step to transition from current theory and practice to a more effective and sustainable cultural diplomacy strategy.

A. Lessons Learned

Years of implementing cultural diplomacy with ASEAN have provided Vietnam with valuable lessons, contributing to shaping the development path of this field:

1. The Importance of Building Clear, Long-Term Strategies

The first and overarching lesson is the necessity of a clear, long-term national cultural diplomacy strategy. Although Vietnam has policy orientations, the lack of a comprehensive, detailed strategy, concretized by specific action plans for each period and each partner (in this case, ASEAN), can lead to fragmented activities, lack of focus, and failure to unleash synergistic power. The strategy needs to clearly define objectives, target audiences, core messages, resources, and effectiveness assessment mechanisms. As Nye pointed out, leveraging soft power requires a calculated strategy and cannot rely

solely on spontaneity.⁴⁰ A long-term strategy helps stakeholders share the same direction, avoid overlaps, and optimize resources.

2. The Necessity of Diversifying Forms and Content of Activities

Practice shows that traditional cultural diplomacy activities such as artistic performances and exhibitions, while still valuable, need to be innovated and diversified to suit modern tastes and contexts. Vietnamese culture is rich, but the promotion methods need to be more creative to avoid monotony and attract the attention of different audiences, especially young people. The lesson learned is to constantly explore new forms (such as culinary diplomacy, sports, cinema, fashion, games, etc.) and ensure that content is highly interactive and connects with global and regional issues. Focusing on unique, universally humane cultural values while incorporating contemporary elements will help

⁴⁰ J. S. Nye, Jr., *SOFT POWER: THE MEANS TO SUCCESS IN WORLD POLITICS* (2004).

Vietnamese cultural messages be more easily received and disseminated. This is a vital factor in overcoming cultural competition in the region.

3. The Role of Technology and Digital Media in Modern Cultural Diplomacy

In the era of the 4.0 industrial revolution, digital technology and social media have completely changed how people interact and receive information. The clear lesson is that without maximizing the use of digital platforms, cultural diplomacy activities will struggle to reach a wide audience, especially the younger generation. From using social media to promote events, live-streaming performances, to building digital heritage platforms, applying virtual reality (VR) or artificial intelligence (AI) to experience culture—all are powerful tools to enhance interaction and disseminate cultural messages quickly, widely, and cost-effectively.⁴¹

⁴¹ P. Y. N. Nguyen, Truyền thông và văn hóa trong kỷ nguyên số tại Việt Nam [Communication and culture in the digital age in Vietnam], *Tạp chí Việt Nam hội nhập* (2025), <https://vietnamhoinhap.vn/vi/truyen-thong-va-van-hoa-trong-ky-nguyen-so-tai-viet-nam-51361.htm>.

Resources for digital media need to be prioritized and invested systematically.

4. Encouraging Whole-of-Society Participation, Especially the Private Sector and the Public

Cultural diplomacy is not just the responsibility of the state but of the entire society. Lessons from practice show that with the active participation of the private sector (cultural, tourism, media enterprises), civil society organizations, Vietnamese communities abroad, and the general public, cultural diplomacy activities become much richer, more diverse, and more effective. The private sector brings dynamism, creativity, and financial resources, while the public and overseas Vietnamese communities are natural “cultural ambassadors,” conveying messages authentically and reliably. Public-private partnerships (PPPs) in this field need to be strongly promoted.

5. Training and Developing High-Quality Human Resources for Cultural Diplomacy

The effectiveness of cultural diplomacy largely depends on the quality of the staff and experts involved. The lesson has shown that the shortage of human resources with in-depth knowledge of culture, diplomatic skills, foreign language proficiency, and understanding of the regional context is a major limitation. There is a need for specialized, interdisciplinary training programs to equip this workforce with the necessary knowledge and skills to plan, implement, and evaluate cultural diplomacy campaigns professionally. This includes enhancing the capacity of media teams and digital content creators for cultural diplomacy.⁴²

⁴² D. H. Vu, *Ngoại giao và công tác ngoại giao* [Diplomacy and diplomatic work], National Political Truth Publishing House (2009).

6. Flexibility and Adaptability to Regional and International Contexts

The ASEAN and international contexts are constantly changing, with new opportunities and emerging challenges (such as pandemics, climate change, geopolitical tensions). The lesson is that cultural diplomacy cannot be rigid according to a fixed template but needs high flexibility and quick adaptability to the situation. This requires the ability to analyze, forecast trends, and adjust priorities and forms of activity in a timely manner. The ability to “respond quickly” to media crises or leverage current events to promote culture is also an important aspect of this flexibility.

B. Policy Recommendations

Based on the lessons learned and to address the identified limitations, the following are specific policy recommendations to enhance the effectiveness of Vietnam's cultural diplomacy with ASEAN:

1. Increase Investment and Mobilize Resources for Cultural Diplomacy

For cultural diplomacy to truly become a strategic tool, there needs to be adequate financial investment from the state budget, while also stepping up the mobilization of other resources from the private sector, international organizations, and overseas Vietnamese communities. Mechanisms to encourage and incentivize businesses and philanthropists to invest in cultural projects of national and regional scale are needed. Establishing a dedicated fund for cultural diplomacy or increasing budgets for cultural diplomacy agencies is essential. Resources are not just money but also facilities, technology, and people, which need to be allocated reasonably, transparently, and effectively.

2. Improve Institutions and Coordination Mechanisms Among Relevant Agencies

To overcome overlapping and lack of synchronization, it is necessary to improve the legal

framework and inter-agency coordination mechanisms. Consideration should be given to establishing a high-level coordinating body with sufficient authority to direct, manage, and supervise all national cultural diplomacy activities, or at least strengthening the role of a lead agency (e.g., the Ministry of Foreign Affairs or the Ministry of Culture, Sports and Tourism) with close participation from other ministries and localities. This mechanism needs to clearly define the roles, responsibilities, and powers of each party, building clear coordination procedures to avoid a “do-it-yourself” situation.

3. Promote the Application of Digital Technology in Promoting Vietnamese Culture to the World

This is a breakthrough and urgent recommendation. Vietnam needs to build a comprehensive digital cultural diplomacy strategy, clearly identifying priority digital platforms (social media, specialized websites, mobile applications, streaming platforms...), digitized content (3D

images, 360-degree videos, virtual reality), and target audiences. Investment is needed in producing high-quality digital cultural products with strong viral potential on international platforms, creating new interactions and experiences for viewers. Collaborating with major technology corporations to develop cultural applications, games, or digital media channels about Vietnam is also a promising direction.

4. Develop Breakthrough, Effective Cultural Diplomacy Programs and Projects Targeting Specific Audiences

Instead of scattered activities, resources should be focused on developing strategic, in-depth cultural diplomacy programs and projects that create a unique impression and target specific audiences. For example:

For ASEAN youth: Develop attractive cultural exchange programs, scholarships, summer camps, and competitions about Vietnamese culture designed

to appeal to young people (using technology, modern music, game shows...).

For elites, scholars, and businesses: Organize specialized forums on Vietnamese culture, economy, and society, scientific conferences, roundtables, inviting leading experts and scholars to participate to create a deeper impact.

For overseas Vietnamese communities: Promote the role of overseas Vietnamese communities as bridges in promoting Vietnamese culture in their host countries through support and training activities.]

Create a “brand” for cultural diplomacy: Build one or several iconic cultural events, organized annually, with international reach, becoming a cultural “rendezvous” for Vietnam and ASEAN.

5. Focus on Scientific Research and Evaluation of Cultural Diplomacy Activities

To ensure that cultural diplomacy activities are not merely formalistic but truly effective, a scientific and regular research and evaluation system needs to

be established. This includes: (1) In-depth research on the tastes and psychology of target audiences in ASEAN countries; (2) Developing a set of key performance indicators (KPIs) for each activity, from reach and interaction levels to changes in perception and goodwill; (3) Conducting quantitative and qualitative surveys and analyses after each program to draw specific lessons and adjust strategies promptly. Effectiveness evaluation helps ensure that resources are optimally utilized and activities achieve their stated objectives.

These lessons learned and policy recommendations are the foundation for Vietnam to continue developing cultural diplomacy with ASEAN in a sustainable and effective manner, contributing to strengthening regional relations, enhancing national prestige, and building a cohesive and prosperous ASEAN Community.

V. CONCLUSION

This article has provided a comprehensive analysis of Vietnam's cultural diplomacy with

ASEAN, from theoretical foundations to practical implementation, while also drawing lessons learned and proposing policy recommendations. It is clear that cultural diplomacy is not just an aspect but has become an indispensable pillar of Vietnam's foreign policy, especially in the context of deep integration into the ASEAN Community. Diverse activities, from artistic exchanges, cultural exhibitions, and culinary diplomacy to educational exchanges and heritage preservation cooperation, have significantly contributed to enhancing mutual understanding, building a friendly and dynamic image of Vietnam, and elevating the nation's position in the region.

However, despite notable achievements, Vietnam's cultural diplomacy activities with ASEAN still face many limitations, such as limited financial and human resources, ineffective promotion, uncoordinated efforts, and difficulties in reaching diverse audiences. These challenges require Vietnam to continuously innovate and refine its strategy.

With its rich cultural potential and increasing role in ASEAN, Vietnam-ASEAN cultural diplomacy

will continue to assert its strategic importance. In the future, trends such as the application of digital technology, message personalization, and the promotion of whole-of-society participation will reshape how Vietnam conducts cultural diplomacy. Vietnam has full potential to develop cultural diplomacy to a new level, effectively contributing to building a cohesive, sustainable, and prosperous ASEAN Community, while also enhancing its attractiveness and influence on the international stage.

V THERE: SERVICE CALL IN THE FUTURE SO THAT RETAINED WOMEN ARE EQUAL

Carmen M. Cusack & Matthew E. Waranius

I. INTRODUCTION: V-SIGHT

Retention of females serving in the military may be achieved using popular means, such as United States Supreme Court case law and a federal statute, as well as other alternatives, like mediation and ecofeminism.¹ This Article introduces new information about the final mean applying field research to the current body of work on retention.² Subsection A presents a case while B discusses a law. After, Subsection C is about mediation and D is about all-female groups that guard and conserve natural resources.

¹ *Infra* Subsection.

² *Id.*

A. Life Like Military

Retention of women in military life is protected under Equal Protection as stated in *United States v. Virginia Military Institute*.³ Denial of full citizenship results in the equal protection violation of the 14th Amendment prevented by the federal government when Virginia excluded women from a military academy simply because they were women.⁴ No "exceedingly persuasive justification" was demonstrated.⁵ An acting party must show at least that a discriminatory classification serves an important government objective and that the law substantially relates to the accomplishment of the goal.⁶ The school at first attempted to redirect women with leadership potential to a women's college.⁷ "Experts in educating women at the college level composed the Task Force"⁸ that failed to make

³ *United States v. Virginia*, 518 U.S. 515 (1996).

⁴ *Id.*

⁵ *Id. E. g., Mississippi Univ. for Women v. Hogan*, 458 U. S. 718, 724 (1982).

⁶ *Ibid.*

⁷ *Id. Infra* note.

⁸ *VMI*, 518 U.S. 515, 526 (1996).

emotionally convincing programs to recruit and retain women seeking military citizenship training from the all-male state school. Therefore, in the next Subsection the Coast Guard's initiatives to monitor and discuss women, including group needs may meet the standard under *VMI*.⁹

B. Federal Statute

A federal advisory board statute directs the United States Coast Guard to review retention of females.¹⁰ Women in the Coast Guard should be granted, like other military women, employment that guarantees success and retention.¹¹ This law requires women in the Coast Guard to be considered at the Academy, enlisted, officer, Reserve, and retired levels.¹²

Policies and law developed according to 14 USC § 2521 (2025) have a meaning that applies to women

⁹ *Id.*

¹⁰ *Infra* note.

¹¹ *Id.*

¹² *Id.*

in the Coast Guard.¹³ This Article uses §2521 to demonstrate retention in comparison to mediated and designed solutions.¹⁴ The statute §2521(a) establishes advisory supervision for women. According to provision (b), members help make a board including “an equal number of each of the following: (1) Active duty officers of the Coast Guard...(2) Active duty enlisted members of the Coast Guard...(3) Members of the Coast Guard Reserve...[and] (4) Retired members of the Coast Guard.”¹⁵ Section (c)(1) is about “improvements to the recruitment, retention, wellbeing, and success of women serving in the Coast Guard and attending the Coast Guard Academy,” specifically.¹⁶ The Coast Guard organization makes recommendations that are like proposed bill Stop Our Sexual Assault in the Military for protection of its members.¹⁷ The information is shared with the Coast Guard, which

¹³ §2521. Advisory Board on Women in the Coast Guard.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Stop Our Sexual Assault in the Military Act, H.R.1434 — 118th Congress (2023-2024), <https://www.congress.gov/bill/118th-congress/house-bill/1434>.

uses it to administer justice.¹⁸ Private organizations provide parts through military channels so that the operations are not traceable.¹⁹

C. Alternatives

Retention is challenged by sex crime trauma therefore it is the purpose of this Subsection to explore the following two ways that women cope with and avoid trauma: working with their husbands on boats and using mediation that may prevent loss when they feel sexually violated by other men during work; serving in all-female groups that hide from male servicemembers while maintaining masculine physical standards; and not forfeiting retention. This Article postulates that it would be negligent of employers, like the coast guard, which have mechanisms, to fail to provide for women whose only gender gap is the situation at bar.²⁰ What is more

¹⁸ *Id.*

¹⁹ *Infra C. See also, id.*

²⁰ Stop Our Sexual Assault in the Military Act, H.R.1434 — 118th Congress (2023-2024), <https://www.congress.gov/bill/118th-congress/house-bill/1434>.

is that with the enforcement mechanism in place, few women will suffer because very few women can reach that level of strenuous performance.²¹ The women serving in female groups may apply skills used to control natural, environmental, and pollution threats. The conditions are different for each retention strategy.²²

A woman approached a shipping company.²³ She asked to work on a boat with room, board, and pay. She asked for holidays and some comfort. This was acceptable. She said she was prior military, working for a year for the army. They reinstated her private credentials through banking machines and she was

²¹ Set value, private mediation. Special Considerations in Mediating Sexual Abuse Cases By Hon. Elizabeth Bonina (Ret.) – NAM (National Arbitration and Mediation) June 16, 2023, New York Law Journal, <https://www.namadr.com/content/uploads/2023/06/6.16.2023-Bonina-Special-Considerations-in-Mediating-Sexual-Abuse-Cases.pdf>.

²² *Infra*, research.

²³ Section I, research. *Exempli gratia*, Dr. Martina Baradel, *The Story of the Only Woman to Join Japan's Yakuza*, THE CONVERSATION (Jan. 17, 2024) <https://www.sociology.ox.ac.uk/article/the-story-of-the-only-woman-to-join-japans-notorious-yakuza-martina-baradel-writes-for-the-c>. "Her story redefines the boundaries of gender roles and allegiance in the brutal world of Japanese organised [*sic*] crime – a unique journey of identity and belonging." *Id.*

paid through her spouse's account. Her board included stay in a shared room with her spouse in a separate bed. She was told that she could complain about rape, by males and female against males and females, including herself, by filing out of form, available online. She was told that she would receive \$1,000 under the honor system and the day of her choosing off. She believed that the system was fair

The day came when she was raped. She had no evidence. A man, she thinks, snuck up behind her, grabbed her, rapidly pulled down her pants, and inserted his penis into her vagina. The intrusion was slight, then he let her go. She was not injured, and could not see who did it. She filled out the form and went on with her work. The United States Coast Guard contacted her, through a social agreement and asked them to network and share this story.

Women can safely serve as active duty as parties to mediation when they believe that they are victims of rape. Like men, they may experience sexual assault by men and wish to gain repayment for lost days and injuries, including self-esteem, when they

mediate with insurers, private and public, and visit doctors with highly sophisticated rape kits available. The directives of the law do not unfairly award public funds to women who cannot perform with men, required for strength work; rather, it calls to attention cases that make notes referring to all women

Women have the option to work alone. Those who are strong, nimble, and competent can form cells that provide female information centers with field data. Otherwise, most women serving work with their husbands and their inner circles. Working with a man is advantageous, but is risky. Few women, if any, will have the option to switch operating methods.

Congress can oversee the enforcement of gender supportive identity boosts for women, but cannot help them. The role women play in society is not fatal for military work, yet is not predetermined, like the majority of military men, to demonstrate strength sufficient to thrive as a member. Outstanding individuals may find options under the law.

V-sight is a machine serving in this Subsection to prove that gender differences in the military exist, but do not impair truly qualified women.²⁴ Genetic propensity and commitment to sturdy presentation and performance are deciding factors. A V-sight is a tool designed to show the watcher what is being view using a submarine periscope.²⁵ Like a telescope uses mirrors, in a “v” shape women capture the picture, when technologically paired, using coordinates with the submarine. From land or a second position on the water women who can assemble a V-sight, without detection, can know what submariners, male and female, may know after analyzing the horizon and underwater data.²⁶

²⁴ Section I, research.

²⁵ See micro machine.

²⁶ Intelligence Identities Protection Act of 1982, Pub. L. 97–200, 50 U.S.C. §§ 421–426 (1982). Jack Colineun, *Jury Hands Down Guilty Verdict in Vietnam Spy Case*, IN THESE TIMES (May 31- June 6, 1978), <https://www.unz.com/PDF/PERIODICAL/InTheseTimes-1978may31/5-6/> at 5. The White House prevents identity abuse.

II. CONCLUSION

Female retention is possible in the military because of Supreme Court law, statutory law, and coping and controlling mechanisms.²⁷ Women are able to achieve retention without discrimination because they use one of the means described here.²⁸ Women not using these means may have other avenues, though these are well-documented, but not abundantly accommodating. These equalizing strategies meet the legal standard and guarantee success and retention.

This Article tells a story, and talked about (e.g., Vietnamese-American) V-sights; shows how women try to be equal to men, even if they were mistreated causing gender gaps in pay and access to jobs early-on; discusses what women's issues look like in the military; and labeled women conservative tools of the environmental movement capable of helping the coast guard to produce results and regulatory

²⁷ *Supra* Section I.

²⁸ *Id.*

schemes affecting people in America and around the world.

FROM TEACHERS THAT KICK BACK TO KICKBACKS FOR TEACHERS: VEERING TEACHERS FROM VIOLENCE AGAINST STUDENTS IN SCHOOL

Carmen M. Cusack

I. V TIERS

Teachers and students are not allowed to kick each other in school, so if a student kicks a teacher, more money should be spent to support and improve the school (teaching and learning) environment so that the environment does not deteriorate leading to an innocent student getting kicked by a teacher because the next possible victim, a student, would have less power than a kicked teacher to prove that an attack occurred and recover legally.¹ Supporting students through teacher training and community improvement may legally be better than investigatory meetings and litigation involving

¹ *Infra* Section II.

sentence mandating and structure reform.² The next Section discusses rules with Subsection A drawing from statutes and Subsection B applying cases. Section three is the final Section. Concluding this research is a recommendation.

II. RULES

Schools protect teachers from damage caused by school violence by increasing their compensation, therefore to protect students from school violence by teachers, which has been hard to decide by boards and the court, money from the community should match this state schema. Louisiana and other legal schemas are examples. The arguments are congruent with Criminal Justice support for delinquent (antiviolence) advocacy and popular discourse about school environment protection.³

² *Id.*

³ *See infra* note Hinneburg (2018).

A. Example Statutes

Statutes discussed in this Subsection may control the cases discussed in the next Subsection and affect student claims that they deserve fortified avenues of protection, beyond those not discussed here, such as battery laws and mandatory child abuse reporting requirements, because funding teachers may protect schools.⁴ Restatements and theses as applied include the statutes here as well as work in favor of those allowed in the argument presented. Louisiana's antibullying statute protecting teachers requires an increased penalty for the battery of a teacher if the defendant is not a student.⁵ This law is a weak deterrent.⁶ If the law acts like a special deterrent then it is a good law.⁷ It shows that students, specifically, will be held responsible for committing batteries on teachers.⁸ If a teacher hits a teacher then it is worse legally. However, it does not prevent violence in

⁴ *Infra* Section II. B. (Protecting teachers directly, the cases also protect students).

⁵ LA Rev Stat § 14:34.3 (2024).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

schools involving teachers that commit battery in a single act against teachers and students.⁹ Though it stops teachers from being overpowered, the environment may fail.¹⁰ Teachers will lose funding because delinquency will set in and innocent students will be hit by teachers later.

A school teacher reasonably believed to be acting within the scope of his or her duties is the victim of battery when a battery is committed by an offender without consent.¹¹ Section B(1) includes the following as a "school teacher:" "any teacher or instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution."¹² This section adds to the definition of "school teacher" "any teacher aide and paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a city, parish, or

⁹ *Id.*

¹⁰ *Id.*

¹¹ RS 14:34.3(A) - Battery of a school teacher.

¹² RS 14:34.3(B)(1).

other local public school board.”¹³ Under a second point, “‘School’ means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.”¹⁴

Number three and section C, noting (C)(3), discuss the procedure affecting students.¹⁵ “Student” means a registered or enrolled person at the teacher’s place of employment.¹⁶ A battery against a teacher by a student results in a fine of not more than \$5,000 or imprisonment for not less than 30 days, but not more than one year.¹⁷ At least 72 hours must be served before the term can be suspended.¹⁸ A non-student will be fined less than \$5,000 or imprisoned with or without hard labor for more than one year, but less than five years, or both.¹⁹ If the victim is injured and “requires medical attention,” the offender will receive a fine of not more than \$5,000

¹³ *Id.*

¹⁴ *Id.* at (2).

¹⁵ *Id.* at (3).

¹⁶ *Id.*

¹⁷ *Id.* at (C)(1).

¹⁸ *Id.*

¹⁹ *Id.* at (2).

or incarcerated with or without hard labor, not less than a year, nor more than five years, or imprisoned and fined.²⁰

Injured teachers are compensated in Louisiana. Two sick leave statutes assist public school teachers injured at work.²¹ Louisiana gives “assault pay” to teachers.²² When teachers at public schools are “injured or disabled” by “assault or battery by any student or person” they receive sick leave, but not a reduction in pay, and do not surrender days of accrued sick leave during the disability that resulted from such an assault or battery.²³

A provision adds time to their damages for “physical contact.”²⁴ The provision states the following:

Any member of the teaching staff of the public schools who while acting in his official capacity is injured or disabled as a result of physical contact with a student while providing physical assistance to a

²⁰ *Id.* at (3).

²¹ LA Rev Stat § 17:1201(C) (2024).

²² *Id.* at § 17:1201(C)(1)(a).

²³ *Id.*

²⁴ *Id.* at § 17:1201(C)(1)(b)(i).

student to prevent danger or risk of injury to the student shall receive sick leave for a period up to one calendar year without reduction in pay and without reduction in accrued sick leave days while injured or disabled as a result of rendering such assistance.²⁵

Analysis of this Subsection leads to an apparent conclusion, teachers deter students and are supported when they are victims, but students will benefit more when teachers that have been fought are given training and community support resulting in educational environment protocols.

B. Example Cases

Can the government prevent teacher-student kicking? Yes, by preventing, deterring, and punishing student-teacher battery, schools can stimulate economic support for protocols that inhibit and allow redress for teacher-student kicking. The rule is found in *Tinker v. Des Moines*, a case about

²⁵ *Id.*

protesting against the Vietnam War.²⁶ Students may have a right to express community concerns in school; and may have a right to school board review of school decisions.²⁷ The following cases mean that students' rights are protected; and are protected better when the scope of a teacher's intervention and authority is limited to promote students' safety and use of the law to stop problems.²⁸

Boone v. Reese,²⁹ *Stroh v. Calcasieu Parish School Board*,³⁰ and *Stoshak v. East Baton Rouge Parish School Board*³¹ are cases discussed in this Subsection. These cases are about fights in school. Brandon, the son of Vickie a plaintiff, sued Wayne and the Calcasieu Parish School Board.³² The minor did not bring a pass from his doctor for a serious medical condition preventing him from dressing-out

²⁶ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).

²⁷ *Id.*

²⁸ *See, New Jersey v. T. L. O.*, 469 U.S. 325 (1985).

²⁹ *Boone v. Reese*, No. 04-979 (Ct. App. La, 3d. Cir., 2004).

³⁰ *Stroh v. Calcasieu Parish School Board*, No. 2007-1238 (La. Ct. App., 3d Cir. 2008).

³¹ *Stoshak v. East Baton Rouge Parish School Board*, No. 2006 CA 0852 (Ct. App. La., Cir 1st 2007).

³² *Boone v. Reese*, No. 04-979 (Ct. App. La, 3d. Cir., 2004).

for P.E. class.³³ His physical education teacher and the employer were alleged to have caused Brandon the suffering of serious injuries when he was called names and pushed.³⁴ The teacher passed by him out of necessity to maintain order and pushed him into a wall in class.³⁵

Calcasieu Parish School Board, sued by Carolyn Stroh, said that it did not owe sick leave to the victim of a battery who became disabled.³⁶ Because the child was caught explaining oral sex loudly the student began fighting and forcefully resisted ejection.³⁷ Stroh was injured when the offender committed battery.³⁸ The allegation was that the child intended to resist and cause a battery when he

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Stroh v. Calcasieu Parish School Board*, No. 2007-1238 (La. Ct. App., 3d Cir. 2008).

³⁷ *Id.*

³⁸ *Stroh v. Calcasieu Parish School Board*, No. 2007-1238 (La. Ct. App., 3d Cir. 2008).

pulled her arm by resisting her.³⁹ Their feet twisted, and she was kicked and fell.⁴⁰

A seated student was punched in the back of the head when the fight started.⁴¹ The victim chased the offender from the classroom.⁴² Stoshak, a teacher at Istrouma High School in Baton Rouge, was punched behind his back by a student.⁴³ He became unconscious after falling when two students fighting were obstructed by Stoshak who was hit in the head.⁴⁴ Neither admitted to hitting the teacher.⁴⁵ He did not feel that it was deliberate.⁴⁶ The offender was expelled.⁴⁷ Stoshak received from the East Baton Rouge Parish School Board leave without reduction

³⁹ *Id.* See *Bazley v. Tortorich*, 397 So.2d 475 (La.1981). *Lott v. St. Martin Parish Sch. Bd.*, 01-3 (La.App. 3 Cir. 5/2/01), 784 So.2d 838, writ denied, 01-1564 (La.9/14/01), 796 So.2d 680. (teacher fell, injured, kicked by young student hiding in bathroom) (citing La.R.S. 17:1201(C)(1)(a)).

⁴⁰ *Stroh v. Calcasieu Parish School Board*, No. 2007-1238 (La. Ct. App., 3d Cir. 2008).

⁴¹ *Stoshak v. East Baton Rouge Parish School Board*, No. 2006 CA 0852 (Ct. App. La., Cir 1st 2007).

⁴² *Id.*

⁴³ *Stoshak v. East Baton Rouge Parish School Board*, No. 2006 CA 0852 (Ct. App. La., Cir 1st 2007).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* See *infra* (like he knew, or should have known).

⁴⁷ *Id.*

in pay for a period of one year.⁴⁸ Then he sued for more benefits under the theory that he was the victim of battery, and yet had become disabled while interrupting a fight.⁴⁹

These are the holdings. The trial court found no harm in the name-calling and said to the mother that it was not malicious.⁵⁰ This was affirmed by the appellate court that also held with the trial court on the issue of the reasonability of teacher-student violence to maintain control in the classroom.⁵¹ After a physician certifies such injury and disability, the teacher will not lose sick pay following lengthy legal procedures.⁵² A full salary can be paid during disability.⁵³ She was entitled to leave without a reduction in pay and the appellate court affirmed.⁵⁴

⁴⁸ Citing La. R.S. 17:1201(C)(1)(b)(i).

⁴⁹ *Stoshak v. East Baton Rouge Parish School Board*, No. 2006 CA 0852 (Ct. App. La., Cir 1st 2007).

⁵⁰ *Boone v. Reese*, No. 04-979 (Ct. App. La, 3d. Cir., 2004).

⁵¹ *Id.*

⁵² *Stroh v. Calcasieu Parish School Board*, No. 2007-1238 (La. Ct. App., 3d Cir. 2008).

⁵³ *Id.*

⁵⁴ *Id.*

An intentional battery was committed and the floored teacher could receive more money.⁵⁵

This Subsection fights these cases in these ways. Disruptive students are not victims of battery when they are removed forcefully from the classroom, but students that are innocent are not disruptive (excused, acknowledged, or permitted) therefore kicking them is wrong.⁵⁶ Harmful or offensive touching was committed by the student, who was also kicked around by the teacher.⁵⁷ Two different sick leave pay provisions were analyzed, and therefore damages were properly claimed, even though the dicta was inconsistent with typical

⁵⁵ *Stoshak v. East Baton Rouge Parish School Board*, No. 2006 CA 0852 (Ct. App. La., Cir 1st 2007). *See* La. R.S. 14:36. The criminal law term “battery” is defined as the “intentional use of force or violence upon the person of another.” La. R.S. 14:33. Under the tort law, a battery is “harmful or offensive contact with a person, resulting from an act intended to cause the plaintiff to suffer such a contact.” *Caudle v. Betts*, 512 So.2d 389, 391 (La.1987). *Fontenot v. Reddell Vidrine Water District*, 2002-0439, p. 7 (La.1/14/03), 836 So.2d 14, 20.

⁵⁶ *Boone v. Reese*, No. 04-979 (Ct. App. La, 3d Cir., 2004). *Frame v. Comeaux*, 98-1498, p. 4 (La.App. 3 Cir. 4/21/99), 735 So.2d 753, 755 (citing *Caudle v. Betts*, 512 So.2d 389, 391 (La.1987) at 391 *also* negligent).

⁵⁷ *Stroh v. Calcasieu Parish School Board*, No. 2007-1238 (La. Ct. App., 3d Cir. 2008).

sides.⁵⁸ Yet, for other reasons this Subsection agrees with them. Students that are innocent and kicked by teachers in a damaged system should receive consideration and rights enforcement from officials and the teacher.

Because an innocent student may be kicked in the future if a teacher disrupting the system cannot give an opportunity to juveniles kicking teachers *Goss v. Lopez* says that the student has the right.⁵⁹ When teachers kick students poverty has altered processes and productivity. The future students in the community rely on processes to work to keep the processes. The procedures investigating teachers will protect innocent students, and students immediately will benefit from teacher training for teachers who have been kicked and maybe their replacements.

⁵⁸ *Stoshak v. East Baton Rouge Parish School Board*, No. 2006 CA 0852 (Ct. App. La., Cir 1st 2007). "See e.g. *Garnier v. Orleans Parish School Board*, 2001-0860 (La.App. 4 Cir. 7/31/02), 824 So.2d 1222, writ denied, 2002-2290 (La.11/15/02), 829 So.2d 433 (holding that the 'physical contact' provision applied to injuries sustained by a teacher who fell to the ground when a student she was attempting to restrain from harming another student jerked away from her)."

⁵⁹ *Goss v. Lopez*, 419 U.S. 565 (1975). A student may have a due process right in his or her education (property).

III. FINAL CONCLUSION

Teacher on student violence deserves financial attention to support the school environment, protect students, and stop kicking by teachers against students. Poor training and preparation are not covered by the pay provisions.⁶⁰ When students are kicked money does not flow similarly, the school uses community resources, though they may be difficult, but money is not used in the school system to improve the school. Therefore before students are kicked teachers should be trained and student innocence reinforced because if students hit teachers and teachers leave then funding decreases for all, and students will have more dangerous schools that ask for no damages for students and set-out to find them capable of having engaged in combat.

Reciprocal safeguards are ineffective, and then funding is reduced. Limitations in discussing theories like delinquency and substance abuse in school may take funding direction for the school

⁶⁰ *Supra* Section II.

environment from this recommendation and still prosecute when proven. Mandatory reporting safeguards, like heavy police, ununiformed or rookies for kids, and school counseling measures, may achieve the goal partially, but if underfunded then they will not be effective.⁶¹ Low funds in response to fights, must be increased to prevent violations, so that in the immediate not just the next economic cycle (e.g. successive terms and delinquents) the innocent student will be protected from retaliatory, poorly trained, risky (e.g. reckless or negligent) teachers, and other problems. Schools must prevent students from kicking teachers and punish students that kick or schools will lose money and teachers may kick future students.⁶² Those complaints will not be processed or may poorly be processed due to economic consequences, such as financial loss by administrators.

⁶¹ See Cheryl Hinneburg, *Shaquille O'Neal Says Schools Need More Police Not a Gun Ban*, AMERICAN MILITARY NEWS (Mar. 15, 2018) https://americanmilitarynews.com/2018/03/shaquille-oneal-says-schools-need-more-police-not-a-gun-ban/#google_vignette.

⁶² *Supra* Section II.

Rude kicking is hard to prove and sometimes out of nowhere with no witnesses it meanly assaults structured environments and then the victim's body.⁶³ By reducing exposure to violence; nasty attitudes, expectations of violence, and hostile environments using mandatory reporting; increasing delinquency response severity; and trusting innocent students by instilling seriousness in complaint receiving bodies and individuals, schools can circulate information, reform tactics, and deterrence strategies that culminate in valuable exchanges, protocols, and economic prosperity. Students entering a classroom have a right to enter without a traumatized and callous teacher attacking, like those who might kick them while seated in class. Kicking is a problem affecting students whose teachers know they cannot complain because of low economic

⁶³ The accused hit a peace officer, accused of selling marijuana. State in Interest of V. (Ct. App. La, 5th Cir.); State of Louisiana in the Interest of M.H., NO. 23-KA-326 (2023). The following case is better because there is evidence: Joe Marusak, *SC Elementary Teacher Kicked Student, Video Shows*, CHARLOTTE OBSERVER (Oct. 23, 2018), www.charlotteobserver.com/news/local/article220496090.html. Officials spoke to the police and the district was informed.

interest in assisting innocent students.⁶⁴ Prosecuting bad students hitting and kicking teachers changes power from the fight-based focus to a focus on students' rights when assistance is available on various levels.

⁶⁴ Nicole Duncan-Smith, *'Her Life Was Suddenly Altered': Friend Says Georgia High School Teacher Injured in Viral Brawl with Student Is Unable to Walk*, ATLANTA BLACK STAR (Feb. 2, 2023), www.Atlantablackstar.com/2023/02/02/friend-says-injured-suburban-atlanta-teacher-will-need-rehab-and-additional-support-to-walk-again-after-altercation-with-student-at-school/.

Tiwana Turner, an English language arts instructor with over 27 years in public education, is recovering in a hospital bed and contemplating the long road to recovery ahead of her. Her friends are thinking about it, too, setting up a GoFundMe to raise money to assist with the many bills associated with her getting better. So far, it has garnered over \$11,000 in donations. *Id.*

The teacher pushed her after she knocked the phone from her hand preventing her from calling for help because the student was mad.⁶⁴