

SOCIALIST REPUBLIC OF VIETNAM

(VIỆT NAM)



BACKGROUND AND LEGAL SYSTEM

LEGAL SYSTEM	Socialist/Civil (French).
POLITICAL SYSTEM	Soviet Style Republic.
HEAD OF STATE	President, elected by the National Assembly every five years.
HEAD OF GOVERNMENT	Premier, elected by the National Assembly.
SUBNATIONAL ENTITIES	As of 2006, there are 59 provinces (<i>tin</i> <i>h</i>) and 5 municipalities (<i>thanh pho</i>).
SUBLOCAL ENTITIES	Town, City, District, Ward and Commune.
TRANSLITERATION SYSTEM	None.
LANGUAGES	Vietnamese.

CONSTITUTION

OFFICIAL NAME	<i>Hiến pháp.</i>
ENACTMENT	First Constitution adopted by the National Assembly in November 1946. The second Constitution was adopted in 1959. The third Constitution was adopted in 1980. The present Constitution was adopted on April 15, 1992.
CITATION FORMAT	HIẾN PHÁP [Constitution.] art. <article> (<Year>).
<i>Example</i>	HIẾN PHÁP [Constitution.] art.146 (1992).

STATUTES

GOVERNMENT STRUCTURE	<p>A unicameral legislature (The National Assembly or <i>Quoc-Hoi</i>) includes 498 members, is open to non-Party members, and is directly elected. It is the highest representative organ of the people and is elected every five years. The National Assembly meets twice a year, or more frequently if called for by the Council of State.</p> <p>The National Assembly has the power to draw up, adopt and amend the constitution and to make and amend laws. It also has the power to define the functions of the People's Councils and People's Committees (the local government entities), the Supreme People's Court, and the Supreme People's Organs of Control.</p>
LEGISLATIVE PROCESS	Laws are passed by the National Assembly and hold priority over all other legal documents. Ordinances are issued by the Standing Committee of the National Assembly and have the effect of laws. Implementing guidelines and regulations are issued by the various ministries and hold a legal standing secondary to either laws or ordinances.
REPORTER	Official Gazette.

CITATION FORMAT
(LAWS [LUAT] AND
ORDINANCES [PHAP
LENH])

<Vietnamese title> [<English translation>], No. <number>
(<Date>).

Example

Luat To Chuc Toa An Nhan Dan [Law on the Organization of
the People's Courts], No. 02L/CTN (Oct. 10, 1992).

CITATION FORMAT
(DECREEES [NGHE DINH])

<Vietnamese title> [<English translation>], <decree number
where applicable>. (<date>).

Example

*Cong Van 647/CV-DC Ve Viec huong Dan Mot So Diem Thuc
Hien Nghe Dinh So 60/CP* [Document 647/CV-DC Regarding
Guidelines on the Implementation of Government Direction
60/CP], General Land Department (May 31, 1995).

ADMINISTRATIVE REGULATIONS

ADMINISTRATIVE
SOURCES

The Ministries and the Ministry-equivalent bodies are
established by the decision of the National Assembly at the
suggestion of the Prime Minister. Vietnamese ministries, acting
pursuant to Laws, Ordinances or Decrees, may promulgate
Administrative Regulations which are binding on those who are
subject to the agency's jurisdiction.

REPORTER

Official Gazette.

CITATION FORMAT

<Vietnamese title> [<English translation>], No. <regulation>
(<date>).

Example

Phap Lenh Thu Tuc Giai Quyet Cac Vu An Hanh Chinh
[Ordinance on the Procedures for Resolving Administrative
Disputes], No. 49 L/CTN, ch. 1, art. 2 (June 3, 1996).

CODES

<i>Bộ luật dân sự Việt Nam</i> (CIVIL CODE)	The Civil Code of the Socialist Republic of Vietnam, was adopted by the National Assembly (Legislature IX, 8th Session) Oct. 28, 1995, effective July 1, 1996. It sets forth the basic principles of law that govern all civil relations.
<i>Bộ luật tố tụng dân sự Việt Nam</i> (CIVIL PROCEDURE CODE)	Passed on 15 June 2004 by the National Assembly and came into effect on 1 January 2005. Governs procedures for settlement of civil disputes and details procedures for the People's Courts to make certain declarations.
<i>Bộ luật hình sự Việt Nam</i> (CODE OF CRIMINAL PROCEDURE)	Enacted November, 2003. No English translation available.
<i>Bộ luật lao động Việt Nam</i> (LABOR CODE)	The National Assembly ratified the Labor Code in its fifth session, Legislature IX, on June 23, 1994. The Labor Code came into effect on January 1, 1995. It contains regulations regarding labor contracts, salary and wages, labor unions, collective labor agreements, social insurance, labor safety, working conditions, and vocational training.
CITATION FORMAT	<Vietnamese title> [<English translation>] (<date>), Art. <article>. (Vietnam).
Examples	<i>Bo Luat Lao Dong Cua Nuoc Cong Xa Hoi Chu Nghia Viet Nam Va Cac Van Ban Huong Dan Thi Hanh</i> [The Labour Code Of The Socialist Republic Of Vietnam and Implementation Documents] (1994), Art. 73 (Vietnam).

CASE LAW

JUDICIAL OVERVIEW

The judicial system consists of the Supreme People's Court; Local People's Courts at the provincial, district, and city levels; Military Tribunals; and special tribunals established by the National Assembly. Judges are elected for a term that is equivalent to that of the government body that elects them.

The Supreme People's Court is the highest court, and has a chief justice who is elected for a five-year term by the National Assembly on the recommendation of the President. The Supreme People's Court supervises the subordinate courts. As a court of first instance it tries cases that involve high treason and crimes of serious nature. As the highest court of appeals, it reviews decisions of the lower courts. However, appeals are uncommon. In 2005, the Supreme People's Court began publishing civil, trade, labor and administrative judgments for the years of 2003 and 2004.

Local People's courts operate at each administrative level.

REPORTER

Official Gazette.

CITATION FORMAT SUPREME PEOPLE'S COURT

Currently unavailable.

Example

Currently unavailable.

CITATION FORMAT LOCAL PEOPLE'S COURTS

Currently unavailable.

SOURCES

The CIA Factbook:

<https://www.cia.gov/cia/publications/factbook/geos/vm.html>

The Embassy of the Socialist Republic of Vietnam in the United States

www.vietnamembassy-usa.org

Socialist Republic of Vietnam (Parties & Organizations)
www.politicalresources.net/vietnam.htm

Vietnam Law Documents
coombs.anu.edu.au/~vern/luat/luat.html

Vietnam Economy
<http://www.vneconomy.com.vn/vet/?param=print&id=5788>

Asia Information Associates Limited
<http://www.aial.com/civilcon.html>

Maison Du Droit Vietnamo Francaise
http://www.maisondudroit.org/les_codes_vn.htm

Vietnamese Legislation
http://www.ecap-project.org/asean_ip_legislation_international_treaties/vietnam.html

Barbara G. James, *Vietnamese Law in English: A Selected Annotated Bibliography*, 84 L. LIBR. J. 461 (1992).

Rory J. Radding & H.T. Tham, *Patnt Protection in Vietnam: A Business Decision*, 8 TRANSNAT'L LAW. 87 (1995).

David Lange, *Vietnam's 1994 Ordinance on Copyright Protection: A Survey and Preliminary Analysis*, 3 J. INTELL. PROP. L. (1995).

Brian J.M. Quinn, Note, *Legal Reform and its Context in Vietnam*, 15 COLUM. J. ASIAN L. 219, 281-85 (2002)

"Vietnam publishes courts' decisions for first time," Thai Press Reports, July 21, 2005

Johnny Vinh Phan, *The Socialist Republic of Vietnam's Labor Code: Looking Beyond the Printed Papers*, 25 Hastings Int'l & Comp. L. Rev. 63, 70

Wendy N. Duong, *Gender Equality and Women's Issues in Vietnam: The Vietnamese Woman-Warrior and Poet*, 10 Pac. Rim L. & Pol'y J. 191, 326 (March 2001)

SPECIAL THANKS

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