



## **Impact of ASEAN Charter to the legal education system of Vietnam**

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### **1. Role of legal education in building a rule-of-law state, socio-economic development, enhancing comprehensive integration of Vietnam in ASEAN and international**

According to the Encyclopedia of Vietnam (2002) "*Legal education is an oriented effect of the process of building, applying, disseminating and explaining laws in order to improve awareness of laws*" [7, p.124].

Legal education can be understood in the narrow and broad senses. In the narrow one, legal education is an oriented activity of state agencies and social organizations designed to build and enhance legal knowledge for the citizens, agencies and organizations, so as to turn this knowledge into belief, purpose, motivation and habit of every residents. Broadly, legal education is an impact process of subjective and objective factors on building and developing legal awareness of citizens. Objective factors include socio-political regime, economic condition and living environment of every citizen. Subjective factors are oriented, organized and systematic activities of institutions of the state and the society.

Therefore, legal education is not just known as teaching law, explaining legal knowledge for school children but also including training general and specialized legal knowledge at the levels of bachelor, master and doctorate in universities and research institutes. It consists of the dissemination, propagation and explanation of laws, teaching awareness of observance and compliance with the laws within the community, state agencies and social organizations ... It also includes the provide of theoretical knowledge and practical skills for legal professionals.

Education in general and legal education in particular, play an extremely important role in the process of building the rule-of-law state, socio-economic development, and enhancing comprehensive and deeper international integration of Vietnam in ASEAN and in international level. Legal education provides legal knowledge, constructs awareness of legal compliance, prepares skills in implementing and applying laws for every citizen from



the time sitting on schools, training professions and then practicing laws on various areas of legal specializations.

Legal education helps citizens properly aware of and effectively perform the rights and obligations of every citizen, agency and organization during the process of building the State of people, by people and for people; practically contributing to the socio-economic development; promoting the country's process of political, economic and cultural integration in ASEAN and in the world.

## **2. Policies on legal education of the Vietnamese Government.**

The state of Vietnam always respects education and training, including legal education for its citizens. The Constitution (1992) of the Socialist Republic of Vietnam clearly asserts in Article 35 that: *"Education and training is a primary national policy. The State develops education with a view to raising the people's intellectual standard, training human resources, fostering talent. Education's objective is to foster and nurture the personality, human qualities and capability of the citizen, to train a body of skilled dynamic and innovative workers imbued with national pride and good virtues and the resolve to strive to build a strong and prosperous nation, so as to meet the needs of nation-building and defence"* [2].

Understanding the important position and role of legal education for the construction and development of various aspects of the country, the Vietnamese State has a policy that takes interest in and provides necessary and favorable conditions for legal education in Vietnam.

On 7<sup>th</sup> December 2007, the Vietnamese Government has issued Resolution No. 61/2007 on promoting legal dissemination and education. The Resolution clearly stated that: *"Legal dissemination and education must be conducted regularly and continuously at a higher level so as to make officials and people seriously understand and implement laws to meet the needs of building the State of people, by people, for people"* [8].

Policies of the State of Vietnam on providing guarantee and promotion for legal education are reflected in the plans for socio-economic development yearly and five-year period which are approved by the National Assembly and executed by the Government. Vietnamese policies on legal education are also manifested in the laws promulgated by the National Assembly, in ordinances of the Standing Committee of the National Assembly, in decrees of the Government, in circulars and directives of the ministries, agencies and state bodies in locality.



In order to create important resources which play decisive role to the success of the comprehensive innovation and deeper international integration of Vietnam, the Government has promulgated Resolution No. 14/NQ-CP dated 2nd November 2005 on fundamental and comprehensive innovation in tertiary education of Vietnam, including legal education, the period from 2006 to 2020. The Ministry of Education and Training of Vietnam has built a Project on innovating tertiary education of Vietnam for the period 2006 - 2020 (tertiary education here is understood as including legal education implemented in different levels, such as bachelor, master and doctorate). The Project clearly points out the following directions and resolutions:

- *"To implement a credits-based- training system, to create conditions for the learners to accumulate knowledge and joint in consecutive levels of training;*
- *To renovate the regulation on quota for enrollment ..., to increase the autonomy of the higher educational institutions;*
- *To renew the content and methods of training so as to improve the quality of master and doctoral training;*
- *To rebuilt a policy on school fees, having a share of costs in higher education between the State, the learners and the community;*
- *To allocate the budget based on assessments of the society over tertiary institutions;*
- *To create conditions for the tertiary institutions to have a higher autonomy in their incomes and expenditures with a principle that the revenue can adequately compensate reasonable expenses, and that having necessary accumulation to increase facilities for training and research "[5].*

Policies on legal education of Vietnam are expressed in detail by the following activities: a) funding, approving and managing the compilation and publication of books, magazines, textbooks, curriculums and materials disseminating and explaining laws, and propagating legal knowledge, b) allocating expenses and regulating financial revenue for training legal officials, c) funding and providing favorable conditions for learning experience on building and improving laws of other countries, d) stipulating mechanisms and systems of professionally training institutions for legal officials in different fields of laws, e) summarizing and systemizing domestic experience on legal education and those of foreign countries in order to improve legal education of Vietnam. ...



### **3. System and curriculum of legal education of Vietnam.**

The legal education system of Vietnam is possibly evaluated as an adequate and fairly diverse one. This system includes different levels of legal education and training as follows:

#### ***a) Legal education in schools (from elementary school, secondary school and high school).***

Legal education in schools consists of the compilation of textbooks about legal knowledge; teaching students the basic knowledge on state, law, legality and awareness of compliance with the law.

Curriculums of legal education here comprise class lessons and practice lessons which are quite simple and easy to understand to make sense of compliance with the law naturally, to provide interests in studying and daily habit for students.

#### ***b) Legal education in professional schools, colleges and universities.***

This legal education system contains the compilation of textbooks and curriculums of teaching laws for different learners working in different areas. Learning materials in colleges, professional schools and universities which are not specialized in law, includes textbooks on Introduction of Law. Meanwhile, in the schools specialized in training legal personnel, the State and the training institutions co-invest in the compilation of textbooks and materials which have copious and specialized subjects.

These curriculums pay more attention to provide basic knowledge about laws for the learners; concurrently, to guide and to create favorable conditions for the learners to make themselves-study, selves-research and initially raise their viewpoints over legal issues. These curriculums comprise the theoretical lectures, discussions and exchange of the information and knowledge that the learners have accrued, and their personal awareness and viewpoints. They also include the practice lessons applying learned knowledge and skills in law implementation and application.

#### ***c) Legal education at postgraduate level.***

The education system at postgraduate level includes training masters and doctorate in law for professionally legal staffs. This provides the training for legal personnel, legal professionals who are highly qualified, capable of finding, proposing and resolving effectively legal issues in many political, socio- economic areas of the country.



Here, curriculums of this system comprise basis and depth majors on many specialized areas of law. The curriculums concentrate in improving the learners' theoretical knowledge of law, equipping and training them the ability to organize and direct a group of people to resolve theoretical and practical problems of the legal life; to produce ideas and initiatives in building the rule-of-law state, discipline society, justice, equality, democracy and civilization.

**d) *Legal education for communities, state agencies and social organizations.***

The system of this mode of legal education has been carried out by the compilation of books, magazines and documents explaining, propagating and disseminating general and popular knowledge about state, law, legality, building law, applying and enforcement of law... by means of organizing classes, courses, radio and television ... in order to ensure the society more safety, order, justice and democracy.

The curriculums of this system purpose to make the citizens, communities, other state agencies and social organizations understand their legitimate rights and obligations; provide favorable conditions and encourage them to perform fully their rights and duties; build a society with democracy, justice, equality and discipline ... so as to contribute actively to the construction of national and the stable and sustainable development of the society.

**e) *Legal education within legal agencies and organizations.***

This legal education system consist of fostering and update new knowledge about the law (theory and practical knowledge) to regularly improve the awareness of the legal professional staffs working in State agencies and social organizations practicing law (such as legislative and judicial organs, courts, procuracy, police, law firms, legal counsels, and commercial arbitration ...).

The curriculums of this system includes theoretical lectures, explanations of laws, materials for the dissemination of new policies and legal documents, guidelines on professional practice and skills, the answers of questions arising out of theory and reality...so as to support the legislature, law enforcement bodies, law application bodies, organs inspecting and supervising the implementation and application of law to achieve the most effective activities.

**4. Achievements, shortcomings and inadequacies in legal education of Vietnam in recent years.**



#### ***4.1. Achievements of the education law of Vietnam in recent years.***

During several decades, especially since Vietnam has carried out the process of innovation, open relations and integrate in ASEAN and international (from 1986 to present) legal education of Vietnam has achieved significant and remarkable achievements. These achievements are reflected through the following results:

a) The State professional agencies (Ministry of Education and Training, Ministry of Justice), legal scientific research institutions, training institutions (professional schools, colleges, universities) have composed hundreds of textbooks, curriculums, materials ... about general and specialized legal knowledge, providing theoretical background, making fully aware of the content and meaning of the current laws, as well as providing guidance and training on professional skills required by the legal profession.

b) The public and non-public training institutions (Vietnam currently has 12 institutions teaching law at graduate and post-graduate levels, 3 legal vocational training institutions) have educated tens of thousands legal staffs with many different academic levels (intermediate, bachelors, masters, doctorates) with a higher quality to serve better the construction and improvement of the legality system of Vietnam, to contribute efficiently to the process of building the rule-of-law state, socio-economic development and international integration of Vietnam.

c) To equip knowledge and understanding of the law, to build a sense of respect and compliance with the laws for most people in different classes, in different levels of the society.

d) To provide favorable conditions; to encourage the citizens, agencies and organizations within the society in promoting the democracy, participating actively in the process of making laws, the implementation and application of laws as well as improving the laws.

e) To cooperate and associate more and more diversely and effectively in the field of legal education with other countries, organizations and individuals in the ASEAN region and throughout the world as well. Vietnam has sent thousands of excellent citizens to many countries within ASEAN and over the world for studying and doing legal research. The country has also helped other countries (Lao, Cambodia, Yemen, China...) to educate hundreds of legal officials, including those are qualified at high levels of training such as master and doctorate of law.

#### ***4.2. Shortcomings and inadequacies in legal education of Vietnam in recent years.***



A part from the above remarkable and significant achievements, the legal education of Vietnam has revealed a number of shortcomings and inadequacies in recent years. Those shortcomings and inadequacies can be named as follows:

- a) The State's policy on legal education for organizations and citizens sometimes is not fully and timely institutionalized into the needed laws and normative legal documents.
- b) Although Article 89 of the Education Law (1998) stipulates that: "The State grants priority to educational budget, and ensures an increasing proportion of state funds for education expenditures basing on the requirements of the education development" [6], most fundings from the state, community and the society are unsatisfied the needs of expanding the material and technical facilities, of composing textbooks and syllabuses, of ensuring stable living standards for those participating in legal education.
- c) The knowledge and understanding about the law of some government officials, the leaders, and business managers ...is not satisfied the increasing demands of the citizens, organizations as well as the needs for solving quickly and timely issues arising out from daily and at the moment of the practice. Many people have not paid enough attention to use legal specialists when running their daily businesses, thus they have to overcome heavier consequences as a result of not fully understanding the law or disrespect for legal advice.
- d) Some citizens in cities and rural areas, especially for those living in remote and mountainous areas still do not have basic legal knowledge and do not act strictly in accordance with laws, creating offences.
- e) The application of studying by credits in legal education under instruction of the Government and Ministry of Education are not prepared well and slowly implemented and uniformed in training institutes;
- f) The State as well as other legal education institutes do not maximally utilize opportunities and favorable conditions in cooperating and collaborating legal training and education in ASEAN and other parts of the world.
- g) Still having a number of legal graduates do not have jobs or work not in line with their backgrounds or transfer to other works.



Those shortcomings cause to some adverse impacts of Vietnam Legal Education, limiting legal education for citizens during the development of legal awareness and effective implementation in the whole country.

### 5. The Impacts of ASEAN Charter to Legal Education of Vietnam

The ASEAN Charter have been concluded by the Heads of State or Governments on 20/11/2007 and ratified by the National Assembly of ASEAN Member States. This is a crucial legal document ensuring continuous and stable developments of ASEAN. The ASEAN Charter should be considered as a constitutional document that the legal systems of ASEAN Member states have to comply and be transformed into their domestic laws. With this spiritual meaning, from the date of effectiveness and so on, the ASEAN Charter will have positive impacts on the legal education system of Vietnam. In the modern society, democracy, rules of law, human rights and basic rights of citizens are the highest value need to be respected. This is a precedent condition for build up a civilized society of stable and prosperous development. Therefore, in the Preamble of ASEAN Charter, the ASEAN Member States committed that: **“ADHERING** to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms” [1]. This commitment could only be implemented through promulgation of new policies in accordance with legal education trends and operated by a dynamic and effective system of legal education.

The ASEAN Charter is proper to set up achieving objectives of Member States: **““To** develop human resources through closer cooperation in education and life-long learning, and in science and technology, for the empowerment of the peoples of ASEAN and for the strengthening of the ASEAN Community [1].

Through the system of legal education in terms of planning and appropriateness, the ASEAN Member States, in collaboration, could reach important objectives: **“To** create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital;” [1].

The ASEAN Charter also stipulates that: **“RESPECTING** the fundamental importance of amity and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity ” [1]. This provision covers assistances and supports between ASEAN Member Sates in educating and training a number of skilled

and good-theoretical lawyers in serving for collaboration of political, cultural and social-economic developments of each country as well as the whole ASEAN.

## **6. Specific Orientations and Solutions for Improving the Legal Education System of Vietnam**

### **6.1. Specific Directions for Improving the Legal Education System of Vietnam**

The improvement of Legal Education System of Vietnam to implement the ASEAN Charter needs to be complied with following orientations:

- Disseminating ASEAN Charter to State agencies, social organizations and individuals of Vietnam, especially who get involved in legal education.
- Revising timely State policies of Vietnam on legal education in compliance with ASEAN Charter.
- Innovating legal education methodologies in line with principles and objectives stipulated in ASEAN Charter.
- Revising legal normative documents that are not appropriate and enacting new instruments on legal education in compliance with ASEAN Charter. This direction conforms to Article 5 of ASEAN Charter on rights and obligations of each country, as stipulated under Charter: “Member States shall take all necessary measures, including the enactment of appropriate domestic legislation, to effectively implement the provisions of this Charter and to comply with all obligations of membership. [1]
- Opening and deepening legal education cooperation between Vietnam and other Member States in line with principles and objectives agreed in ASEAN Charter; explaining and disseminating ASEAN policies and instruments on legal education for individuals and organizations of Vietnam.
- Promulgating a new mechanism of education such as: independence and self-responsibility of institutes and universities in recruiting, identifying annual education quota, developing educational programs, legal education methodologies; educating lawyers and legal staff under requests of State bodies, social organizations, enterprises and law firms; increasing tuition fees of trainees so as to improve quality of legal education; increasing state budgets for legal education (drafting, printing legal books, materials; legal training skills and paying for trainers and teachers)[3].



- Strengthening and opening up legal education for community, State agencies, citizens, social organizations so as to help them invoke and undertake their legitimate rights and obligations, respectively as stipulated in the Charter: “To ensure that the peoples and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment”[1].
- Allowing and creating a favorable condition for legal education institutes to import educational materials and executing modern training programs for highly skilled and theoretical lawyers.
- Implementing objectives of “To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation” [1] by sending Vietnamese citizens to other developed countries for legal education (bachelor, master, doctor and legal training); increasing in reception of foreigners inside and outside ASEAN countries to study Vietnamese law. This also complies with Article 95 of Law on Education of Vietnam (1998), as stipulated: “The State encourages and creates conditions for Vietnamese citizens to participate in teaching, learning, research and academic exchange abroad, either with their own expenses or with funding from domestic or foreign organizations and individuals.” [6]

## 6.2. Specific Solutions for Improving the Legal Education System of Vietnam

To improve legal education system of Vietnam for implementing the ASEAN Charter, it needs to add some specific following solutions:

- Revising timely legal normative documents on legal education that have shortcomings in compliance with objectives and principles stipulated in ASEAN Charter.
- Increasing state budgets and self funding for developing legal training materials.
- Increasing salaries from the State budgets or self funding of legal education institutes for legal trainers and teachers so that they could devote their life, time, enthusiasm and energy to legal education.
- Increasing tuition fees of legal trainees or students so as the institutes have good conditions and necessary resources to modernize infrastructure and to improve quality of legal education materials as well as the lives of teachers and trainers.
- Building and implementing credit loans for who having demands to study law; granting partly or fully excellent students or trainees.



- Strengthening legal education and study in English as well as publishing English training and education materials.
- Opening the application of training and educating by credits and creating favorable conditions for students to be independent, dynamic and creative in all institutes.

We believe that under the light of ASEAN Charter with positive provisions, great objectives and clear principles, the legal education of Vietnam will achieve gradually successes and contribute to stable and social development of Vietnam and ASEAN countries.

Reference materials:

[1] ASEAN Charter (2007);

[2] Vietnam Constitution (1992, 2001);

[3] Prof. Dr. Tran Ngoc Dung, Summary Report of Project: “Legal Education for Legal Staff with High Skills for Serving International Economic Integration of Viet Nam”;

[4] The Resolution of the Government No: 14/NQ-CP dated 2/11/2005 on Basic and Comprehensive Innovation of Vietnam Tertiary Education in Period from 2006-2020.

[5] Ministry of Education, Project to Innovate Tertiary Education of Vietnam in Period from 2006-2020.

[6] Law on Education (1998);

[7] National Committee to Instruct the Development of Encyclopedia Dictionary (2002), Encyclopedia Dictionary;

[8] Resolution 61/2007 dated 7 December 2007 of the Government on Enhancing Legal Dissemination.