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REPORT ON THE PROTECTION AND PROMOTION OF HUMAN RIGHTS UNIVERSAL PERIODIC REVIEW - THIRD CYCLE - VIETNAM BY THE VIETNAM BAR FEDERATION

I. About the VBF

1. The Vietnam Bar Federation - VBF (central level) and its affiliates in local provinces and cities is a socio-professional organization of lawyers which strive to protect the legitimate rights and interests of lawyers, to foster the professionalism and professionalism of lawyers, to supervise the compliance of the law, the Code of Ethics and practice of Vietnamese lawyers and to conduct the management of professional lawyer in accordance with the law.
2. Under the provisions of the 2006 Law on Lawyers (amended in 2012), the function of lawyers is stipulated as followed: “The lawyer's professional activities contribute to the protection of justice, democracy, the legitimate rights and interests of individuals, agencies and organizations, the socio-economic development, the building of a law-based Socialist Republic of Vietnam, a civilized, democratic and equitable society”.

II. Human Rights in the 2013 Constitution and the 2015 Criminal Procedure Code

3. Human rights are recognized and protected in the national law of each state and international legal treaties. In Vietnam, human rights are always respected and guaranteed, which are reflected in the Constitution, especially the 2013 Constitution. For the first time in the history of Vietnam’s constitutionalism, “human rights” became the name of Chapter 2 of the 2013 Constitution (instead of just "basic rights and obligations of citizens" as in previous Constitutions). This represents the strong commitment of the Party and Government of Vietnam in the implementation of international human rights treaties to which Vietnam is a member.
4. The 2013 Constitution promotes the building of a socialist rule-of-law state that is of the people, by the people, for the people” in which human rights are recognized, respected, protected and guaranteed. In that sense, the promotion of the rule of law also means the promotion, respect, and protection of human rights. The People's Courts are judicial organs, exercising judicial power with the mission of protecting

justice, protecting human rights, citizenship, the socialist system, protecting the interests of the state and the legitimate rights and interests of organizations and individuals. People's Courts are organized and operate on the principles of a modern justice system (the regime of first instance and appellate hearing, the principle of the right to defense of the accused, the defendant, the right to protection of interests and the principle of participatory trial of people's juries...), which reflects democracy and enhance the right of people to access justice, thereby guaranteeing human rights in judicial activity.

5. Viet Nam has been largely involved and committed to implementing both the legislative and the practical implementation of human rights instruments, as reflected in the Criminal Procedure Code. The 2015 Criminal Procedure Code stipulates the following principles: The recognition of the court as the only body authorized to adjudicate criminal cases; The principles of protecting the fundamental rights of citizens; The protection of the inviolability of life, health, honor, dignity, innocence; The right to defense, the right to appeal, the right to vindicate ...
6. Regarding the lawyer's career, the 2015 Penal Code has a new set of legal provisions to ensure that lawyers and counselors are facilitated in the process of participating in criminal proceedings. For example, it stipulates the earliest time that the defense counsel participated in the proceedings; the right to be able to meet and talk to the arrested person, the detained person, the accused or defendants; the right to be informed in advance about the time and place for taking testimony, interrogation, time and place of conducting other investigative activities. The selection of the defense counsel and the procedures for registration of defense in the 2015 Criminal Procedure Code are provided in details and in a convenient manner to ensure the right to counsel of the defendants.

III. Activities of lawyers in protecting and promoting human rights

Through their activities, lawyers have protected and promoted human rights in the following ways:

Protecting human rights through legal consultancy and legal aid

7. In addition to providing legal aid in accordance with the Law on Legal Aid, lawyers also implement provisions on legal aid obligations of lawyers in accordance with the Law on Lawyers and the guiding document No. 93/HD-LĐLSVN of the Vietnam Bar Federation. Accordingly, most bar organizations actively participate in local legal consultancy and assistance such as the Bar Associations of Bac Ninh, Bac Can, Bac Lieu, Bac Ninh, Ba Ria - Vung Tau, Ca Mau, Can Tho, Cao Bang, Dak Lak, Dong Thap, Ha Giang, Ha Nam, Hai Duong, Khanh Hoa, Lam Dong Nai, Lang Son, Lao

Cai, Long An, Nghe An, Quang Ngai, Quang Ninh, Quang Tri, Soc Trang, Son La, Thai Nguyen, Thua Thien Hue, Tien Giang, Vinh Long, Vinh Phuc, Long An , Da Nang, Thai Binh, Binh Thuan, Dien Bien, Quang Binh, Ninh Binh and Tra Vinh Province.

8. Many bar organizations organized consultations in mountainous or remote areas in combination with charity activities, most notably from the two big Bar Associations of Hanoi and Ho Chi Minh City. In addition, there are also Bar Associations of Binh Phuoc province, Ha Tinh province, Dak Lak province, Lam Dong province and Quang Ngai province with similar activities. The Federation also launched a Day of Legal aid for the people, thereby raising the sense of responsibility of lawyers with regards to the social community in their professional activities. Through this meaningful activity, the role and status of lawyers are recognized and appreciated by the society. On the occasion of the 72nd anniversary of Vietnam Lawyer's Day, many bar associations have mobilized lawyers to launch free legal aid activities for people on 10/10/2017, thus strengthening the image of lawyers as servants of community and justice.
9. Apart from traditional fields such as criminal, civil, labor, marriage and family... lawyers in Vietnam have expanded and developed consultancy in the fields of economics, investment and international trade. Many lawyers have developed quickly, consulted on commercial contracts, large investment projects with good results, which were satisfied and trusted by domestic and foreign customers, creating credibility in the market of legal services in the region and in the world. Some lawyer organizations have built their brands in the domestic and regional markets, becoming “competing partners” of foreign law firms.
10. With regards to resolving complaints, the role of lawyers in helping people in protecting their legitimate rights and interests is also very necessary. Due to the limited capacity of a few cadres and civil servants, a number of administrative decisions have been promulgated contrary to the Constitution or the law, which infringed upon the legitimate interests of citizens. Particularly in areas such as land administration, disputes have arisen during handling administrative violations leading to complaints and petitions. Therefore, lawyers have strived to provide the affected citizens with adequate legal knowledge to protect their legitimate rights and interests. Some lawyers are also permitted by the affected citizens to follow the case on their behalf.
11. According to incomplete statistics, in 2017, lawyers in Vietnam participated in legal consultancy in 96,100 cases; were involved in other legal services in 4,440 cases; participated in free legal aid in 18,022 cases; participated in 1,833 consulting cases in the field of business economics.

Protection of human rights through legal proceedings

12. In the field of criminal proceedings, the role of lawyers in the protection of human rights has been further strengthened. The participation of lawyers in legal proceedings not only helped the accused and defendants to protect their legitimate rights and interests, but also contributed to determining the truthfulness of the cases, assisting the investigation and ensuring that accusations and judgments are prompt, accurate, avoiding injustice to innocent people. In the past few years, lawyers have recommended the reconsideration of many potential wrongful cases (including the cases of Han Duc Long, Nguyen Thanh Tran, Nguyen Van Them who were given death sentence, the case of Huynh Van Nen, etc.).
13. Regarding participation in the proceedings: according to reports of 63 bar associations nationwide, in 2017, Vietnam's lawyers have participated in 18,700 criminal cases, including 5,905 criminal cases assigned by the judicial bodies and 12,795 criminal cases requested by clients. In addition, lawyers were involved in 14,063 civil cases and 401 administrative cases.
14. Compared to 2016, the number of participation in criminal and civil cases increased (in 2016, lawyers participated in 13,078 criminal cases and 11,657 civil cases). Other areas of activity decreased compared to 2016. For example, in 2016: Lawyers have participated in 19,622 consultancy cases in the field of business and trade, 1,142 administrative cases, 1,828 labor and economic cases. Lawyers attended legal consultancy in 146,805 cases, with 1,612 cases outside the proceedings and were involved in 11,582 cases of other legal services.
15. As mentioned by the bar organizations, statistical reporting from several relevant organizations to the VBF may have not been fully compiled, leading to the above statistics which may not reflect correctly the real total number of cases that lawyers participated in.
16. The results of the lawyer's participation have contributed to protecting the legitimate rights and interests of organizations and individuals, contributing to the protection of the law, judicial reform and the establishment of socialist law-based state. Annually, the lawyers have contributed hundreds of billions of Vietnamese Dong to the state budget through exercising their tax duty.

Difficulties in lawyers' activities

17. Despite positive contributions to the justice sector and the protection of legitimate rights and interests of citizens and organizations through their activities, the lawyers' organizations in general and the lawyers in particular still need further efforts and

conditions to meet the needs of the society as stated in the Law on Lawyers. Particularly:

18. The number of lawyers is still small compared to the population and is unevenly distributed: This leads to difficult access to legal services when people are in need or paying too much for these services. In some cases, people can not afford for lawyers so their legal rights and interests are not guaranteed.
19. The quality of a number of lawyers is limited, thus they do not protect the legitimate rights and interests of the related people effectively. In the field of legal consultancy, the majority of lawyers are civil, land, marriage & family counseling, while the number of lawyers specializing in investment, business and trade is still limited. This limitation is due to the fact that lawyers are not well versed in international law and has limited foreign language skills and experience in these fields.
20. In the field of criminal proceedings, some lawyers lack experience, practical skills, thus at the court they only stated the law in theory and did not participate much in litigation. When the argument has no strong theoretical basis, it is difficult to convince the judge. In civil, economic and labor cases, a few lawyers are sometimes confused in the application of law. In the case of criminal cases, the ability of many lawyers to deal with disputes is limited; in some cases they are only able to argue in extenuating circumstances and asking the jury to reduce the penalty for the accused.
21. The role of lawyers in the society and participation in proceedings with foreign countries is limited. This is a problem that needs to be resolved in order to ensure the Resolution No.49-NQ/TW of the Politburo. The bodies conducting legal proceedings should be aware that lawyers participating in legal proceedings shall not only protect the legitimate rights and interests of citizens but shall also participate in the protection of the socialist legal system. In fact, due to improper view on the role of lawyers, lawyers still have to face various obstacles when participating in legal proceedings.