

DOCTORAL THESIS IN BRIEF

PHẠM THỊ TÍNH. *The human rights of living in a healthy environment in Vietnam*

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The human rights (HR) of living in a healthy environment have been set forth from the environmental pollution reality and ecological crises at global scale causing serious effect on economic life, epidemic and poverty escalation,... negatively impacting the receipt of the basic HR like: the rights to life, health, food, water... In Vietnam, the viewpoint on HR of living in a healthy environment has been formulated together with the renovation process, open-door and integration policies, however, till November 2013, HR of living in a healthy environment has been officially recognized in the Constitution. HR of living in a healthy environment are the new rights that have a wide and relatively complicated connotation, still have no specific theory and content. There have been a very few studies on HR of living in a healthy environment. Thus, HR of living in a healthy environment needs to be further researched both theoretically and practically towards a soon proposed theory of HR of living in a healthy environment. For this reason, PhD candidate Phạm Thị Tính has chosen

topic *HR of living in a healthy environment in Vietnam* as her PhD thesis.

Beside the introduction and conclusion, the structure of the thesis consists of 4 chapters:

Chapter I presents *the literature review on the studies and further research of the thesis's topic*.

Chapter II presents *theoretical issues of HR of living in a healthy environment*.

Environment plays a very important role for human, the polluted environment will negatively affect the human. Thus, the solutions of the environmental problem have been regarded as of HR by scientists, and successfully acting in compliance with the environment protection serves as the prerequisite for the protection of HR of living in a healthy environment.

HR of living in a healthy environment are the natural, objective and incident to human needs and interests of living in a such environment that consists of quality guaranteed elements with no exceeding of allowed technical regulations, no affecting the production, human and living being's existence and development, with the recognition and protection by national law and international legal treaties.

HR of living in a healthy environment have the connection, dependence and relations to many other human rights, the polluted environment impacts many

activities and human rights, including the right to live. The thesis proposes 7 derivative rights directly related to the content of HR of living in a healthy environment basing on the international documents of/relating to HR and environment and in accordance with the characteristics and nature of HR of living in a healthy environment, including: The right to live and of living in a healthy environment. 2/ The right to access water. 3/ The right to the highest attainable standard of health (the right to health). 4/ The right to adequate food and foodstuff. 5/ The right to environmental information accessibility. 6/ The right to participation in environmental related activities. 7/ The right to access to justice in environmental matters.

In addition, there are many related rights like: the right to housing, to equal benefit from natural resources, to clean air protection and preservation, to protection from natural disasters,... On this basis, the thesis proposes the legal mechanism to guarantee the HR of living in a healthy environment via the institutional and regulative factors and the conditions ensuring the right implementation.

Chapter III assesses *the current situation of HR of living in a healthy environment in Vietnam*.

Although HR of living in a healthy environment in Vietnam has just been codified in November 2013, the environmental protection has been drawn much interest by the Party and State since the 1980 Constitution with

the regulations on the responsibilities of individuals and organizations on environmental protection. Together with the renovation process, open-door and integration policies, and especially from Vietnam's participation in Earth Summit (Rio 1992) and with a series of international conventions, the Vietnamese laws have regularized the Party and Government's view on environmental protection in the law system of environmental protection along with the adaptation of treaty content in legal framework for the norms of environmental protection. However, the acting process on environment is realized fairly slow and not equally, there is still a relatively far distance between awareness changing and action, behavior to the environment. In policy deployment, the target of economic growth is still at top prioritized, the factor of environment protection and the right to environment are still at low attention that causes the environmental degradation and severe pollution, heavily impacting the development of economy, society, environment, human and HR.

On the basis of synthesizing, analyzing the Party's views, the State's laws and policies of environment and its elements protection as well as HR of living in a healthy environment, the thesis points out the advantages and the limitations of the current laws on protecting the rights of living in a healthy environment.

Advantages: 1/ The 1980 Constitution has the regulations on environmental protection and obligations of

environmental protection, through 3 amendments of the Constitution (in 1992, 2001, and 2013), Vietnam has gradually improved regulatory reform on environmental protection. Notably, the 2013 amended Constitution recognized HR of living in a healthy environment for the first time. 2/ Vietnam has the law system of environment and its elements protection that is fairly early and adequate in comparison with the world. Since 1991, Vietnam has national plan on environmental protection and sustainable development (uptaking the Rio Declaration 1992). The comprehensiveness of the law document system on protecting environment, protecting HR of living in a healthy environment in the country can be recognized from the last years of the XX century.

Limitations: 1/ HR of living in a healthy environment has drawn low attention in policy-making. There is no connection between the environmental protection and the target of protecting HR of living in a healthy environment..., many policies, normative documents on environmental protection are unrealistic, many quantitative targets are unattainable. 2/ There are much insufficiencies in law-making mechanism: The National Assembly issues law, Government and ministries, industries, and state agencies at local level issue the guidance documents so they are strongly affected the group and industry interests. 3/ The regulations in the laws of environmental protection haven't clarified the rights and obligations of the main subjects and the

relating subjects; the procedures, proceedings, responsible agencies for settling the complaint, denunciation on environment aren't specifically defined; the liability of the agencies, individuals that settle the complaint, denunciation on environment aren't specifically defined. 4/ There's a lack of people's participation in environmental management and monitoring; The regulations on the environmental impact assessment report and strategic environmental assessment aren't specified and the procedures aren't good enough, there're limitations in reporter's qualification and responsibility. 5/ The fine on the violations is too low, and not strict enough so that the enterprises throw the waste and pay the fine, but don't treat the waste. 6/ Many documents are hard to implement, there's been documents that need to be amended before coming into power or are unimplementable as the regulations are in general principle. 7/ Law implementation is the weakest stage in law procedures in Vietnam, including the implementation of laws on environmental protection, on protecting HR of living in a healthy environment.

Chapter IV proposes viewpoints and the solutions ensuring the human rights of living in a healthy environment in Vietnam.

Ensuring HR for all is the consistent viewpoint of the Party and State. Environmental degradation and pollution make communities poorer, illiterate with the escalation of cancer-village, flash-flood, landslide, drought...

cancer patients are getting younger, the structure of diseases and the emergence of some new diseases are getting more complicated. Many environmental specialists warned that if Vietnam doesn't change the responsible behavior and action, people must pay dearly for their acts and the rich of Vietnam natural resources will just be in the lesson of history. When the issue of environmental ethics, social responsibility haven't been the habits in behavioral act of enterprises, economic corporations and people, the institutional regulations, laws shall be the necessary medium for environmental justice implementation.

The 2013 Constitution constitutionalized HR of living in a healthy environment. This is the highest legal assurance to protect HR of living in a healthy environment in Vietnam. In the context of the escalation and complication of environmental pollution, to make the rights come into life, it's essential to specify the content of the rights into law documents of environmental protection, of protecting HR of living in a healthy environment and improve the legal mechanism to ensure the right

implementation. Coping with this fact, the thesis proposes some viewpoints on ensuring the rights implementation, including: Consensus, determination of the Party, State, and people; Building an appropriate institutional environment; The stable development of the economy; Capacity and awareness strengthening for subjects; The cooperation and support from international community. At the same time, the thesis proposes 4 groups of solutions ensuring the rights implementation, that are: Raising awareness and consciousness of the right of living in a healthy environment for all; Improving the law system of environmental protection basing on HR; Improving the regulative factors in ensuring HR of living in a healthy environment in Vietnam; Capacity strengthening in implementation and protection of HR of living in a healthy environment for the right subjects.

The thesis was successfully defended at institutional PhD thesis defense committee held in Graduate Academy of Social Sciences, Vietnam Academy of Social Sciences, in 2015.

by TK.