

Laws on personal data protection in Vietnam today

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Abstract

This paper explores the legal framework for personal data protection in Vietnam, aiming to assess the current situation and propose improvements. In the context of digital transformation, personal data protection has become increasingly important, particularly in fields such as information technology, e-commerce, and online services. Despite the enactment of several regulations in Vietnam, the implementation and synchronization of these regulations remain challenging. The paper analyzes current obstacles and suggests legal improvements to ensure individuals' rights while enhancing public awareness and the application of security technologies.
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I. Introduction

In the era of digitalization and global digital transformation, personal data has become one of the most valuable resources. Personal data encompasses not only basic information such as name, age, and address, but also sensitive aspects like account numbers, biometric data, and internet usage habits. This data is used to deliver optimized services; however, misuse or mishandling can lead to severe consequences such as data breaches, financial fraud, and privacy violations.

In the age of Industry 4.0, personal data has become one of the most valuable assets in the digital economy. However, the collection, processing, and exploitation of personal data present significant challenges in protecting individuals' privacy. Globally, countries like the European Union (EU) have established stringent legal frameworks such as the General Data Protection Regulation (GDPR). In Vietnam, as the digital age dawns, the establishment and refinement of a legal framework for personal data protection have become urgent needs.

The protection of personal data is particularly crucial in the face of large-scale data breaches that have affected millions globally. In Vietnam, key factors contributing to data protection risks include limitations in the legal framework, the reliability of digital service providers, and the low public awareness of personal data protection rights.

Personal data protection law is a widely discussed issue worldwide. Countries such as the European Union, the United States, and Japan have implemented strict regulations to safeguard individual privacy. In Vietnam, in the context of digital transformation and integration into the global economy, enhancing the legal framework for personal data protection is even more critical.

Currently, Vietnam has enacted several legal documents related to personal data protection, including the Civil Code, the Cyber Information Security Law (2015), the Cybersecurity Law (2018), and various guiding decrees. However, these regulations remain somewhat vague, lacking robust mechanisms to ensure comprehensive protection of individual rights.

This paper contributes to identifying the challenges and difficulties in personal data protection and proposes specific solutions to improve the effectiveness of personal data protection in the current context. It also aims to provide a comprehensive and systematic analysis of Vietnam's legal regulations regarding personal data protection.

II. Legal regulations on personal data protection in Vietnam

Vietnam's legal framework for personal data protection has been established through various legal documents, creating a legal basis to safeguard individuals' privacy. One of the most significant documents is the Civil Code of 2015, which stipulates in Article 38 that personal information is protected, and any act of collecting, using, or disclosing such information must have the consent of the data subject. This foundation ensures personal data protection and establishes the individual's right to control their information. The Law on Information Security of 2015 is also a crucial document, clearly defining personal data and requiring organizations and individuals who collect data to ensure confidentiality and use the data for legitimate purposes. Meanwhile, the 2018 Cybersecurity Law expanded the scope of protection, requiring online service providers to store user data within Vietnam and apply measures to protect personal information from cyber threats.

Vietnam's legal system establishes fundamental principles for personal data protection. Organizations and individuals are only allowed to collect personal data with explicit consent from the data subject and may only use this information for purposes that have been publicly disclosed, ensuring transparency. Furthermore, any organization or individual collecting, storing, or processing personal data must implement technical and managerial measures to ensure data security, preventing risks of loss, leakage, or infringement of data. Collecting, using, or sharing personal data also requires the voluntary consent of the data subject, avoiding coercive or abusive actions. These principles help protect individuals' rights and ensure the legality of activities related to personal data.

Despite the establishment of a legal framework, the implementation of personal data protection regulations in Vietnam still faces several limitations. The regulations concerning personal data protection are scattered across various legal documents, lacking consistency and coherence, making it difficult to apply and enforce them in practice. Additionally, monitoring and handling violations related to personal data protection are not effectively carried out. The sanctions in place are insufficient to deter violations, leading to widespread non-compliance. Furthermore, compared to international standards such as the EU's General Data Protection Regulation (GDPR), Vietnam's regulations are still less comprehensive, presenting significant challenges in integrating and protecting the rights of Vietnamese citizens when their data is processed by international organizations.

Decree 13/2023/ND-CP is considered a significant step forward in improving the legal framework for personal data protection in Vietnam. This decree defines in detail the rights and obligations of the parties involved, from the data subjects to the organizations and individuals collecting and processing the information. Moreover, it imposes strict requirements on data security and the individual's right to control their data. However, for Decree 13 to be truly effective, there is a need for more detailed guiding documents, a robust enforcement system, and heightened public awareness regarding privacy and personal data protection.

Vietnam's legal framework for personal data protection has achieved significant milestones, from defining fundamental principles to establishing key legal documents such as the Information Security Law and Decree 13/2023/ND-CP. However, to meet the increasing demands of society and the international community, refining the legal framework and strengthening enforcement are urgent tasks in the coming period. This will not only protect individuals' rights but also contribute to the sustainable development of the digital economy.

III. Current situation of personal data protection law enforcement in Vietnam

As Vietnam increasingly develops its digital economy, the enforcement of personal data protection laws has become an urgent issue. However, the current situation reveals that the application of these legal regulations still faces numerous difficulties and significant challenges. One of the primary reasons for this is the lack of awareness among both the public and the relevant organizations and enterprises. Many individuals are still not fully aware of their rights regarding personal data protection, leading them to easily provide personal information without verifying the legality or security of the data collectors. At the same time, some organizations and businesses fail to fully comply with data security regulations, particularly in online transactions and e-commerce.

The violation of personal data is on the rise, especially in the fields of information technology and communications. Practices such as collecting personal information without consent, selling data to third parties, or even abusing personal data for fraud have become widespread. The main cause of this is weak management and oversight. Authorities currently lack sufficient resources and technical tools to monitor and handle violations effectively. This results in penalties being inadequate to deter violations, creating opportunities for organizations and individuals to continue infringing on personal data protection.

Furthermore, the technical infrastructure for personal data protection in Vietnam remains limited. Information technology systems in many government agencies and organizations have not been adequately invested in, leading to low security and vulnerability to cyberattacks. Several major incidents of personal data breaches in recent times have raised concerns about the level of information security in Vietnam. Particularly, the use of unknown software and applications in the online environment increases the risk of personal data loss, yet many users are still unaware of these risks.

Moreover, the fragmentation of legal regulations presents a significant barrier to enforcement. Regulations related to personal data protection are issued in various documents, including the Law on Information Security, the Cybersecurity Law, as well as decrees and circulars. However, there is no unified legal document to comprehensively regulate this issue. This not only complicates compliance for organizations but also reduces the effectiveness of personal data protection in practice.

Another issue is the limited international cooperation in the field of personal data protection. As international trade and data exchange increase, adhering to international standards like the GDPR has become necessary to ensure the safety of data for Vietnamese citizens. However, Vietnam has not yet established specific agreements or strong international cooperation mechanisms in this field, leaving many gaps in the protection of personal data in the global environment.

In addition, although Decree 13/2023/ND-CP, recently issued, marks a significant step forward, its practical implementation still faces many challenges. Regulatory agencies need time to train and guide organizations and businesses in implementing this decree. Simultaneously, public awareness of rights and obligations related to personal data protection must be raised to minimize violations and abuse of personal information.

In summary, the current enforcement of personal data protection laws in Vietnam faces many issues, ranging from insufficient awareness and weak technical infrastructure to challenges in oversight and violation handling. To address these issues, close collaboration between regulatory agencies, organizations, businesses, and the public is essential, alongside continued improvements in the legal framework and investment in technical infrastructure to enhance the effectiveness of personal data protection.

IV. Solutions for improving the laws on personal data protection in Vietnam

Improving the legal framework on personal data protection is a strategic task in the context of the rapid development of digital transformation in Vietnam. Protecting personal data is not only a legal issue but is also closely related to human rights, socio-economic development, and national security. Therefore, the analysis of solutions should be considered from various perspectives, including the improvement of the legal system, enhancing enforcement capacity, raising public awareness, and investing in security technologies.

Firstly, Vietnam needs to establish a unified and comprehensive legal framework for personal data protection. Currently, legal provisions related to this issue are scattered across different documents, such as the Law on Network Information Security, the Law on Cybersecurity, and supplementary decrees. This fragmentation creates challenges in enforcement and reduces the effectiveness of personal data protection in practice. A dedicated law focused specifically on personal data protection would help clarify and streamline the legal system. This law should clearly define key concepts such as personal data, sensitive data, and the scope of data usage, while also establishing fundamental principles for the collection, processing, and safeguarding of personal information.

One critical issue that requires attention is ensuring the consent of data subjects. The law should provide detailed regulations on how to collect consent, the form of consent, and the right to withdraw consent from users. This not only protects individuals' rights but also strengthens the responsibility of organizations and businesses in handling personal data. Additionally, the law should explicitly define the accountability of data processors, requiring them to regularly report on activities related to personal data.

Another important solution is strengthening penalties for violations. Currently, administrative fines for personal data violations remain relatively light and insufficient to act as a deterrent. The law should impose stricter penalties, including criminal sanctions for severe violations. For example, activities like the sale of personal data, the leakage of sensitive information, or the unlawful use of data for fraudulent purposes should be dealt with strictly to create a strong deterrent effect. Furthermore, a transparent and fair compensation mechanism should be established to allow individuals whose data rights have been violated to effectively defend their interests.

Supervision and enforcement of the law also need significant improvement. A specialized agency for personal data protection should be established, with clear authority to monitor, investigate, and address violations. This agency should not only carry out inspection and enforcement tasks but also assist organizations and businesses in complying with legal requirements by providing guidance and specific security standards. Particularly, this agency should be equipped with modern technological tools to monitor and detect violations early, while working closely with other authorities to ensure information security.

Moreover, Vietnam should actively learn from international experiences and cooperate in the field of personal data protection. Global economic integration requires the domestic legal system to align with international standards, such as the European Union's General Data Protection Regulation (GDPR). This would not only help Vietnam better protect citizens' rights but also facilitate Vietnamese businesses' operations in international markets. Vietnam should engage in international agreements related to data protection, while establishing bilateral and multilateral cooperation mechanisms with other countries and international organizations to exchange information, share best practices, and support each other in handling personal data issues.

An additional key factor is raising public awareness about personal data protection. The government should implement education and awareness campaigns to help citizens better understand their rights and obligations concerning personal data. These campaigns can be carried out through mass media, social networks, or through seminars and training sessions for businesses, organizations, and individuals. When public awareness is enhanced, citizens will become more proactive in protecting their personal information and demand that organizations and businesses comply with the law.

Investing in technical infrastructure is also a necessary solution to enhance the effectiveness of personal data protection. Organizations and businesses should be encouraged to adopt modern technologies such as artificial intelligence, blockchain, and advanced encryption to improve data security. The government should

support small and medium-sized enterprises in implementing security solutions, as well as invest in building secure data centers and cyberattack prevention systems. This will not only help reduce the risk of data loss but also increase public trust in the national data protection system.

Finally, measures should be taken to create an enabling environment for organizations and businesses to voluntarily comply with the law. This could be achieved through incentives such as tax reductions, financial support, or data security certification programs. Additionally, the government should develop policies to support research and development projects related to data security, promoting innovation and creativity in this field.

In conclusion, improving the laws on personal data protection in Vietnam requires a coordinated effort from various stakeholders, including the government, businesses, and the public. Legal solutions should be combined with public awareness, investment in technology, and expanded international cooperation to create a safe and transparent environment for personal data protection. This is not only a legal task but also a crucial part of Vietnam's strategy for sustainable socio-economic development.

V. Conclusion

Personal data protection is a pressing issue in the digital and transformative era, where the collection and processing of personal information are happening rapidly and on a large scale. Vietnam's legal framework for personal data protection has made significant progress, but there are still many challenges in enforcing regulations and ensuring consistency among relevant agencies and organizations. The current legal system needs to be improved to meet the requirements of protecting privacy and personal data in the context of evolving technologies.

To improve the situation, Vietnam needs to establish a clearer and more detailed legal framework, particularly regarding the regulation of consent by data subjects, the responsibilities of organizations, and security measures. Raising public awareness about personal data protection and increasing investment in security technology are crucial factors in protecting citizens' rights and providing a foundation for sustainable development in Vietnam's digital economy.

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