

LEGAL INTERPRETATION IN VIETNAM: LIMITATIONS AND SOLUTIONS

INTERPRETAÇÃO JURÍDICA NO VIETNÃ: LIMITAÇÕES E SOLUÇÕES

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Abstract

In Vietnam, legal interpretation has traditionally been the responsibility of legislative bodies. Only recently have courts been given the authority to interpret the law in the course of its application. The Standing Committee of the National Assembly, however, provides very limited guidance, and judicial interpretation remains underdeveloped due to the lack of a comprehensive legal framework. At the same time, legal interpretation is carried out by various actors, including the Government, ministries, and committees responsible for drafting or implementing legal documents. This fragmented practice creates inconsistencies between statutory provisions, their enforcement, and the practical need for authoritative interpretation. As a result, the effectiveness and accountability of the courts are undermined, the legitimate rights and interests of individuals may be affected, and the broader goals of judicial reform aimed at consolidating the rule of law are hindered. Current challenges concern public perceptions, legal provisions on competent authorities and subjects, and procedural mechanisms. Reforming legal interpretation is therefore essential, with a focus on improving the legal framework and the quality of judicial interpretation to strengthen court effectiveness, enhance accountability, and reduce the risk of overreach by other actors.

Keywords: Legal Interpretation. Law Application. Role of the Judiciary. Reform of the Legal Interpretation Model.

Resumo

No Vietnã, a interpretação jurídica tem sido tradicionalmente responsabilidade dos órgãos legislativos. Apenas recentemente os tribunais receberam autoridade para interpretar a lei no curso de sua aplicação. O Comitê Permanente da Assembleia Nacional, no entanto, fornece orientação muito limitada, e a interpretação judicial permanece pouco desenvolvida devido à ausência de um quadro legal abrangente. Ao mesmo tempo, a interpretação jurídica é realizada por diversos atores, incluindo o Governo, ministérios e comitês responsáveis pela elaboração ou implementação de documentos legais. Essa prática fragmentada cria inconsistências entre as disposições legais, sua aplicação e a necessidade prática de interpretação autoritativa. Como resultado, a eficácia e a responsabilidade dos tribunais são prejudicadas, os direitos e interesses legítimos dos indivíduos podem ser afetados e os objetivos mais amplos da reforma judicial voltada para a consolidação do Estado de direito ficam comprometidos. Os desafios atuais referem-se à percepção pública, às disposições legais sobre autoridades e sujeitos competentes e aos mecanismos processuais. Portanto, é essencial reformar a interpretação jurídica, com foco na melhoria do quadro legal e na qualidade da interpretação judicial, a fim de fortalecer a eficácia dos tribunais, aumentar a responsabilidade e reduzir o risco de abuso de poder por outros atores.

Palavras-chave: Interpretação Jurídica. Aplicação da Lei. Papel do Judiciário. Reforma do Modelo de Interpretação Jurídica.



1 INTRODUCTION

In Vietnam, the authority to interpret laws is vested in the Standing Committee of the National Assembly, which “clarify the ideas and contents of certain Articles, Clauses, and paragraphs in the Constitution, Law, or Ordinance in order that they are known, correctly and uniformly applied” (Clause 3, Article 3, Law on Promulgation of Legislative Documents 2015). More recently, case-specific legal interpretation has been entrusted to the courts.

From the 1959 Constitution through the 2013 Constitution, the authority to interpret laws has been vested in the Standing Committee of the National Assembly (SCNA) as a normative interpretative power. As the permanent body of the National Assembly, the SCNA is empowered to interpret the Constitution, laws, and ordinances (Clause 2, Article 74 of the 2013 Constitution).

Entities authorized to request legal interpretation include the President, the Council for Ethnic Affairs, the Committees of the National Assembly, the Government, the Supreme People’s Court, the Supreme People’s Procuracy, the State Audit Office, the Central Committee of the Vietnam Fatherland Front, central bodies of organizations that are members of the Fatherland Front, and individual deputies of the National Assembly (Clause 3, Article 60, Law on Promulgation of Legal Normative Documents 2025). The SCNA may also decide, on its own initiative, to undertake legal interpretation.

The interpretation of the Constitution, laws, and ordinances is carried out in two circumstances: (i) when there are divergent understandings of a provision of a legal instrument, and (ii) when there is a lack of uniformity in the application of such instruments.

The interpretation of the Constitution, laws, and ordinances must adhere to the following principles and criteria, in order of priority: (i) conformity with the ordinary meaning of the wording used in the legal normative document; (ii) consideration of the drafting history of the provision subject to interpretation; (iii) consistency with the guiding views, objectives, and underlying intent of the document; and (iv) preservation of coherence within the legal system (Article 60, Law on Promulgation of Legislative Documents 2025).

Legal interpretation must ensure consistency with the spirit, objectives, requirements, and guiding principles underlying the promulgation of the Constitution,

laws, and ordinances; it must align with their substantive content and language; and it must not modify, supplement, or introduce new provisions (Clause 2, Article 158, Law on Promulgation of Legislative Documents 2015).

The product of legal interpretation by the Standing Committee of the National Assembly is a Resolution, which is applied together with the interpreted legal instrument.

The process of interpreting the Constitution, laws, and ordinances by the SCNA is as follows: Upon receiving a request for legal interpretation from an authorized entity, the SCNA, depending on the nature of the request, assigns the Government, the Supreme People's Court, the Supreme People's Procuracy, the Council for Ethnic Affairs, or a Committee of the National Assembly to draft a Resolution of interpretation. Once the draft Resolution is prepared, the SCNA assigns the Council for Ethnic Affairs or a Committee of the National Assembly to conduct an appraisal. The SCNA then reviews and adopts the Resolution of interpretation, which is subsequently published in the Official Gazette and disseminated through mass media.

Concerning case-specific legal interpretation, the judiciary has only recently been vested with this authority. Specifically, Article 3 of the 2024 Law on the Organization of People's Courts provides that the People's Courts "shall interpret and apply the law in the course of adjudicating and resolving cases and matters." Furthermore, Article 31 of the same Law defines judicial interpretation of law in adjudication as the process whereby the court, during the handling and resolution of a case or matter and within its jurisdiction, clarifies the application of legal provisions to particular circumstances and situations to render judgments or decisions.

The judicial function of interpreting and applying the law in the adjudication and resolution of cases does not overlap with the Standing Committee of the National Assembly's authority to interpret the Constitution, laws, and ordinances. Judicial interpretation serves to clarify the application of specific legal provisions to particular cases, as reflected in court judgments and decisions. This function has, in practice, long been carried out by the courts; however, it was only formally codified under the 2024 Law on the Organization of People's Courts.

2 LITERATURE REVIEW

In many jurisdictions, legal interpretation has been studied early, as reflected in works such as Andrei Marmor's *Interpretation and Legal Theory* (2005), Adrian Vermeule's *Judging Under Uncertainty: An Institutional Theory of Legal Interpretation* (2006), and Oliver Wendell Holmes's *The Theory of Legal Interpretation* (2002)...

More recently, several studies have examined legal interpretation in the context of globalization and international integration. A notable example is Shivam Kumar and Kumar Satyam's article, *Globalisation, Judges and New Trends of Constitutional Interpretation*, published in the *International Journal of Law Management & Humanities*, VidhiAagaz, India, Volume 6, Issue 4, 2023.

In Vietnam, scholarly works on this subject include the research project *Theoretical and Practical Basis of the Standing Committee of the National Assembly's Authority to Interpret the Constitution, Laws, and Ordinances* by Nguyen Van Thuan (Code No. 94-98-106/ĐT, Hanoi, 1999); Hoang Van Tu's article *The Standing Committee of the National Assembly's Authority to Interpret the Constitution, Laws, and Ordinances* (*Journal of Legal Studies*, Issue 5/2002); the proceedings *Certain Theoretical and Practical Issues* published by the Office of the National Assembly of Vietnam following the International Conference in Hanoi (February 2008, Hanoi, 2009); and the monograph *Issues of Official Legal Interpretation in Contemporary Vietnam* by Pham Thi Duyen Thao (National Political Publishing House, 2014).

Additional notable works include the book *Implementation, Application, and Interpretation of Law in Vietnam* by Nguyen Minh Doan and Nguyen Minh Duc (National Political Publishing House, 2019); the article *The Movement of Socialist Statutory Interpretation Model within the Context of Globalization in Vietnam and China* by Pham Thi Duyen Thao and Phan Thi Lan Phuong, published in the proceedings of the International Conference *Traditions and Modernization in the Politics and Law of Russia, China, and Vietnam*; and the doctoral dissertation *Judicial Interpretation of Legal Normative Documents* by Huynh Thi Sinh Hien (2022).

The Ministry of Justice organized and published the proceedings of the conference *Interpretation of the Constitution, Laws, Ordinances, and Guidance on Law Application* held on 13 December 2024. Other recent scholarly contributions include Dao Tan Anh's article *Interpretation and Application of Law – A New Development under the 2024 Law*

on the Organization of People's Courts (People's Court Journal, 2024) and Doan Thi To Uyen and Thai Thi Thu Thuy's article Improving the Institutions and Mechanisms for Legal Interpretation and Guidance on Law Application in Contemporary Vietnam (Journal of Law, Hanoi Law University, 2024). These works provide perspectives on legal interpretation in terms of competent authorities, institutional frameworks, methods, and procedures, as well as the judiciary's role and approach in interpreting laws during adjudication, while proposing solutions to enhance legal interpretation in Vietnam.

Building on existing research and in light of Vietnam's ongoing integration and efforts to develop a rule-of-law state, further scholarly inquiry into legal interpretation remains necessary to ensure its effectiveness, responsiveness to practical needs, and alignment with global developments in legal interpretation.

3 METHODOLOGY

The authors employed a combination of socio-legal research methods, including: the dialectical and historical materialist approach to examine legal interpretation in Vietnam within its historical, economic, political, and social context; analytical and synthetic methods to identify the current state and shortcomings of legal interpretation; comparative legal analysis to assess Vietnam's interpretative model and its evolution; and case study analysis to evaluate practical interpretative activities and notable instances of legal interpretation in Vietnam. An interdisciplinary approach, drawing on political science, institutional analysis, and ideological studies, was also adopted to capture the nature and role of legal interpretation, thereby formulating well-founded recommendations.

4 FINDINGS AND DISCUSSION

4.1 Current state of legal interpretation in Vietnam

While the Standing Committee of the National Assembly (SCNA) has been formally vested with the authority to interpret laws, in practice, multiple entities in Vietnam engage in legal interpretation, summarized as follows:

The SCNA has issued legal interpretations only about seven times. Of these, merely four Resolutions were explicitly designated as interpretations, while the remaining instances combined interpretative elements with provisions and detailed guidance aimed at clarifying or harmonizing the understanding of relevant legal norms during their application.

Although only recently entrusted with case-specific interpretative powers, Vietnamese courts have been engaging in both forms of legal interpretation: (i) case-specific interpretation conducted during adjudication as an inherent judicial function, reflected in judgments and legal reasoning; and (ii) normative interpretation expressed in Resolutions, Reports, and Guidelines issued to lower courts to ensure uniform application of the law.

Additionally, state agencies such as the Government, ministries, and ministerial-level bodies, when issuing detailed regulations and guidance for the implementation of laws, also perform interpretative functions by clarifying or standardizing the understanding and implementation of various provisions adopted by higher-level authorities.

4.1.1 Legal interpretation by the Standing Committee of the National Assembly

Legal interpretation by the SCNA in Vietnam has been relatively limited, as reflected in the issuance of the following Resolutions:

1. Resolution No. 746/2005/NQ-UBTVQH11 of 28 January 2005, On the Interpretation of Point c, Clause 2, Article 241 of the 1997 Law on Commerce;
2. Resolution No. 1053/2006/NQ-UBTVQH11, On the Interpretation of Clause 6, Article 19 of the 2005 Law on State Audit;
3. Resolution No. 58/1998/NQ-UBTVQH10 of 24 August 1998, Guiding and Interpreting Civil Transactions Concerning Housing Established Prior to 1 July 1991;
4. Resolution No. 755/2005/NQ-UBTVQH11, Providing for the Settlement of Certain Specific Cases Concerning Housing and Land During the Implementation of Housing and Land Management Policies and Socialist Transformation Policies Before 1 July 1991;

5. Resolution No. 1037/2006/NQ-UBTVQH11, Guiding and Interpreting Civil Transactions Concerning Housing Established Prior to 1 July 1991 Involving Overseas Vietnamese;
6. Resolution No. 751/2019/NQ-UBTVQH14 of 16 August 2019, Interpreting Certain Provisions of the 2017 Law on Planning;
7. Resolution No. 08/2021/NQ-UBTVQH15 of 26 November 2021, Interpreting Article 289 of the 2017 Penal Code.

The interpretations issued by the SCNA exhibit two distinct forms. Four of the Resolutions, namely (1), (2), (6), and (7), constitute normative interpretations, aimed at clarifying the wording and grammatical construction of legal provisions while ensuring uniform understanding in their application. These interpretations are binding and possess recurring applicability.

In the remaining cases concerning land and housing transactions established before 1 July 1991 and 1 January 1991, the SCNA issued interpretations that effectively introduced additional regulatory content to address practical developments. This practice constituted supplementary legislation rather than genuine constitutional legal interpretation aimed solely at clarifying existing law.

In most of these cases, the SCNA acted primarily as a coordinating body, having delegated nearly all stages of the interpretative process, from drafting to reviewing the draft interpretative resolution, to other entities. As a result, the SCNA retains significant formal authority over legal interpretation while becoming increasingly detached from its actual exercise.

A typical example is the Interpretation of Point (c), Clause 2, Article 241 of the 1997 Law on Commerce. This case originated from a commercial dispute in which the Vietnam International Arbitration Center (VIAC) sent Official Letter No. 201/VIAC dated 26 July 2004 to the Standing Committee of the National Assembly (SCNA), requesting clarification of two aspects of Point (c), Clause 2, Article 241 of the 1997 Law on Commerce. Subsequently, on 21 September 2004, the Vietnam Chamber of Commerce and Industry (VCCI) submitted Official Letter No. 2018/PTM-PC to the SCNA, raising similar issues.

However, as neither VIAC nor VCCI was among the entities authorized under Article 52 of the 1996 Law on the Promulgation of Legislative Documents to request an official interpretation, the SCNA's assisting bodies, the Office of the National Assembly

and the Legislative Affairs Committee, responded instead. Official Letter No. 1358/VPQH dated 10 August 2004 was sent to VIAC, and Official Letter No. 1758/VPQH dated 15 October 2004 to VCCI, clarifying two points: (i) VIAC lacked standing to formally request an interpretation; and (ii) as the Government had been delegated the authority to issue detailed regulations implementing the 1997 Law on Commerce, VIAC should first report to the Government. Should the Government deem it necessary, it could then submit an official request to the SCNA for interpretation.

On 5 October 2004, National Assembly Delegate Nguyen Lan Dung submitted a written request for interpretation of the provision. Subsequently, on 21 October 2004, the Office of the National Assembly issued Official Letter No. 1825/VPQH requesting the Minister-Chairman of the Government Office to seek the Prime Minister's opinion. The letter suggested that, if existing Government decrees were insufficiently clear for applying Article 241, either supplementary regulations should be enacted or, if necessary, a formal request for interpretation should be sent to the SCNA.

On 2 December 2004, the Minister of Trade, on behalf of the Government, submitted Official Letter No. 1829/CP-PC to the SCNA requesting an interpretation, accompanied by Proposal No. 06/CPXDPL and a draft resolution. The SCNA instructed its assisting bodies to prepare the draft interpretative resolution, and the Economic and Budgetary Committee of the National Assembly was tasked with reviewing it. The Committee provided its comments in Report No. 1519a/UBKTNS on 24 January 2005.

Finally, on 26 January 2005, during a session of the National Assembly, the SCNA adopted the Resolution interpreting Point (c), Clause 2, Article 241 of the 1997 Law on Commerce, with unanimous approval (100/100 votes) (Do, 2006).

In this instance, the courts could have readily interpreted the provision through a literal reading, considering Points (a) and (b) in the same Clause 2 of Article 241, thereby deriving the meaning of Point (c). The complexity of the process arose from the distribution of interpretative authority: the body capable of effectively interpreting the law was not entrusted with the task, while the body vested with authority did not directly undertake the interpretation.

4.1.2 *Legal interpretation by the courts*

Although Vietnamese courts were only formally vested with case-specific interpretative authority in 2014, they have since engaged in both normative legal interpretation and case-specific legal interpretation.

Firstly, the Courts have engaged in case-specific legal interpretation as an inherent part of the judicial process. The Supreme People's Court (SPC) exercises interpretative authority through the issuance of case law. According to Article 8 of Resolution No. 04/2019/NQ-HĐTP, “in adjudicating cases, judges and lay assessors must examine and apply case law to ensure that cases with similar legal circumstances are resolved consistently.” Case law serves as a basis for judicial interpretation, reflecting the courts' official understanding and application of normative legal documents in resolving legally analogous matters. For example, Case Law No. 46/2021/AL, in which the SPC interpreted the term “education” not merely as teaching or homeroom supervision but as encompassing the responsibility to cooperate with other teachers in both teaching and educating students. Consequently, the aggravating circumstance of committing an offense against a child under one's educational responsibility was applied to the defendant.

Judicial interpretation is routinely undertaken by courts of all levels through their adjudication, judgments, and rulings, even prior to being formally vested with such authority. This practice is inherent in judicial proceedings: adjudication necessarily entails the application of law, and applying the law requires interpretation, particularly in cases involving ambiguities. Judges cannot mechanically apply legal provisions but must elucidate their meaning and determine the appropriate legal norms to resolve specific disputes. As noted by Nguyen Hoa Binh (2024), this form of judicial interpretation “does not conflict with the Standing Committee of the National Assembly's authority to interpret the Constitution, laws, and ordinances. It is a function historically performed by all judicial panels in the adjudication of cases. The codification of this long-standing judicial practice serves to strengthen further judicial panels' accountability for the reasoning and outcomes of their judicial decisions.”

Secondly, the Courts have also engaged in normative legal interpretation through the promulgation of normative legal instruments within their vested authority. Judicial interpretation is reflected in the clarification of legal rules contained in normative instruments such as Resolutions of the Council of Justices of the SPC and Joint Circulars

issued in coordination with the Ministry of Justice. As these documents constitute normative legal instruments, the interpretations they provide are legally binding. For instance, in Resolution No. 03/2020/NQ-HĐTP guiding the application of certain provisions of the Penal Code in adjudicating corruption and other position-related offenses, Article 4 interprets the phrase “involving deceitful methods” as “the offender uses deceitful trick in a sophisticated way, uses high technology to commit the crime, conceal the crime, blame others or the offender destroy evidences, making it difficult to detect, investigate and deal with the crime”

Moreover, the courts implicitly engage in normative legal interpretation through Reports, Official Dispatches, and Responses to inquiries addressing judicial difficulties encountered by lower courts (Do, 2018). Each year, the SPC and its affiliated courts conduct reviews and draw upon practical adjudicative experiences to produce Reports aimed at guiding and ensuring uniform application of law across the entire judicial system. The interpretative content of these Reports, including clarifying legal provisions, expressing viewpoints on case resolution, and proposing approaches to address contentious legal issues, constitutes a form of judicial interpretation. As noted by To Van Hoa (2009), “When the SPC provides guidance on the application of normative legal documents, the process of interpretation cannot be omitted.”

Following direct dialogues with lower courts to address legal uncertainties, the SPC issues Official Dispatches and Responses. These documents contain interpretative content that subordinate courts are required to “study and take into consideration when adjudicating cases within their jurisdiction” (Supreme People’s Court, 2021). Although “Official Dispatches and Responses of the SPC do not formally constitute ‘law,’ in practice, they are believed to exert significant influence on the judicial application of law by lower courts” (Pham, 2018).

For instance, in Response No. 01/GĐ-TANDTC of 2016, the SPC interpreted the meaning of the term “Court” under Clause 5, Article 75 of the 2015 Civil Procedure Code as follows: where a lawsuit petition has been received but the Chief Justice has yet assigned no judge, the term “Court” is understood to refer to the Chief Justice; once a judge has been assigned, the term “Court” is understood to refer to that judge (Supreme People’s Court, 2016).

Official Dispatch No. 64/TANDTC-PC, dated April 3, 2019, interprets the phrase “a person who knowingly consumes property derived from another’s criminal act” to

mean an individual who acquires property unlawfully from another person, even where such conduct does not meet the constitutive elements of a criminal offense and therefore cannot be subject to criminal prosecution (Supreme People’s Court, 2019).

The Supreme People’s Court’s proactive binding effect on lower courts is further evident in provisions commonly found at the conclusion of Resolutions or Official Dispatches, which typically stipulate: “During implementation, if difficulties or ambiguities arise that require interpretation or supplementary guidance, they should be reported to the SPC for timely interpretation or guidance” (Resolution No. 04/2019/NQ-HĐTP of the Judicial Council of the Supreme People’s Court).

This binding effect diminishes the case-specific interpretative function of judicial rulings. As noted by Nguyen Nhu Phat (2009), “Normative interpretation conducted by the Supreme People’s Court in Vietnam over an extended period has effectively transformed local judges into mere law-applying machines rather than autonomous subjects applying the law.”

Although widely practiced in reality, the law has yet to formally vest the courts with the official authority to issue normative legal interpretations. While normative interpretation (currently vested in the Standing Committee of the National Assembly) must adhere to specific principles, methods, objectives, and requirements, no such constraints presently apply to the Supreme People’s Court. Consequently, no adequate oversight mechanism exists for monitoring the Court’s normative interpretation activities, leading to legal accountability gaps regarding its interpretative content.

4.1.3 Legal interpretation by the government and ministries

Currently, the Government and Ministries are not legally authorized to interpret the law. However, empowered to promulgate guiding and detailed normative documents (as provided in Articles 19, 45, and 46 of the 2025 Law on the Promulgation of Legislative Documents), these entities have included numerous provisions with normative characteristics that effectively constitute legal interpretation in their issued decrees and circulars.

Some Vietnamese legal scholars have argued that “in essence, the act of detailing, specifying, and guiding the implementation of legal normative documents issued by higher-level authorities in Vietnam can be considered a form of legal interpretation”

(Nguyen, 2009). Dr. Pham Tuan Khai, former Director of the Legal Department of the Government Office of Vietnam, stated that: "... in general, the vast majority of legal documents promulgated by executive bodies contain legal interpretation" (Pham, 2009). Dr. Nguyen Sy Dung, former Deputy Director of the Office of the National Assembly of Vietnam, remarked that the executive branch has engaged in legal interpretation even in the absence of an express mandate to do so, and that this form of interpretation has, in effect, implicitly filled the vacuum left by the lack of a formal legal interpretation mechanism.

The Government interprets the law through Decrees that provide guidance and specify the implementation of laws and ordinances. The content of legal interpretation is interwoven with guidance and detailed regulatory provisions. For example: In Decree No. 10/2023/NĐ-CP amending and supplementing several articles of Decree No. 43/2014/NĐ-CP dated May 15, 2014, although it primarily offers detailed guidance, it also clarifies the scope and subjects of application of legal provisions related to land-use rights auctions under the Land Law.

Legal interpretation is also carried out by Ministries. To implement laws and resolutions of the National Assembly, ordinances and resolutions of the Standing Committee of the National Assembly, decrees of the Government, etc., Ministries (Ministers) often issue Circulars to interpret and provide detailed guidance. Most Circulars include the phrase "interpretation and guidance..." The element of legal interpretation appearing in Circulars is common, since in Vietnam "Laws only contain general principles that need to be further detailed. In some cases, the generality of the law is such that legal provisions merely refer to sub-law documents; in these cases, Circulars, under the guise of guiding the implementation of the law, establish principles and raise issues, and then proceed to concretize those principles and resolve the issues... Notably, Circulars that function as legal interpretations are in fact substitute laws for the laws being interpreted" (Nguyen, 2009).

Certain bodies under the ministries also engage in legal interpretation. For example, the Department of Examination of Legislative Documents under the Ministry of Justice frequently engages in legal interpretation when reviewing documents. Although these interpretations are not official, they significantly influence the authors of legal normative documents as well as the decisions of competent authorities in handling unlawful documents.

The General Department of Customs provides explanations and supplements on certain problematic points during the implementation of related circulars. For instance, in Official Letter No. 420/TCHQ-GSQL dated March 11, 1995, the General Department of Customs explained some points in Circular No. 63/TCHQ-GSQL dated February 20, 1995, due to difficulties and obstacles encountered by customs authorities in some localities and their request for clarification.

Drafting committees and Implementation Task Forces also act as interpreters of the law. In Vietnam, the promulgation of a law is typically accompanied by the establishment of a Drafting Committee responsible for preparing the legislation, and subsequently, an Implementation Task Force charged with facilitating its enforcement. As a matter of administrative practice, when legal provisions are unclear, law-applying authorities often seek interpretive guidance from the Drafting Committee or the Task Force responsible for the enforcement of the relevant law.

A typical example is found in the context of disputes among company members concerning whether a “right to claim a debt” qualifies as a capital contribution under the Law on Enterprises. In this case, the adjudicating panel consulted the Implementation Task Force for the Law on Enterprises and received confirmation that the right to claim a debt constitutes a property right and therefore could be contributed as capital to a company (Nguyen, 2009).

Such interpretative activity by the Government, ministries, and related bodies is referred to as “legal interpretation in the process of administrative decision-making” (Nguyen, 2009). This form of interpretation, while regulatory in nature and closely associated with subordinate legislation, falls under the domain of legislative implementation. The legal content of such guiding documents and the legal interpretative value they carry vary in weight and clarity; however, distinguishing these elements is often difficult in practice. This may result in either the undervaluation of these guiding documents or a failure to recognize the interpretive value embedded within them.

This practical reality has led to a vibrant yet problematic landscape of legal interpretation in Vietnam. It raises serious concerns due to the absence of a clear legal basis and the lack of oversight mechanisms to monitor, review, and sanction interpretative activities conducted by actors who have not been formally vested with interpretive authority by law.

4.2 Reasons behind the diversity of legal interpreting actors in Vietnam

There are several key reasons explaining the plurality of actors involved in legal interpretation in Vietnam.

First, the demand for legal interpretation in practice is highly diverse. However, under current law, only the SCNA is officially vested with the authority to interpret the Constitution, laws, and ordinances, while courts are limited to case-based interpretation in the context of adjudication. At the same time, the law neither prohibits nor restricts the interpretive activities of other entities, nor does it establish a mechanism for oversight or control. This legal vacuum has resulted in the emergence of numerous actors engaging in legal interpretation.

Another reason lies in the practical limitations of the SCNA's interpretive function. Although the SCNA holds formal interpretive authority, its practical functioning reveals significant limitations for three main reasons: (i) the actual need for interpretation often arises not with the SCNA but with other bodies; (ii) the procedural pathway from those needing interpretation to those with interpretive competence is complex and burdensome; and (iii) the SCNA, in practice, only serves as a coordinating hub in the interpretive process rather than engaging in direct interpretation. This reality has, *de facto*, expanded the range of interpretive actors.

The involvement of the Government, ministries, and the SPC in issuing normative legal documents, where interpretive content is often embedded, can be viewed as a natural and inevitable outcome. Given the functional inseparability of regulatory drafting and interpretation, such interpretive acts are practically unavoidable, regardless of whether they are formally permitted.

In addition, legal interpretations issued by entities outside the SCNA sometimes play a highly valuable role in promoting the uniform application and implementation of law. Their utility is largely due to their technical expertise, institutional mandates, and proximity to the interpretive demands of legal practitioners, which have, in turn, fostered the informal yet robust development of legal interpretation by non-authorized actors.

Finally, Vietnam currently lacks an effective and independent constitutional review mechanism capable of comprehensively verifying interpretive outputs produced by various actors, including even the SCNA itself. Consequently, there is no adequate

framework for oversight or legal accountability, nor a fully developed legal regime governing legal interpretation and the status of its various actors.

4.3 Shortcomings in legal interpretation in Vietnam today

One major issue is the lack of consistency in the legal interpretation model between legal theory, legislation, and practical implementation. Vietnam's model of legal interpretation has traditionally been designed as a legislative-based interpretation system. Prior to 2014, legislation specified the actors, procedures, delegation mechanisms, and legal effect of interpretative instruments in line with this legislative model. However, in practice, the SCNA has issued very few interpretations. Those that are issued combine both normative and case-specific elements, failing to reinforce the constitutional model of LI in Vietnam. The SCNA's implementation has been criticized as potentially bureaucratic or symbolic due to delegation, lack of direct involvement, and limited technical control over the interpretative process. Thus, the SCNA struggles to assume responsibility for interpretative outcomes (Pham, 2012).

Moreover, numerous entities outside the SCNA have engaged in legal interpretation activities without adhering to the officially prescribed procedures. Their interpretative outputs, although influential in practice, lack legal recognition and oversight.

Since 2014, the judiciary has been granted the authority to interpret law through adjudication. Nonetheless, legal mechanisms governing judicial interpretation remain vague, particularly in distinguishing normative interpretation from case-specific judicial interpretation. This results in a fragmented legal interpretation model in Vietnam across three dimensions: theoretical understanding, legislative regulation, and practical implementation.

Another major problem is the unreasonable allocation of interpretative authority. While the SCNA is vested with formal legal interpretation authority, it has not fulfilled this function adequately. Meanwhile, numerous other actors, without formal authority, frequently and extensively engage in legal interpretation. This creates inconsistency, legal uncertainty, and diffusion of interpretative power.

The SCNA's inefficacy in this regard stems from several factors: it lacks access to real-life legal issues from the general public; its perspective is shaped by its legislative

role rather than a critical or evaluative stance; and it is not independent of the legislative and constitutional bodies, as it actively participates in those processes (Office of the National Assembly, 2009). "The regulatory framework for legal interpretation and application lacks coherence, consistency, and specificity. The fact that many unofficial actors simultaneously interpret and guide the application of law may lead to overlaps and contradictions" (Doan, 2024).

Vietnam also demonstrates limited recognition of case-based judicial interpretation. Vietnam's legal tradition emphasizes anticipatory interpretation through legislative documents issued by authorized law-making bodies. Meanwhile, judicial interpretation, arising from complex and diverse practical legal disputes, is not given due attention, despite its high demand and frequency.

Three issues demonstrate this neglect: first, although courts are authorized to interpret, existing regulations focus only on normative interpretation, following procedures similar to the promulgation of normative legal documents; second, the role of judicial precedents, the hallmark of case-based interpretation, is limited, serving only as supplementary sources of law; third, courts are viewed solely as law appliers, lacking the authority to fill legal gaps, which is a critical foundation for the development of case-based interpretation.

Insufficient oversight of normative legal interpretation by unauthorized actors is another significant concern. Vietnam lacks a control mechanism for normative legal interpretation conducted by unauthorized actors. This is partly due to the difficulty in distinguishing normative legal interpretation from detailed implementation guidelines, as they often serve as both prerequisite and vehicle for one another. Normative legal interpretation embedded in implementation regulations by executive and judicial agencies often amounts to supplementary legislation. These interpretations have binding legal force similar to the original legal documents. This fusion compromises the quality and essence of legal interpretation and poses risks of power abuse. The absence of control and legal accountability exacerbates legal fragmentation and inconsistency.

There is also a persistent mismatch between legal interpretation subjects and the practical needs of interpretation. Currently, legal interpretation in Vietnam only applies to the Constitution, laws, and ordinances. This restriction stems from the institutional position of the SCNA, which is not authorized to interpret documents lower in legal hierarchy than its own resolutions. However, in practice, many actors engage in

interpreting a broader set of normative legal documents, especially governmental decrees and ministerial circulars. Most legal ambiguities stem from difficulties in understanding and implementing these documents. Given that courts now possess the power of case-based interpretation, the scope of interpretative subjects must include all normative documents that give rise to interpretative challenges.

Vietnam also places an undue restriction on the entities entitled to request legal interpretation. Currently, only state actors, those authorized to propose laws and ordinances, are entitled to request legal interpretation. This creates a disconnect between the entities with real interpretative needs and those empowered to request interpretations.

Additionally, Vietnamese law lacks specific regulations for constitutional interpretation. Although constitutional interpretation is theoretically expected to follow a distinct and specialized process, Vietnamese law currently fails to distinguish it from the interpretation of ordinary laws and ordinances. The absence of a clear regulatory framework for constitutional interpretation undermines the integrity and coherence of the constitutional interpretative system.

Such shortcomings underscore the limited role of the Standing Committee of the National Assembly (SCNA), the fragmented landscape of interpretative authorities, and the increasing significance of the judiciary in the process of legal interpretation. The underlying causes can be traced to Vietnam's complex, expansive, and frequently evolving legal environment, characterized by insufficient transparency, a lack of systematic legal codification, and a persistent gap between legislative intent and practical enforcement (Ha, 2009).

In the context of globalization, legal interpretation in Vietnam must evolve to meet broader international expectations. As Paresh Kathrani (2009) observes, "Under the impact of globalization,... states are not required to forgo national identities, but adopting a universal standard of legal interpretation ensures that individuals worldwide share core values and avoid unnecessary legal conflicts." Participation in multilateral institutions such as the United Nations requires states to promote universally accepted legal norms and to interpret secondary legal instruments in good faith (Kathrani, 2009). Accordingly, Vietnam's approach to legal interpretation must be reformed to better reflect both domestic imperatives and international standards.

5 RECOMMENDATIONS

Recognizing the judiciary's role in legal interpretation is essential for any model of statutory interpretation, including that of Vietnam. Vietnam should address existing shortcomings and appropriately engage with various interpretative actors to enable the judiciary to assert its interpretative authority. This direction aligns with broader developmental trends. Several recommendations warrant consideration:

5.1 Clarifying and expanding legal interpretation authority among state organs

Multiple actors currently engage in legal interpretation without formal recognition or institutional oversight. Therefore, it is imperative to establish clearer legal provisions regarding the interpretative authority of administrative bodies. Key aspects include whether such bodies are permitted to interpret, under what circumstances, in what form, and the legal effect of these interpretations. Addressing the overlapping and unauthorized interpretations across institutions is crucial.

According to Dinh Dung Sy, former Director of the Legal Department of the Government Office, the process of legal interpretation should be reformed to become more streamlined and efficient. He recommends expanding the entities authorized to interpret legal normative documents beyond the Standing Committee of the National Assembly (SCNA), potentially by empowering the courts or assigning interpretative responsibilities to the promulgating agencies (Anh Thu, 2024).

Hoang The Lien, former Standing Deputy Minister of Justice, emphasizes that the drafting authority should be responsible for interpreting and guiding the implementation of sub-statutory instruments (Anh Thu, 2024).

5.2 Enhancing the judiciary's interpretative role in adjudication: recognizing normative interpretation and establishing mechanisms for case-based interpretation

The normative interpretative authority of the Supreme People's Court should be formally recognized, especially when issuing normative documents to ensure uniform application of the law. As suggested by Huynh Thi Sinh Hien (2022), a "Code of Interpretation" should be developed to guide judges in interpreting legal norms. This code

would promote objectivity and fairness in adjudication and encompass rules on sources, interpretive methods, grammatical and contextual analysis, conflict resolution, and legal reasoning. Such a framework would improve communication between the legislative and judicial branches and reinforce judicial independence.

For case-specific interpretation, a two-tiered system should be delineated: firstly, constitutional interpretation should eventually be assigned to an independent constitutional court, with clearly defined procedures stipulated by law; and secondly, interpretation of laws, other than the Constitution, should fall under the jurisdiction of courts at all levels. Where interpretative inconsistencies arise, the Supreme People's Court shall provide the final binding interpretation. If such interpretation proves erroneous, it must be subject to review by a higher judicial body, ultimately under the jurisdiction of the Constitutional Court.

General Secretary To Lam has called for improved legislative interpretation mechanisms. He advocates for issuing interpretive principles, criteria, and legal bases to ensure the continued effectiveness of the law without frequent amendments (Anh Thu, 2024).

5.3 Authorizing judges to address legislative gaps, except in criminal law

Although the SCNA is prohibited from creating new norms during the interpretation of the Constitution, laws, and ordinances, this restriction should not mechanically apply to judicial case-based interpretation. Judicial filling of legislative gaps sometimes requires broader or narrower semantic constructions than those found in the textual provision. This function becomes particularly relevant under the Civil Code and the Civil Procedure Code, which recognize the principle of inadmissibility and the diversity of legal sources.

However, judges must not engage in gap-filling when interpreting criminal provisions. Criminal responsibility only applies to acts expressly defined by the Penal Code, thereby safeguarding legal certainty, protecting human rights, and preserving the exclusive law-making competence of the democratically elected legislature (Huynh, 2022).

5.4 Establishing an independent constitutional court

While Vietnam's National Assembly currently holds constitutional review authority—a legacy of the socialist legal tradition—some commentators argue that this dual role creates a conflict of interest akin to "playing referee and player simultaneously" (National Assembly Office, 2009). An ideal safeguard of constitutionalism would be an independently structured constitutional court.

Although constructing such a mechanism in a system where the legislature holds paramount authority is challenging, it is not unfeasible. Vietnam's commitment to building a socialist rule-of-law state necessitates a functioning mechanism for constitutional review. Establishing an independent constitutional safeguard would not contravene the principle of "Party leadership, State management, and People's ownership" but rather scientifically reinforce it.

5.5 Broadening the scope of legal interpretation

Legal interpretation fundamentally serves to elucidate legislative intent and the substantive meaning of legal texts in context. Hence, interpretation should occur wherever ambiguity arises. Deputy Minister of Justice Tran Tien Dung has advocated for expanding the scope of interpretative matters, establishing mechanisms for interpreting sub-statutory instruments, ordinances, and resolutions, and simplifying the interpretation process to ensure timeliness, transparency, and clear institutional accountability. Moreover, the legal status of interpretative texts must be codified to enable responsive policy adjustments (Anh Thu, 2024).

5.6 Strengthening legal interpretation training for judges

Reports from the judiciary indicate persistently high rates of annulled or amended decisions, vague judgments, and cases of professional misconduct among judges. Many lack sufficient experience or ongoing professional development (Nguyen, 2017).

The Supreme People's Court should assess the current interpretative practices of judges and design professional training programs nationwide. Essential training components include the objectives, sources, principles, and methods of legal

interpretation, as well as the skills to apply general principles and constitutional rights to interpretation (Huynh, 2022).

5.7 Monitoring and clarifying responsibility for interpretative content in sub-legal guidance documents

Accepting that sub-legal documents may contain legal interpretation raises the concern of excessive and unregulated interpretative authority. Not only the Government but also ministries, general departments, and even local People's Committees and Councils frequently issue detailed regulations. In many instances, these documents supplement or even alter the original legislation. This reality necessitates a legal framework to address such practices (Pham, 2009).

The accountability of drafters of interpretative guidance should be emphasized. This responsibility should mirror that of normative drafting and be supported by oversight mechanisms from competent authorities, such as the National Assembly supervising the Government and Prime Minister, and the Government overseeing ministers (Pham, 2009).

6 CONCLUSION

Legal interpretation in contemporary Vietnam remains underdeveloped and insufficiently regulated. Authoritative interpretative outputs are limited in both scope and quantity, while unofficial interpretations are diverse, complex, and lack systematic evaluation. To enhance the quality of legal interpretation, it is imperative to establish an institutional mechanism in which the judiciary assumes a central role. Simultaneously, legislative quality must be improved to reduce excessive dependence on implementing and guiding documents, thereby limiting the volume and controlling the content of interpretative outputs within the legislative process.

Legal interpretation is an objective necessity inherent to all legal systems. Each state organizes its interpretative mechanisms according to its national context. Nonetheless, legal interpretation tends to evolve toward alignment with its own underlying developmental principles. In socialist-oriented models, where interpretative authority is traditionally vested in the legislature, there is a discernible trend toward

expanding the judiciary’s role in interpretation. This evolution does not diminish the importance of legislative interpretation in Vietnam but rather complements and reinforces it. It strengthens the effectiveness of the SCNA while leveraging the comparative advantages of the judiciary in interpretative matters (Pham & Phan, 2022).

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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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