



Promote the role of international law for Vietnam in safeguarding its independence, sovereignty, unity, territorial integrity, peace, security and other national interests

Dr. Nguyen Hung Cuong^{1*}, Amb. Nguyen Truong Giang², Dr. Dinh Pham Van Minh³, Ba. Hoang Thi Lien⁴

¹ Doctor. Lawyer. Director of the Scientific Research Institute of Sea and Islands; Managing Director of VNJUST Law Firm

² Ambassador, Ministry of Foreign Affairs of Vietnam; Former Director - East Sea Institute - Diplomatic Academy of Vietnam

³ Doctor. Office of the National Assembly Delegation of Quang Binh Province, Vietnam

⁴ Ba. Lawyer. The Scientific Research Institute of Sea and Islands, Vietnam

Abstract

International law is a very important tool for Vietnam, especially in safeguarding its independence, sovereignty, unity, territorial integrity, peace, security and other national interests. However, the instrument of international law can only be effective when international law is implemented and when we have the capacity to apply international law effectively. Therefore, in order to further promote the role of international law in the coming time, Vietnam needs to consider taking some necessary measures.

Keywords: International Law, sovereignty, national interests, peace, security

Introduction

International law plays a crucial role in today's world. Principles and norms of international law are widely recognised, applied by the community of States and have been recorded in the Charter of the United Nations, universal legal instruments, multilateral, regional and bilateral international treaties that govern relations between States and provide the legal framework for cooperation between States in almost every area of international life; provide a legal basis for the construction of a law-based international order; and are an important legal instrument for States to protect their legitimate rights and interests.

Vietnam has always attached great importance to and promoted the use of international law to protect national interests. The 2013 Constitution affirms that Vietnam is a responsible member of the international community, complying with the Charter of the United Nations and international treaties to which it is a member. From mainly taking over, participating in international organizations, international treaties that have been formed before, using international law to fight the protection of national interests against misguided, hostile views, Vietnam is moving to step by step contributing to the establishment of the rules of the game, taking part in the development of the law and international law in order to best protect the interests of the country, while contributing towards promoting peace, security and international cooperation for sustainable development [4].

Evaluate Document

The sources of international law are also increasingly expanding. Along with the five basic sources as stipulated in article 38 (1) of the Statute of the International Court of Justice, which are international treaties, international customary law, general principles of international law, judicial decisions, publications have been published [9] as non-binding legal regulations (soft laws) develop [1, p.26].

While these regulations are not the official sources of international law and are not considered as legal texts as the approach of enforcement law, soft legal texts such as resolutions, declarations, recommendations, guidelines, and rules of practice developed by States and other non-State actors play an important role in the international legal order. Furthermore, soft law texts not only contribute to the formation of norms and norms on emerging global issues, but are also an important starting point for the process of building international treaty systems or practices. In many cases, soft law is a tool for interpreting and clarifying the content of a specific legal instrument [1, pp.1-75]. All United Nations treaty bodies have adopted many general comments or recommendations on a number of specific issues to further explain the provisions of each convention. The role of international law in the contemporary world in general and in the States in particular is crucial and necessary to regulate the relations that arise between States and such subjects in all spheres of international life.

Results and discussion

Currently, the relationship between national law and international law in Vietnam is regulated by Law No.108/2016/QH13 International treaty law. This is a text of law that regulates in a holistic way the issues relating to the work of international treaties of Vietnam, to the relationship between national law and international law, regulating the principles, order as well as the application of the international treaty. So what is the role of international law for Vietnam in safeguarding its independence, sovereignty, unity, territorial integrity, peace, security and other national interests, and what are the measures that Vietnam needs to take as a priority in order to advance the role that international law plays today? The results of the discussion below will answer the above questions.

1. The role of international law for Vietnam in safeguarding its independence, sovereignty, unity, territorial integrity, peace, security and other national interests

a. In the establishment of territorial sovereignty, island and maritime sovereignty, sovereign rights and national jurisdiction over the South China Sea of Vietnam

The role of international law in establishing the sovereignty of the territory and the islands and the national jurisdiction of Vietnam is reflected in a number of the following aspects:

(i) International law is the basis for Vietnam to establish national borders on land.

The United Nations Charter, the 1982 United Nations Convention on Law of the Sea, the system of basic principles and systems of international treaty regulations and practices widely recognized and applied throughout the world, are the legal basis for Vietnam to develop and enact domestic legal instruments, including the National Border Law [See 12, 6, 7, 2, 8]. On the basis of international law and practice, the 2003 National Border Law of Vietnam states: "The national boundaries of the Socialist Republic of Vietnam are lines and vertical sides along which to determine the limits of the land territory, the islands, the archipelagos including the Hoàng Sa Islands and the Trường Sa Islands, the waters, the soil, and the air zone of the socialist republic of Vietnam" [5, Art 1].

The 2003 National Border Act also sets out the basis for defining Vietnam's national borders on land, sea and air.

International law, especially international practices (such as *uti possidetis de jure/facto*), which are widely recognized and applied in the world, are an important basis for Vietnam to negotiate and conclude international treaties on land borders with its neighbours. The international treaties on land borders with China, Laos and Cambodia are of major importance to Vietnam. For the first time in history, our country has established complete, regular, modern and sustainable borders; established solid premises for building peaceful, stable, friendly and cooperative borders with neighbours. At the same time, these treaties, along with other legal instruments on border management that we have signed, are also the basic legal framework for border control and security; and contribute to ensuring orderly security, addressing satisfactorily issues arising in border administration and ensuring stable lives for residents of border areas.

(ii) International law of the sea, in particular the 1982 United Nations Convention on the Law of the Sea, is the basis for Vietnam to define waters and to conclude treaties defining maritime borders.

International law and international law of the sea, in particular the 1982 United Nations Convention on the Law of the Sea, is an important basis for Vietnam's adoption of legal instruments on the seas, especially the 2012 Vietnam Sea Law. In accordance with the 1982 United Nations Convention on Law of the Sea, the Vietnam Sea Law of 2012 specifies the waters and the legal status of the Vietnamese waters, such as the Inland Sea, Land Sea, Territorial Sea Border Zone, Economic Privileged Zone, Continental Shelf.

International law and international maritime law, in particular the 1982 United Nations Convention on the Law of the Sea, are also the basic legal basis for Vietnam to negotiate and conclude international treaties on overlapping

waters with its neighbours. Since the early 1980s, Vietnam has negotiated and signed a number of maritime or maritime boundary agreements with several neighbouring countries, namely: Vietnam-Thailand Maritime Boundary Agreement in the Gulf of Thailand, 1997; Northern Gulf Territorial Sea, Economic Privileged Zone and Continental Shelf Agreements with China, 2000; and is undergoing negotiations on maritime border definitions outside the North Gulf; Vietnam-Indonesia Convention on Maritime Shelf Definitions, signed in 2003; and successfully negotiating on marine boundaries between the two countries in December 2022; and Cambodia, the Joint Historical Water Area Agreement signed by the two nations in 1982 – an important agreement to negotiate and decide on the planning of historical maritime borders in the waters, maritime separation, special economic waters between these two continents.

(iii) International law is the fundamental legal basis for Vietnam to establish and establish its sovereignty over the Paracel Islands and Spratly Islands [11], on the basis of the following basic arguments:

One is that, for a long time, the State of Vietnam has been in real and public possession of the Paracel Islands and Spratly Islands when those islands are not under the sovereignty of any state.

Secondly, for centuries, at least from the 17th century to the present, the State of Vietnam has actually and continuously exercised Vietnamese sovereignty over the Paracel Islands and Spratly Islands

Thirdly, the State of Vietnam has always actively defended its rights and identity against any attempts and acts that violate the sovereignty, territorial integrity and interests of Vietnam in the Paracel Islands and Spratly Islands.

Fourthly, the establishment and enforcement of Vietnam's sovereignty through the present-day dynasties is consistent with international custom and law, recognized by the international community. Until now, the State of Viet Nam has always affirmed and has sufficient scientific and legal basis to prove that Wangsa and School Sa belong to the sovereignty of Vietnam. China's claims to the Imperial Republic of China, and to almost the entire South China Sea are illegal and unreasonable, and are being strongly condemned by Vietnam and the international community.

The State of Vietnam has always affirmed its official position that Vietnam's sovereignty, rights and jurisdiction in the South China Sea are in full accordance with international law, in particular the Charter of the United Nations and UNCLOS 1982, and that sovereignty over the Paracel Islands and Spratly Islands has been established in a peaceful, public, continuous and effective manner.

b) The role of international law in protecting Vietnam's international water resources

Of Viet Nam's 30 largest river systems, there are five major rivers such as the Red River, Mekong River, Ca River, Ma River and Dong Nai River flowing from outside into Vietnam. These river systems account for about 85% of the country's total surface water reserves. Through these river systems, about 530 billion cubic meters of water is produced outside the country's territory. The water use activities of the countries of the upper class have, are and will have a strong impact on the quantity and quality of Vietnam's water resources in international river systems, seriously challenging our country's security of water resources.

The international treaties and principles of international law in the field of international water use are the legal basis for protecting Vietnam's international water resources.

Currently, the 1995 Agreement on Cooperation for the Sustainable Development of the Mekong River Basin is the most important international treaty that we can use to protect the sources of Mekong river water flowing on our territory. The Agreement regulates the conduct of member countries including Vietnam, Cambodia, Laos and Thailand in the process of water use, and also provides a legal framework for cooperation between these countries to ensure fair, reasonable and sustainable use of the lower water resources of the Mekong River.

The basic principles of the law on the use of international water resources have become common international practices and have been normalized in the United Nations Convention on the Law on the Use of International Water Resources for Non-Traffic Purposes of 1997 as the most important legal basis regulating relations between Vietnam and other States in the use and exploitation of the water resources of international rivers not regulated by international treaties such as the Red River - Thai Binh, Ca River, Ma River and Dong Nai River and upstream of the Mekong River (spanning the territory of China and Myanmar). These principles include: the principle of fair and rational use of international water resources, the obligation not to cause significant harm across national borders; the duty to cooperate; and the obligations to protect the international water environment.

(c) International law contributes to the protection of the peaceful environment for the development of Vietnam

Principles and norms of international law in the field of international security play an important role in preventing the risk of war, disarmament, the protection of world peace and security. This role is expressed through regulations such as: (1) The kind of war of aggression that goes out of the law. Not only does it stop at the prohibition of war of aggression, but the United Nations Charter also prohibits any form of use of force or threat of force in international relations. Article 2, paragraph 4, of the Charter states: "All States Members of the United Nations in international relations shall not threaten or use force against the territorial integrity or political independence of any State, or for any other purpose incompatible with the purposes of the Organization." The principle of prohibition of the use of force or the threat of its use includes a number of subjects such as: Prohibits the conduct of war of aggression; prohibits invasion of national territory or the use of armed forces crossing borders to enter another State territory; does not engage in acts of reprisal by force; organizes or encourages the organization of informal armed force, armed gangs, including mercenaries, to penetrate the territory of another State; (2) The establishment of a collective security system under the Charter of the United Nations, with a view to achieving the primary objective of the Organization to ensure international peace and security, "to protect future generations from the disaster of war". In accordance with the provisions of the Charter, the mandate of international peace and security is guaranteed by the two main bodies of the United Nations, the Security Council [10, Art 24] and the General Assembly [10, Art 11]; (3) Establishes the legal basis for the establishment of regional security systems in international peacekeeping and security

operations, provided that the operation of such regional safety systems is consistent with the purposes and principles of the United Nations [10, Art 52]; (4) Establishment of a peacekeeping force consisting of military and civilian personnel contributed by States parties. These forces are deployed by the United Nations in areas of conflict or instability in order to create favourable conditions, contribute to the stabilization of the situation, maintain and establish peace and security in the region. United Nations peacekeeping forces usually operate on the basis of the approval of the countries involved. Since its inception in 1962, the Security Council has established and deployed more than 60 peacekeeping forces in various conflict areas around the world; (5) Develop a legal framework to regulate disarmament activities with the objective of reducing weapons in quantity and degree of destruction. From the early 60s of the last century until now, within the framework of the United Nations, member states have reached a number of concrete disarmament agreements, including multilateral international treaties relating to the issue of nuclear and weapons of mass destruction. In the region, in 1995, the Treaty on the Non-Nuclear Weapons Region of Southeast Asia was signed. Under the Treaty, States parties undertake not to develop, manufacture or receive, possess or acquire control of nuclear weapons, hold or transport nuclear arms by any means, or test or use nuclear weaponry. At the same time, States parties also undertake not to allow any other State to develop, produce or acquire nuclear weapons; possess or gain control over them; hold or transport them by any means; or test or use them on its territory.

If effectively enforced, the principles and provisions of international law on international security enshrined in the Charter of the United Nations, the multilateral, regional and bilateral international treaties to which we have entered into or are parties, will make an important contribution to the maintenance and safeguarding of peace and security in the region and in the world. Through this, we contribute to the protection of the peaceful international environment and create favourable conditions for Vietnam's development.

(d) International law is the basis for international cooperation to address non-traditional security challenges

International law, especially the relevant global, regional and bilateral treaties, provides a legal framework for cooperation between Vietnam and other countries in addressing and addressing non-traditional security challenges such as environmental pollution; ecological degradation; climate change, rising seas; transnational organized crime, including high-tech crime; international terrorism; piracy; illegal migration;... These non-traditional security challenges, if not prevented or effectively addressed, will become threats to human security, the security of nations, including Vietnam, and may even threaten the survival of humanity. Therefore, international cooperation in order to be able to deal effectively with non-traditional security challenges is a practical action to protect Vietnam's security and national interests.

(e) The role of international law for Vietnam in the process of international integration

International law plays an increasingly important role for Vietnam in the process of growing regional and

international integration in political, diplomatic, economic, security-defence and cultural-social areas. The basic principles of international law are recognised in the Charter of the United Nations and in global universal legal instruments, multilateral, regional, subregional and bilateral treaties in the fields of international relations to which we have signed or participated: (1) Create the legal framework for Vietnam's cooperation relations with other nations in most areas of international life from economic, trade, investment, finance, science and technology, training, education, culture and society to politics, diplomacy, security and defence... These partnerships contribute to expanding markets, boosting imports and exports; attracting foreign investment and international financial resources; harnessing the world's advanced scientific and technological achievements, especially the achievement of the Fourth Industrial Revolution; improving the quality of education, training, human resources and country governance; strengthening security and defence relations, building trust and mutual understanding with other nations; building comprehensive, deep, long-term and stable relations with neighbours, ASEAN countries, major countries and traditional friends. Through this, we can secure the resources and favourable conditions from the outside to strengthen the overall national power, serve the work of building and protecting the country, socio-economic development, industrialization and modernization of the country; at the same time contribute actively to the struggle for peace, national independence, democracy and social progress in the world; (2) The legal basis for protecting the national interests of Vietnam in the process of regional and international integration. The 13th Party Congress affirmed: "The fundamental principles of international law, enshrined in the Charter of the United Nations and important legal instruments of global universal value, are the basis for ensuring the national interests of Vietnam [3]. National interests need to be understood in a broad sense, including a wide range of interests: political, economic, cultural, social, defence, security, and foreign affairs. In the present context, the supreme national interests of Vietnam; (3) international law is also the legal basis for Vietnam to deal satisfactorily with complex international problems; and to resolve the relationship between the national national interest of Vietnam and the common interest of the international community and the legitimate interest of other States. In this way, we reduce the risk of conflict between our country and other countries; at the same time, we limit the factors that can cause tension and confrontation in international relations.

(g) The role of international law for Vietnam in the settlement of disputes with other States

In the process of cooperation and the struggle for coexistence and development, Vietnam is unable to avoid disputes and disagreements with other countries. International law plays an important role for Vietnam in resolving such disputes and disagreements, namely: (i) on the principle of the settlement of international disputes: International law specifies the principles of peaceful resolution of international dispute. According to this principle, Vietnam and other disputing States have an obligation to resolve disputes arising from their relations with each other by peaceful means; they must not use force or threaten to use force in resolving disputes. In the process

of finding solutions to disputes and disagreements, Vietnam and other States involved in disputes have the right to choose freely the methods, procedures and methods of settlement of disputes arising on the basis of the principle of equality and voluntary; (ii) On the legal basis for the resolution of international disputes: International law provides the legal base for Vietnam and the States involved in the dispute to resolve disputes in specific areas of relations. The Charter of the United Nations, the principles and provisions of international maritime law, including the United Nations Convention on Law of the Sea 1982 and the relevant international treaties, provide the basis for Vietnam to resolve disputes relating to the overlapping waters, the use and exploitation of marine resources, and the interpretation and application of the 1982 Convention. Principles and regulations in international economic law and in relevant multilateral, regional and bilateral international treaties are the basis for Vietnam to resolve disputes relating to trade, finance, credit, international investment, intellectual property... (iii) On Dispute Resolution Measures and Facilities: In addition to defining the principles of dispute settlement and providing the legal basis for dispute resolution, international law also provides a list of measures and international institutions that Vietnam and the States involved in the dispute have the right to choose to resolve disputes peacefully.

The study and mastery of international law is of the utmost importance to contribute to the strict and effective enforcement of international laws; at the same time, continuously perfecting the ever more modern, effective system of international legal regulations, in the context of Vietnam's increasingly deep participation in the process of globalization and international integration, with great opportunities and challenges; to protect the legitimate rights and interests of nations and peoples, to protect international peace and security.

2. Measures to promote the role of international law in Vietnam

a. To raise awareness of the role of international law

The role and importance of international law and the Charter of the United Nations in building a rule-based world order, promoting relations between nations and strengthening multilateral cooperation is of paramount importance. International law is the foundation of equal, equitable relations between nations. With regard to disputes and conflicts, Vietnam's view is to support all efforts to implement peaceful means of settling disputes under the Charter of the United Nations and international law, from negotiation, reconciliation to the use of international legal mechanisms, as Vietnam considers respect for international law to be an effective way of preventing conflict as well as seeking lasting solutions. Raising domestic awareness of the role of international law in safeguarding the independence, sovereignty, unity, territorial integrity; peace, security; and other national interests of Vietnam is one of the most necessary measures, by: (i) With increased awareness of the role of international law, we can attract the interest of the entire political system in international law; (ii) has attracted interest in international law, we see the need for adequate investment in research, international law teaching, training, and the development of a team of international law officials and experts; (iii) We have a team of officials and experts who are deeply familiar with international law, so that we can effectively use the instruments of international law to protect and promote Vietnam's national interests.

Raising awareness of the role of international law becomes even more urgent when international law is not given the right level of importance in our country; when a department of officials and civil servants is still vague about the role that international law plays in dealing with emerging issues of international importance; and when Vietnam has not yet formed a team of world-class international legal experts capable of effectively applying international law to protect national interests in some areas of international relations.

b. Training and training of international law officials and experts

The instruments of international law can only play a role in Vietnam if we master international law and are able to apply international law effectively. In order to enhance our ability to apply international law, in the years to come, we need to strengthen our training and training to build a team of officials who understand international law in areas such as peace, security, trade, finance, investment, intellectual property, environmental protection, and especially, to build an expert team capable of advising our Party and State on the use of international law to deal with international issues or resolve disputes arising in relations between Vietnam and other countries. Building a team of international law officials and experts in areas that can be carried out through activities such as: Strengthening and strengthening the teaching and research of international law at national universities and research institutes with specialties serving regional and international integration; Organization of intensive training and training courses for officials working in international law or work related to international law; Strengthening international cooperation in the field of international law with other States and international organizations. Bringing people to study, research at universities and research institutes abroad. Experts, international law officials to internship or work at international organizations and international jurisdictions; Develop international law research topics that focus on such areas as national sovereignty; maritime law; peace, security; economics, trade, investment; cyber security; digital and high-tech economics; intellectual property; and resolution of international disputes in the fields of international relations.

At the same time, we need to continue to train and develop our international legal staff in terms of quality and quantity with a long-term orientation; to create conditions for Vietnamese legal staff to work directly at research agencies and judicial mechanisms in order to cultivate, accumulate knowledge, skills and practical experience, create connections and build a network of international legal experts at home and abroad. Thus, the new team of international legal officers can contribute to promoting the protection of the rights and legitimate interests of Vietnam and strengthen the role and voice of developing countries, continuing to affirm that Vietnam is a friend, a reliable partner and an active, responsible member of the international community, worthy of the country's trust and international credibility.

c. Promoting respect for and compliance with international law in the region and around the world

International law can only play its part when it is respected and enforced. Therefore, in order to promote the role of international law, we need to actively, actively promote respect for and compliance with international law in the region and in the world through measures such as:

(i) To promote the supremacy of international law

In order to promote the role of international law, we need to work with other nations to uphold the spirit of supremacy in international law; to build and strengthen order based on international law in the region and in the world; to condemn and combat acts that violate international law and, in particular, acts which violate fundamental principles of international right, such as principles such as respect for national sovereignty equality, the principle of non-use of force or threat of use of force in international relations and principles for the peaceful settlement of international disputes...

(ii) Clearly show respect for and compliance with international law

In order to be able to encourage other countries to respect and comply with international law, Vietnam must first and foremost demonstrate that it is a country that respects and complies with international laws by: Compliance with the principles and norms of international law, in particular the fundamental principles of the international law recognised in the Charter of the United Nations and the global legal instruments; To comply in good faith with the international treaties and agreements to which Vietnam has entered into or to which it is a party, and to fulfil fully and rigorously the obligations of Vietnam as recorded in such international agreements and treaties; Completion of the domestic legal system in accordance with the principles and norms of international law, in conformity with international treaties and international agreements to which Vietnam is a party.

(iii) Encourage other States to respect and comply with international law

While strictly enforcing international law, Vietnam also has the right and the obligation to encourage other States to respect and abide by the fundamental principles of international law and respect and comply with international treaties and agreements to which they have signed or to whom they have acceded.

We must resolutely combat acts of violation by other nations of Vietnam's sovereignty, rights and interests through one or a combination of measures such as: To combat violations by diplomatic means; to advocate for other countries to support Vietnam, to oppose violations; to intensify public opinion struggle; to take yes and yes measures in response to violations of international law; and to take measures to protect the sovereignty, rights and legitimate interests of Vietnam as permitted by international law...

d. Active participation in the process of normalization and development of international law

International law is still in the process of developing to meet the need to regulate relations between nations in a number of new areas. Participation in the process of legalization and development of progressive international law in order to strengthen jurisdiction at the international and regional levels in accordance with the Charter of the United Nations and the fundamental principles of international law is essential to safeguarding the national interests of Vietnam. So we need to actively, actively study and participate in building, shaping new institutions, mechanisms, rules and international standards in politics, security, defence, economy, trade, investment, finance, science, technology, education, training, health administration, health security...

Conclusion

For Vietnam, international law plays an important role in safeguarding its independence, sovereignty, unity, territorial integrity, peace, security and national interests. International law is also the basis for resolving border disputes, territorial disputes and overlapping maritime divisions with neighbouring countries; protecting Vietnam's national interests in the process of regional and international integration. In the foreseeable future, Vietnam needs to build our position and perspective on important, emerging legal issues that focus on the interests of Vietnam and developing countries, such as the issue of national sovereignty in cyberspace and cybercrime. In the context of the changing world situation, which has profoundly affected international relations and created unconventional challenges to international law over the past few decades, preparedness to address emerging legal issues is essential in order to maximize the interests of the nation and the people. However, it is important to be aware that international law is only an instrument and instrument of international law that works only when it is respected and enforced; and when we understand international law and are able to effectively use international law to protect and promote Vietnam's national interests. Therefore, in order to advance the role of international law, the community of nations, including Vietnam, must strive to promote respect, compliance with international law and enhance understanding and ability to apply international law. For Vietnam, in order to have a deep understanding of international law and its ability to apply international law, we need to invest in research, teaching and training, especially training, and fostering a team of world-class international law officials and experts.

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