



8th ASIAN CONSTITUTIONAL LAW FORUM
(Conference Proceedings)

Asian Constitutional Law

RECENT DEVELOPMENTS
AND TRENDS

Volume 2



SÁCH KHÔNG BÁN

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LEGAL PROTECTION OF HUMAN RIGHTS OF PRISONERS IN VIETNAM

Tram Nguyen Thi Thanh¹

Law Faculty, Vinh University

Ly Mai Nguyen

Law Faculty, Vinh University

Abstract

Human rights are a growing concern in Vietnam, especially after the adoption of the Constitution of 2013. This Constitution is a basis for promulgating and completing the legal provisions on human rights in the enforcement of criminal rulings. Due to confinement, prisoners' human rights are controlled and limited in certain degrees. As a result, prisoners' human rights are easily violated. The consequences of those violations are serious when it comes to fundamental rights such as the right to live, the right to be ensured a proper living standard, as well as political rights. In order to protect prisoners' human rights, many Governments have proposed and enacted many provisions based on international standards and their domestic backgrounds. Ensuring human rights includes various methods and measures. One of the most important measures is institutionalization by legal regulations on the basis of international legal criteria. Through studying the laws of some countries and international standards, this paper argues that Vietnamese laws have been compatible with international legal norms, especially the special human rights of prisoners. However, there remains several shortcomings and limitations in the laws. After observing the measures to ensure human rights from other countries, this paper also draws some lessons, from which some solutions are suggested to better protect human rights of prisoners in Vietnam.

Key words: Legal protection, prisoner, Vietnam.

I. Introduction

Enforcement of imprisonment is a powerful activity of the State to execute criminal rulings. The purpose of this activity is to correct, educate inmates, then preparing them for re-integration back into society. Undeniably, because imprisonment is applied to punish prisoners, inmates have to endure poor living conditions such as living in limited spaces, shortage of entertainment and so on. Moreover, measures and rules in jails might affect lawful inmates' rights in general and human rights in particular. For example, prisoners in an overcrowded place might face the risk of physical diseases

¹ This paper is a part of the doctoral thesis titled *Ensuring human rights in the enforcement of imprisonment sentences in Viet Nam/Bao dam quyen con nguoi trong thi hanh hinh phat tu o Viet Nam* that PhD Candidate Nguyen Thi Thanh Tram is working on at the Graduate Academy of Social Sciences of Vietnam.

or the lack of sanitary conditions. Once prisoners' dignity and other human rights are undermined, the purpose of imprisonment would be unsuccessful. At the end of the sentence, the outer community will receive individuals full of revenge and dissatisfaction with the remaining part of society, instead of educated and skilled people. Hence, it is necessary to acknowledge the fundamental human rights of prisoners and protect those people from being violated. In this paper, the authors only research the rights of imprisoned people who are serving criminal sentences, not untried prisoners.

Human rights are natural rights, coming into existence when a person is born and inherently impossible to be deprived or restricted by anyone. As mentioned above, due to incarceration, inmates cannot have 'full' human rights compared to free people such as enjoying public entertainment activities. Further, even when inmates can conduct their human rights, some of the rights are still restricted by the penitentiary rules. However, since the prisoners are only deprived of freedom, their fundamental human rights need to be respected and ensured. One of many solutions to protect prisoners' human rights is the legalization of those rights. Then, the officers at penitentiaries have to implement the minimum rules specified in law to ensure the human rights of prisoners. If not, those