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Legal System Regarding Public Disclosure of Government Information in Vietnam

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ABSTRACT: Government information disclosure is a significant achievement in Vietnam's political system, particularly after the reform and opening-up period, as it has consistently received recognition, promotion, and protection from the state government. Under Vietnam's one-party system, the Communist Party of Vietnam's recognition of the necessity for government information disclosure has also driven its adjustments to the legal framework, which are implemented in practice. Legally, Vietnam has established a framework for government information disclosure, including principles, scope, responsibilities of state agencies in releasing information, and government guarantees of transparency. Based on the historical development of government information disclosure in Vietnam, this article reviews existing laws and regulations and proceeds to analyze the main characteristics of government information disclosure in Vietnam.

KEYWORDS: Vietnam, Government Information Disclosure, Legal Protection, Vietnam Information Access Law

Publicity of government information has now become an inherent characteristic of the State of Vietnam. It allows people to understand the substance of the information presented and can generate antisocial opinions, leading to legal issues. It is enshrined in the Vietnamese Constitution. Ensuring the people's right to receive government information is set as a responsibility of the Vietnamese state, demonstrating respect for democracy and human rights, especially in societies that respect democracy and guarantee human rights.

Public information in Vietnamese is understood as "not kept secret, but for everyone to know"[1]. And in the common sense, public government information is information about the state apparatus from central to local, based on and aimed at ensuring democracy and human rights in Vietnamese society. In political and legal life in Vietnam presently, publicity is a means of disseminating information to a wide range of people, an open, clear and appropriate means of information under certain conditions. The means of government information can open or close access to it.

1. General history and development of the information disclosure regime in Vietnam.

Public information from the government is a continuous process inherent to the nature of the Vietnamese state but the form and degree of expression of certain differences vary over time. It is seen as an inherent characteristic of the State of Vietnam was identified by the Communist Party of Vietnam as early as 1930 in the Political Guide of 1930, and associated with "the bourgeoisie's advocacy of revolutionary civil rights and revolutionary territory to go to communist society".

In 1945, with the victory of the revolution, the Vietnamese people under the leadership of the Party, opened a new chapter on democracy in political-social life with the state the nature of the people, by the people, for the people, including the issue of public information from the state. Right in the first draft of the Constitution of Vietnam adopted by the Parliament in 1946, along with the provision of public hearing courts (Article 67), it was highly praised that the provision that, except in special cases, "Parliament shall meet in public, the public shall be heard. The press shall be allowed to recount the discussions and resolutions of Parliament" (Article 30). Until now, in constitutions and other legal texts the principle, the spirit of public information of the state has been defined in different forms and degrees.

After the August revolution of 1945, the Vietnamese state has kept continuing to manifest its public spirituality as mentioned above. But soon after that victory was the nine-year anti-law war from 1945 to 1954, followed by the anti-American war from 1954 to 1975. From 1955 to 1975, simultaneously with the United States Invasion of the South, North Vietnam undertook the construction of socialism. After the anti-American war, the country was unified, and socialism was established nationwide. Thus, in Vietnam, two basic objective factors influence the government's public information activities: the context of war and the context of building socialism.

Of course, the subjective elements of the Vietnamese Party, state and society are also very important. But it is clear that in the context of war, the secret element of political, economic, social, cultural information... in the liberation struggle with the enemy is very remarkable. It is the factor that can decide the outcome of the war.

However, this inevitably limits the ability to disclose government information not only when necessary but perhaps even when unnecessary, even the abuse of the secret element, which is not in line with the demands of democracy in certain cases. In the process of building

[1] Institute of Linguistics (2002), *Vietnamese Dictionary*, Da Nang: Da Nang Publishing House, p. 208.

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socialism in Vietnam, in principle, this is the time when democracy and guarantee of human rights require the public information provided by the government to be well carried out and promoted, reflecting the superiority of the socialist regime.

But the reality shows that the difficulties in constructing socialism, the incomplete understanding of the state's responsibility to the people , the complexity of the international situation... and the residual of wartime secrecy habits make the government's public information not always as desired.

In 1975, Vietnam achieved national unification after the victory of the war of resistance against the United States, which had liberated the South. Soon after, the whole country entered the process of building socialism and has so far achieved many remarkable results. In the early stages of this process, the public disclosure of government information was still carried out, but it had not become a major, consistent advocacy within the state apparatus and society. Wartime security habits also have a profound impact on the state apparatus, including the vested interests of certain civil servants , which remains a barrier to the public disclosure of government information.

Since Vietnam began its comprehensive reform in 1986, the issue of governance innovation and state management in a modern direction, in line with the requirements of transparency, democracy, accountability, and the rule of law has emerged. The issue of public government information has become increasingly clear and acute.

Until now, public information in general, government information in particular, has been firmly affirmed by the Vietnamese Communist Party in social life in general, state life in particular in Vietnam. In the documents of the Thirteenth Party Congress, the Party affirmed the comprehensive principle of the public disclosure of government information by the state apparatus to society. To guarantee democracyand human rights, citizens' rights must be grounded in public information , according to which*: "Attention to the implementation of democracy, both direct and representative, especially on ensuring openness, transparency, accountability"*[2]. In the construction and development of the market economy*: "In a socialist-oriented market economy, there is a close relationship between the state, the market and society. The state builds and perfects institutions, protects property rights, business rights, maintains macroeconomic stability and the great balance of the economy; creates a favorable, public, transparent environment for enterprises, social organizations and the market to operate ..."* [3].

In the Plan about the direction of the development of the country in the period 2021-2030, according to the requirements of clean, strong, refined, effective and efficient operation, for serving the people and for the development of the country also requires: *"Strengthening public, transparency, accountability, control of power attached to strict discipline, record in the operation of the State and of officials, civil servants, officials"*[4] ...

Below, we consider how Vietnam law governs the public disclosure of government information.

2. Legislation and enforcement of laws on public government information

Publicity of government information is a great value that has been officially established, promoted and guaranteed in Vietnamese politics, especially since the period of innovation. In the politics of a unique leading Party, the fact that the Vietnamese Communist Party recognizes the public demands is also a requirement for adjusting the law, and the reality has shown this. In law, public government information is a legal regime that affirms the principle of public government information, the scope and responsibility of public information of state agencies, and ensures and protects the public government information. The following outlines the main features and fundamental characteristics of the current legal system regarding the disclosure of government information in Vietnam:

First and foremost, awareness of public government information can be seen through the practice of using it in Vietnam. Often in political and legal texts, the term "Public" is often used in conjunction with the term "transparency" into the phrase "public, transparent". Article 28 Clause 2 of the current Constitution of Vietnam uses the same phrase: Publishing government information in the aforementioned sense means "for everyone to know", "transparent" is understood as "clear, coherent" information[5].

It is easy to see here that the common point of publicity and transparency is that they are distinct aspects or criteria that reflect the need for the best information. Between them there is a complementary relationship: the disclosure of information is only valuable when it is clearly conveyed; in contrast, a clear message only makes sense to life when it is communicated to everyone. However, such a relationship between the two concepts mentioned does not diminish the public concept's independence, because it has intrinsic value and is used independently, reflecting its ability to circulate and disseminate information.

Secondly, the role and importance of public government information reflected in the regulations governing its disclosure, which are recorded at the constitutional level. Since Vietnam embarked on the construction of socialism from 1954 to the present, public information has gradually increased through the constitutions of 1959, 1980, and most recently the 2013 Constitution. Publicity is a principle established by the socialist regime associated with the organization of the political system, the state apparatus, and the demands of democracy, human rights… The provisions on the publication of government information in the constitution are fundamental, covering the political and legal life of society.

The explicit provisions on publicity in the Constitution are clearly reflected in some articles of the Constitution such as: "The state facilitates citizens to participate in the administration of the state and society; publicity, transparency in the reception, opposition to opinions, requests of citizens" (Article 28, Clause 2); The court "hears the trial promptly within the statutory period, fairly, publicly. In the case of a closed trial in accordance with the provisions of the law, the sentencing shall be made public" (Article 31, Clause 2); "The State recovers land used by organizations and individuals… shall be public, transparent and compensated in accordance with the provisions of the law" (Article 54, Clause 3);

[2] Communist Party of Vietnam (2021), *Documents of the 13th National Congress*, Hanoi: National Political Publishing House, Volume 1, p. 71.
[3] Communist Party of Vietnam (2021), *Documents of the 13th National Congress*, Hanoi: National Political Publishing House, Volume 1, p. 130-131.
[4] Communist Party of Vietnam (2021), *Documents of the 13th National Congress*, Hanoi: National Political Publishing House, Volume 1, p. 118.
[5] Institute of Linguistics (2002), *Vietnamese Dictionary*, Da Nang: Da Nang Publishing House, p. 633.

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"The state budget, national reserves, state financial funds and other public finances are administered by the unified State and shall be used effectively, fairly, publicly, transparently and lawfully" (Article 55, Clause 1). ..

Specifying the provisions of the Constitution relating to the public disclosure of government information to the Vietnamese citizens, currently, Vietnam has enacted the 2016 Law on Access to Information . According to this Law, the provision of information includes both public disclosure and the provision of information at citizens' request.

Furthermore, the government's information disclosure is comprehensive, covering both state life and social life in Vietnam. Information disclosure is a common requirement for state agencies in performing various functions and tasks. It involves horizontal activities of state agencies in exercising legislative, executive, and judicial powers, as well as vertical activities from the central to local levels. Information disclosure encompasses all state activities in economic, political, social, cultural, and other life domains, as well as the lives of organisations and individuals... This is most clearly and consistently reflected in the activities of the National Assembly and local People's Councils at all levels over the past few decades. Corresponding laws on elected bodies stipulate that meetings must be conducted publicly, except in necessary cases under certain conditions and procedures[6]. For Vietnam's court system, the principle of public trials, except in legally prescribed cases, has been a consistent principle from 1946 to the present across all five constitutions.

For the state administrative organ system, one of the contents of the principles of organization and operation of the central government is to build a state administration and carry out open public administration and governance[7]. For example, the 2022 Law on Grassroots Democracy is a legal document that empowers grassroots communities. Grassroots refers to the administrative units at the commune level in the two-tier local government[8], which include communities, state agencies, public institutions, and organizations that employ labor. These are places where citizens, cadres, civil servants, public officials, and workers can express their will, wishes, and opinions in various forms, in accordance with certain principles, including ensuring publicity in the process of grassroots democracy[9].

Another particularly noteworthy example is that amid the complex corruption situation in Vietnam, on November 20, 2018, the Vietnamese National Assembly passed the Anti-Corruption Law. From the perspective of combating corruption, this law also reflects a common trend in the transparency and pulicity of government information in Vietnam. Article 9 of the law establishes the principles of publicity and transparency, stipulating: "Organizations, institutions, and units must disclose and make public and transparent information about their own organization, activities, except for content classified as state secrets, business secrets, or other matters specified by law. The disclosure and transparency must ensure accuracy, clarity, completeness, timeliness, and comply with the procedures and processes defined by the competent organizations, institutions, and units, as well as align with legal regulations". Articles 10 to 15 outline fundamental issues regarding the implementation of publicity and transparency, including the content, forms, responsibilities for disclosure, press conferences, public statements, information provision to the media, the right to request information, and accountability.

In the field of state management, the disclosure of information from the state administrative system is a principle stipulated in currently effective laws and other legal documents. These include The Law on Cadres and Civil Servants (June 24, 2025, Article 2, Clause 3), the State Budget Law (June 25, 2025, Article 8, Clause 1), the Land Law (January 18, 2024, Article 224, Clause 1), the Public Investment Law (November 29, 2024, Article 13, Clause 5)... State agencies at all levels and sectors have also issued regulations on information disclosure. For example, at the central Government level, there is Government Decree No. 09/2017/NĐ-CP (February 9, 2017) detailing the issuance of statements and provision of information to the press by state administrative agencies; Decision No. 1301/2018/QĐ-BTP (June 7, 2018) by the Ministry of Justice on the regulations for providing information to citizens by the Ministry of Justice; Decision No. 2239/2018/QĐ-BTC (November 27, 2018) by the Ministry of Finance on the regulations for providing information to citizens within the scope of the Ministry of Finance's responsibilities; Circular No. 64/2018/TT-BQP dated May 15, 2018 of the Ministry of National Defense on providing information within the Ministry of National Defense...

In the backdrop of advancing e-government and digital government initiatives in Vietnam, on June 24, 2022, the government issued Decree No. 42/2022/NĐ-CP, which stipulates the provision of information and public services online by state agencies on the internet.

At the local government level, authorities at all levels have also issued regulations on providing information to the public, businesses, etc., such as Decision No. 4263/QĐ-UBND dated August 16, 2025, by the People's Committee of Hanoi on the issuance of the management, operation, and information provision regulations for the electronic portal of the city's state agencies; Decision No. 29/2023/QĐ-UBND dated November 6, 2023, by the People's Committee of Nghe An province on the issuance of provisions regarding state administrative agencies' press statements, information provision to the press, and handling of information published in the press and social media feedback in Nghe An province...

Overall, the content of the aforementioned legal documents stipulates the fundamental issues concerning government information disclosure. These include legal provisions on the authorities authorized to provide information, the types of information permitted to be disclosed, the responsibilities for information disclosure, the forms and methods of disclosure, and the accountability for providing information.

Also, the limits of government information disclosure. Government information, in principle, belongs to the people's sovereignty and citizens' rights. Therefore, it is generally public and widely disseminated. However, the information provided by the state to the people also has certain limits, which are fundamentally determined by the interests of the people. The primary limitation on government information disclosure arises when the law designates such information as state secrets.

The 2016 Law on Access to Information stipulates in general terms: Restrictions on the right to access information must be legally prescribed in necessary cases for reasons of national defence, national security, social order, public safety, social ethics, or public health. The

[6] Article 90, Clause 1 of the Law on the Organization of the National Assembly (admended on February 17, 2025); Article 34, Clause 5 of the Law on the Organization of Local Governments (enacted on June 16, 2025)

[7] Article 5, Clause 5 of the Law on the Organization of Government (enacted on February 18, 2025); Article 16, Clause 3, Article 22, Clause 3, and Article 34 of the Law on the Organization of Local Governments (enacted on June 16, 2025).

[8] Vietnamese localities have two administrative units: the provincial level and below it the commune level.

[9] Article 1, 2, and 5 of the Law on the Implementation of Democracy at the Grassroots Level (enacted on November 10, 2022).

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exercise of citizens' right to access information must not infringe upon national and ethnic interests, the lawful rights and interests of agencies, organisations, or others (Article 3). Government information disclosure limitations specify details related to state secrets.

The State Secrets Protection Law (January 15, 2018) defines state secrets as information deemed important by the head of an authorised agency or organization in accordance with this law, not yet disclosed, and whose exposure or loss could harm national or ethnic interests. State secrets may exist in various forms, including documents, objects, locations, speech, activities, or other formats. The law outlines principles for protecting state secrets; scope, classification of secrets, issuance of secret catalogues, duration and extension of state secrecy protection, regulation of prohibited behaviors in state secrecy protection...

Public disclosure of government information beyond state secrets also includes other regulations that prohibit disclosure or restrict disclosure under certain conditions as stipulated by law, such as business and trade secrets (Article 15, Clause 2 of the 2020 Enterprise Law; Article 78, Clause 4 of the 2025 Commercial Law), personal privacy, personal confidentiality, and family confidentiality, which are inviolable and protected by law (Article 38, Clause 1 of the 2015 Civil Code)...

In the practice of providing government information, there are cases where, although the law does not restrict information, disclosure is unnecessary—it may cause difficulties, increase the state's workload, or simply not be in the public interest. However, government information can still be provided through other means. For example, daily administrative violations of road traffic in a city, according to the law, do not need to be publicly disclosed, but they can be obtained and reported by a journalist without being prohibited from doing so...

In addition to the above points, to ensure the implementation of government information disclosure, Vietnamese law includes various mechanisms to enforce laws. These mechanisms are reflected in specific legal texts that elaborate on constitutional provisions. These mechanisms can be divided into two types: enforcement guarantees and protection guarantees.

Enforcement guarantees ensure the implementation of regulations and the enforcement of relevant legal provisions with solutions and measures to ensure lawful behavior, actively supporting the normal functioning of government information dissemination. The relevant legal documents include: The Law on Popularization and Education of the Law enacted on June 20, 2012, which stipulates citizens' rights to legal information and their responsibilities to understand and study the law, the content and forms of popularization and education of the law, the responsibilities of competent agencies, organizations, and individuals, as well as the conditions for ensuring the work of popularization and education of the law (Article 1); The Law on Cadres and Civil Servants enacted on June 24, 2025, which defines principles of performing duties as complying with the Constitution and laws, being public and transparent... (Article 2), upholding professional ethics (Article 12), implementing individual responsibility and clear division and delegation of tasks (Article 3)...; Law on Reception of Citizens enacted on April 6, 2016, which stipulates that information must be provided promptly, transparently, and conveniently for citizens (Article 3); Central Government Decree No. 90/2013/NĐ-CP dated August 8, 2013 regulates the accountability of state agencies in the performance of assigned tasks and authorities and Central Government Decree No. 157/2007/NĐ-CP regulates the responsibility system for heads of state agencies, organizations, and units in the execution of tasks and official duties...

Protection guarantees ensure compliance with the regulations on solutions and measures to ensure the implementation of government information disclosure. These are various documents stipulating the legal protection related to government information disclosure: the Law on the Organization of the National Assembly (enacted in 2014, amended in 2025); the Law on the Organization of Local Governments (enacted in 2025), which specifies the supervisory functions of the elected bodies of the National Assembly and People's Councils; the Law on the Organization of Government (enacted in 2025), and the Law on the Organization of Local Governments aforementioned, which outline the authority and responsibilities of administrative inspections; the Complaints Law on August 26, 2021, and the Law on Whistleblowing Protection on June 12, 2018, which pertain to complaints and reports against officials and public servants for misconduct in the execution of their duties.

To address violations of laws related to the disclosure of government information, Vietnamese laws stipulate administrative disciplinary responsibilities and even criminal liabilities concerning the disclosure of government information, such as: the crime of publicly disclosing lawfully protected private information of agencies, organizations, or individuals on computer networks or telecommunications without the owner's permission[10], and the crimes of intentionally or negligently leaking state secrets[11]...

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The disclosure of government information is an issue inherent to the essence of the Vietnamese state, which is of the people, by the people, and for the people. The disclosure of information is universally implemented, subject to certain limits and procedures. Given the legal framework as described, Vietnam has a relatively sound, rigorous and systematic government information disclosure regime. However, there always exist gaps between legal provisions and their practical implementation in state and social life regarding the disclosure of government information. In many cases, citizens do not easily obtain the necessary information from the state. Therefore, many challenges remain in realizing the legal regime for government information disclosure in state and social life. The key is to make government information easily accessible without barriers, while reflecting the level of democracy and safeguarding human and citizen rights.

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[10] Article 228, Clause 1, Point b of the Penal Code (admended on June 25, 2025)
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