

MINISTRY OF JUSTICE MINISTRY OF EDUCATION AND TRAINING

HANOI LAW UNIVERSITY



HOANG THUC OANH

**PERFECTING THE LAW ON THE RIGHT OF ASSOCIATION
IN VIETNAM TODAY**

Major: Constitutional Law and Administrative Law
Code: 9380102

SUMMARY OF DOCTORAL DISSERTATION IN LAW

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INTRODUCTION

1. Rationale of the research

The right of association is a fundamental human right and a fundamental citizens' right recognised in international human rights instruments and Article 25 of the 2013 Constitution of Vietnam. It enables individuals to associate voluntarily for legitimate common purposes, protect lawful interests and participate in social life; associations also mobilise resources, provide services, contribute to policy consultation and support national governance.

Although constitutionally recognised, the right has not yet been concretised by a specialised statute. Core matters remain governed mainly by subordinate instruments, especially Decree No. 126/2024/ND-CP, and the framework continues to bear the imprint of permission and prior control. In the context of the socialist rule-of-law State, two-tier local government, digital transformation and international integration, reform is needed to strengthen autonomy, lawful access to resources, risk-based supervision and judicial protection while safeguarding legitimate public interests.

2. Research aim, tasks, object and scope

The dissertation aims to clarify the theoretical foundations, assess the current law and implementation practice, and propose viewpoints, orientations and solutions consistent with the 2013

Constitution, international legal standards and Vietnam's conditions. Its four tasks are to develop the theoretical framework; examine international standards and comparative experience; evaluate Vietnamese law and practice; and propose legislative and implementation solutions.

The research object comprises scholarly viewpoints, legal provisions and implementation practice concerning the right of association. The dissertation focuses on the general framework for associations voluntarily established by Vietnamese citizens and organisations and operating without profit distribution. It does not examine in depth entities mainly governed by specialised regimes, including political-social and religious organisations, workers' representative organisations, foreign non-governmental organisations and funds. The principal period begins with the 2013 Constitution; materials were updated to 10 August 2026.

3. Methods, hypothesis and new contributions

The dissertation employs dialectical and historical materialism and the viewpoints of the Party and the State of Vietnam on human rights, citizens' rights and the socialist rule-of-law State. It combines analysis and synthesis, historical and systemic methods, comparative law, a rights-based approach and socio-legal research. A total of 180 questionnaires were distributed and 146 valid responses were collected, supplemented by in-depth interviews and expert consultations. The survey

findings are used to identify tendencies and are not generalised as a statistically representative nationwide sample.

The central hypothesis is that the gap between constitutional recognition and the practical exercise of the right arises not only from the absence of a Law on Associations, but also from dispersed legal sources, a prior-control model, insufficient autonomy and incomplete rights-protection mechanisms. The dissertation develops a rights-based conception of the law on the right of association; identifies the structure of the right, relevant layers of rights-holders and eight assessment criteria; diagnoses structural limitations; and proposes a model combining a Law on Associations, transparent registration, autonomy, differentiated obligations, risk-based supervision and judicial control.

OVERVIEW OF THE RESEARCH SITUATION

Vietnamese scholarship has addressed the right of association, the law on associations, state management of associations and the need for a Law on Associations. Many studies support reducing prior control, strengthening autonomy, transparency and post-registration supervision. Nevertheless, most have not fully distinguished the law on the right of association from the law on associations, developed criteria for assessing legal perfection, updated the legal context of 2025-2026, or adequately examined adjudicatory mechanisms for rights protection.

Foreign scholarship and materials of the United Nations, ILO, OSCE/ODIHR and the Venice Commission, together with international case law, clarify the rights to establish, join, not join and leave associations; associational autonomy and access to resources; the requirements that restrictions be prescribed by law, necessary and proportionate; and the availability of effective remedies. Comparative experience points towards statutory regulation, transparent registration, limited administrative discretion, differentiated accountability obligations and effective judicial review.

The dissertation addresses the remaining gap by connecting these standards with Vietnam's political and legal conditions and with the complete cycle of exercising, limiting and protecting the right. Its theoretical foundations combine the theory of the socialist rule-of-law State of Vietnam, a rights-based approach, and theories of social governance and civil society. Together, these foundations emphasise constitutional supremacy and control of state power, the position of rights-holders and state duties, and the role of associations as self-governing actors capable of mobilising resources and contributing to social governance.

CHAPTER 1. THEORETICAL ISSUES ON PERFECTING THE LAW ON THE RIGHT OF ASSOCIATION

1.1. The right of association and the law on the right of association

The dissertation defines the right of association as a constitutional right of citizens to associate voluntarily with others in order to establish, join, not join or leave an association and collectively organise and operate in pursuit of legitimate common purposes. It encompasses associational autonomy, access to resources and protection against unlawful interference. Individuals and citizens are the original rights-holders; the exercise of the right gives rise to related layers of subjects, including founding groups, associations and members.

The law on the right of association is understood as the totality of legal norms that recognise, concretise, guarantee, limit and protect the right of association of individuals and organisations, while regulating legal relations arising in the process of establishing, joining, organising, operating, managing, supervising, resolving disputes, handling violations and protecting the rights of associations, members, founders and related subjects. The law on associations mainly regulates the legal status, organisation, operation, finance, rights, obligations and state management of associations. By contrast, the law on the right of association has a broader scope. It includes the recognition of the right, the identification of rights-holders, conditions for exercising the right, legitimate limits, administrative procedures, control of administrative discretion, and judicial or quasi-judicial

mechanisms for rights protection. The law on associations is therefore an important component of the law on the right of association, but the two cannot be equated.

1.2. Contents, influencing factors and requirements for legal perfection

The law on the right of association comprises legal sources and forms of regulation; conditions and procedures for establishment and legal recognition; the rights to join and leave; autonomy over charters, organisation, personnel and activities; assets, finance and access to resources; legitimate limitations and the scope of state intervention; state management, transparency and accountability; and dispute settlement, sanctioning, complaints, administrative lawsuits and control of administrative power.

The law is shaped by political and institutional conditions; history and legal culture; socio-economic development; the quality of the legal system and legislative techniques; implementation and management capacity; and international standards and integration. These factors affect both the level of rights protection and the balance between the right of association and national security, public order, social safety, social morality, public health, and the lawful rights and interests of others.

Perfecting the law on the right of association is the coordinated process of amending, supplementing and enacting rules, institutions and implementation mechanisms. It must comply with the Constitution; respect, protect and guarantee human and citizens' rights; ensure the leadership of the Party and suitability to Vietnam's conditions; combine rights with obligations; connect autonomy with transparency and accountability; and subject restrictions to Article 14(2) of the 2013

Constitution.

The dissertation proposes eight assessment criteria: (1) legal sources and the degree of statutory regulation; (2) constitutionality and legality; (3) transparent, simple and accessible procedures; (4) autonomy combined with accountability; (5) consistency and coherence; (6) effective rights-protection mechanisms and control of power; (7) responsiveness to the diversity of associational life; and (8) feasibility, effectiveness and efficiency of implementation.

1.3. International standards, comparative experience and lessons for Vietnam

Article 22 of the International Covenant on Civil and Political Rights recognises freedom of association and permits restrictions only when prescribed by law and necessary in a democratic society for legitimate purposes. International standards require prompt and transparent establishment procedures, internal autonomy, lawful access to resources, protection against arbitrary dissolution, and effective remedies. The right is not absolute, but every restriction must be lawful, pursue a legitimate aim, and satisfy necessity and proportionality.

Comparative experience shows a general preference for statutory regulation; a distinction between the freedom to associate and acquisition of legal personality; registration rather than permission; exhaustive grounds for refusal; self-governance; obligations differentiated by size and risk; and judicial control over suspension and dissolution. Vietnam may selectively adopt these values while taking account of its political system, stability requirements, management capacity and the development of associations.

CHAPTER 2. THE CURRENT LAW AND PRACTICE OF EXERCISING THE RIGHT OF ASSOCIATION IN VIETNAM

2.1. Development and structure of the current law

Vietnamese law on the right of association has developed through three broad periods. Before Doi Moi, regulation emerged within a centrally managed system and focused on control over organisation and activities. From Doi Moi to the 2013 Constitution, socio-economic development and integration expanded associational forms, but regulation remained dispersed. Since the 2013 Constitution, the right has operated under a new constitutional framework governing human rights, permissible restrictions and state responsibility. Decree No. 126/2024/ND-CP replaced Decree No. 45/2010/ND-CP and provided a more standardised framework for conditions, procedures, rights, obligations and state management.

Current legal sources include the Constitution, the Civil Code, legislation on administration, procedure, finance, taxation, accounting, anti-corruption, anti-money laundering and foreign aid, and numerous subordinate instruments. This multi-layered framework allows broad regulation but also creates fragmentation, overlap and gaps. Most importantly, several issues directly concerning the exercise and restriction of a constitutional right remain governed below the statutory level.

2.2. Current law by component of the right

Regarding establishment and legal recognition, Decree No. 126/2024/ND-CP sets out conditions, dossiers, procedures and competence in considerable detail. However, the two-stage process of recognising a founding advocacy committee and permitting establishment retains a permission-based character. Membership thresholds, territorial scope, headquarters, naming and asset requirements may become barriers, while preparation and congress timelines may prolong the process. The law should distinguish citizens' freedom to associate from the conferral of legal personality and narrow administrative discretion.

Regarding joining, not joining and leaving associations, voluntariness is recognised in principle and members have rights relating to participation, voting, information and withdrawal. Yet safeguards remain incomplete, particularly against coercion, discriminatory restrictions and exclusion from internal decision-making. Statutory protection should be strengthened, while detailed governance should primarily be determined by each association's charter.

Regarding organisation, operation, rights and obligations, associations may adopt charters, establish internal bodies, admit members, mobilise resources, provide services, participate in policy consultation and protect members' lawful interests. Nevertheless, significant administrative supervision remains;

autonomy over internal organisation, personnel and activities is not fully ensured; and the boundary between lawful guidance and excessive intervention is insufficiently clear.

Regarding assets, finance and resources, the law recognises membership fees, contributions, lawful service revenue, sponsorship, aid and state support for assigned tasks, together with requirements on accounting, reporting and transparency. However, an enabling framework for access to resources is still lacking. Obligations should be differentiated according to scale, activities and risk so that transparency and accountability do not become disproportionate administrative burdens.

Regarding state management, competence is distributed among central and local authorities, while inspection, reporting and handling of violations are prescribed. The transition to two-tier local government requires corresponding adjustment of competence, procedures and databases. Management should move from broad administrative and prior control towards legality, national digital data, post-registration supervision, risk-based monitoring, public disclosure, dialogue and accountability.

Regarding disputes, violations and rights protection, complaints, denunciations and administrative proceedings are generally available, but effective mechanisms remain insufficient for decisions refusing establishment, suspending activities, dissolving associations or unlawfully interfering with lawful

operations. Courts should play a more substantive role in reviewing administrative acts affecting the right. Internal disputes and the protection of members also require clearer legal mechanisms.

2.3. Implementation and practical exercise of the right

In practice, the legal framework has made associations more orderly and manageable and enabled many of them to contribute to professional development, humanitarian activities, science and technology, social services, policy consultation and representation of members' interests. Nevertheless, founding procedures may remain lengthy; associations face difficulties in autonomy, resource mobilisation and administrative reporting; and informal groups, networks and digital communities are not adequately addressed.

The dissertation survey comprised 180 questionnaires, of which 172 were valid, combined with interviews and expert discussions. The results indicate a clear perceived need for statutory regulation, simpler procedures, greater autonomy, stronger transparency and more effective protection of rights. Because purposive and convenience sampling was used and the groups were not evenly distributed, the findings identify tendencies and support qualitative analysis rather than nationwide statistical generalisation.

2.4. Achievements, limitations and causes

The law has established a constitutional foundation, developed a framework for the organisation and management of associations and supported their growing contribution to socio-economic life. Decree No. 126/2024/ND-CP is an important recent improvement. Yet the absence of a Law on Associations, permission-based prior control, incomplete autonomy, unclear resource rules, fragmented administration, weak judicial protection and inadequate regulation of new associational forms remain structural limitations.

Objective causes include historical and institutional conditions, requirements of political and social stability, the rapid evolution of associational life, digital transformation, international integration and increasingly complex regulatory demands. Subjective causes include delayed statutory concretisation, limitations in legislative technique, dispersed legal sources, insufficient databases and post-registration capacity, uneven resources, and incomplete transition from administrative control to rights-based governance.

CHAPTER 3. VIEWPOINTS, ORIENTATIONS AND SOLUTIONS FOR PERFECTING THE LAW AND ENSURING EFFECTIVE IMPLEMENTATION OF THE LAW ON THE RIGHT OF ASSOCIATION IN VIETNAM

3.1. Context, viewpoints and orientations

Legal reform takes place amid the continuing construction of the socialist rule-of-law State of Vietnam, institutional reform, the two-tier local government model, digital transformation, socio-economic development and deeper international integration. The increasing diversity and role of associations create both opportunities for mobilising social resources and new requirements for transparency, accountability and risk management. Directive No. 11-CT/TW of the Politburo dated 20 July 2026 further requires stronger Party leadership and promotion of the role of mass associations in the new development stage.

The dissertation advances five viewpoints: reform must be grounded in respect, protection and guarantee of the constitutional right; ensure constitutionality, legality, coherence, transparency and feasibility; balance the right with legitimate public interests; gradually move from permission and prior control to registration, post-registration supervision and accountability; and selectively

absorb international standards in accordance with Vietnam's political and legal conditions.

The principal orientations are to regulate the right by statute; concretise Articles 25 and 14(2) of the 2013 Constitution; establish transparent registration; guarantee autonomy together with accountability; renew state management through post-registration and risk-based supervision; clarify finance and access to resources; and strengthen protection through complaints, administrative lawsuits and judicial review.

3.2. Solutions for perfecting the law

The central solution is to enact a Law on Associations. The Law must not merely codify the existing decree-based model; it should shift the legislative focus from managing associations to guaranteeing the right within the law. It should clearly define its scope, distinguish associations from entities governed by specialised legislation, and recognise voluntariness, autonomy, democracy, equality, non-profit operation, transparency, accountability and compliance with the Constitution and law.

The establishment mechanism should move from permission to registration. A compliant dossier should result in registration; refusal should be based only on clear statutory grounds, issued within a specified time and explained in writing. Procedures should be simplified, digitalised and linked to effective complaint and lawsuit mechanisms. If the founding advocacy committee is

retained, it should function as a preparatory arrangement rather than an independent layer of permission.

The Law should guarantee associations' authority to determine their charters, structure, leadership, congresses, programmes, membership, cooperation, services and representation of lawful interests. State intervention in internal affairs should be permitted only on clear legal grounds to protect public interests or the lawful rights and interests of members and others. Internal democracy, members' access to information and remedies against abusive governance should also be secured.

Lawful sources of revenue should be expressly recognised, including membership fees, contributions, sponsorship, aid, activity-related income and state support for assigned tasks. The legal framework should enable access to resources while requiring proportionate transparency, accounting, auditing where necessary and accountability. Risk-based controls should apply to funding and aid without unreasonably obstructing lawful operations.

State management should be reorganised around legality, clear allocation of competence, post-registration supervision, risk management, a national database and public disclosure. The two-tier local government model requires removal of obsolete district-level competences and a coherent division between central and provincial or commune-level authorities. Guidance, support and dialogue should replace unnecessary intervention, and affected

associations should be consulted on relevant policies and legislation.

The Law should explicitly protect the rights to complain, denounce and institute administrative proceedings against decisions and acts concerning registration, suspension, dissolution, sanctioning or interference with lawful activities. Compulsory dissolution should be a last resort for serious violations and subject to independent judicial review. Internal dispute resolution, members' rights and the legal responsibilities of association leaders should be regulated more clearly.

A flexible framework is required for unregistered groups, clubs, networks and digital communities. Not every lawful social linkage should be compelled to acquire legal personality. Regulation should distinguish registered associations from informal forms while addressing concrete unlawful conduct. Transitional provisions should provide a reasonable roadmap for existing associations to adjust charters, registration, disclosure, finance, state-assigned tasks and data.

Related legislation must be reviewed for coherence, including the Civil Code; laws on complaints, denunciations and administrative procedure; administrative sanctions; finance, taxation, accounting, auditing, anti-money laundering and foreign aid; data and digital public services; and specialised laws. Anti-corruption rules applicable to the non-state sector under the 2018

Law on Anti-Corruption and Decree No. 59/2019/ND-CP should be harmonised with the governance, transparency and accountability obligations of associations.

3.3. Solutions for ensuring effective implementation

Legal awareness and administrative thinking must shift from licensing and broad prior control to rights protection, law-based management, proportionate post-registration supervision and accountability. Associations should understand autonomy as inseparable from transparency, compliance and responsibility, while citizens should understand that the constitutional right of association is exercised within lawful limits.

The state management apparatus should be strengthened through clear competences, standardised procedures, a national database, online public services, public disclosure, professional training and effective coordination among home affairs, justice, finance, public security, sectoral and local authorities. Inspection should focus on legal compliance and identified risks rather than uniform, intrusive control. Regular consultation and dialogue with associations should support both compliance and policy quality.

Associations require capacity-building in legal compliance, internal governance, finance, accounting, transparency, digital transformation, representation of interests, social criticism, service provision and lawful resource mobilisation. Public tasks and services may be commissioned or assigned through transparent,

competitive and accountable mechanisms, with support tied to clearly defined outcomes.

Digital transformation should support an integrated national information system covering registration, charters, leadership, reports, public tasks and compliance status. Online procedures and interoperable databases can reduce administrative costs, improve public access to information and enable risk-based monitoring. Personal data, legitimate organisational confidentiality and cybersecurity must nevertheless be protected.

Mechanisms for inspection, examination and sanctioning should ensure legality, competence, due process and proportionality. Suspension and dissolution must be reserved for clearly defined cases, accompanied by written reasons and access to independent review. Legal responsibilities should be differentiated among the association, its governing bodies and individuals directly responsible for violations.

Judicial and administrative protection must become practically effective. Complaint resolution should be timely and reasoned; administrative courts should review both the legality and the substantive justification of decisions restricting the right where permitted by procedural law; and interim measures and appropriate remedies should prevent irreversible harm. Judicial practice and guidance should progressively clarify necessity, proportionality and control of administrative discretion in cases

affecting the right of association.

CONCLUSION

The dissertation affirms that the right of association is a fundamental human right and a fundamental citizens' right, important to individual freedom, democracy, the protection of legitimate group interests, the rule-of-law State and national governance. It is not confined to establishing an association, but encompasses the rights to establish, join, not join and leave; associational autonomy; access to lawful resources; and protection against arbitrary interference.

The law on the right of association is broader than the law on associations. Whereas the latter mainly regulates the legal status, organisation, operation and management of associations, the former covers recognition, concretisation, guarantee, legitimate limitation and protection of the constitutional right. This distinction is essential to move from an association-management perspective towards a rights-guarantee perspective within the law.

Vietnamese law has a constitutional foundation and an increasingly developed framework, especially following Decree No. 126/2024/ND-CP. However, major limitations persist: the absence of a Law on Associations; permission-based prior control; incomplete autonomy; unclear rules on assets, finance and resources; fragmented and administratively oriented management; and insufficient dispute settlement, judicial review and protection

of rights.

The dissertation therefore proposes an integrated system of reforms centred on enacting a Law on Associations that concretises Articles 25 and 14(2) of the 2013 Constitution, establishes transparent registration, protects autonomy, differentiates accountability obligations and strengthens rights-protection mechanisms. Related legislation must be revised coherently, while administration should move towards post-registration and risk-based supervision, digital data, transparency, dialogue and control of administrative power.

These proposals seek to achieve a principled and workable balance: better respect, protection and guarantee of citizens' constitutional rights, together with effective state management, public interests and Vietnam's specific political and legal conditions. They also provide a foundation for further research on the legislative model for a Law on Associations, judicial protection, digital forms of association, resource governance and the participation of associations in national governance.

FURTHER RESEARCH DIRECTIONS

On the basis of the dissertation, further research may focus on the concrete model of the Law on Associations within Vietnam's legal system; online association registration, a national database and public disclosure mechanisms; judicial review of administrative decisions on establishment, suspension and dissolution; risk-based management of funding, aid and resources; the legal status of unregistered groups and digital social networks; and the role of professional associations in policy criticism, service provision and national governance.