Abstract

In the recent global context, the international community has generally acknowledged and respected the current international human rights regime; yet, the will to accede to international human rights instruments is essentially based on the voluntary action of each state. The central question is why states decide to accede to international human rights treaties. This paper, via the case of Vietnam, will analyse and argue that the alignment of domestic and international values and interests on human rights does not play an actual role in predicting socialist states' ratification of international human right treaties.

1. Introduction

The international human rights (HR) regime is defined as "those norms, processes, and institutional arrangements, and activities of domestic and international pressure groups that are directly related to promoting respect of human rights" (Amiri, 2013, p.132). The role of the United Nations (UN) in constructing and implementing the HR protection work of the regime is considered crucial, although it only represents one part of the whole system. Indeed, since the adoption of the 'Universal Declaration of Human Rights' by the UN General Assembly on December 10, 1948, there have been substantial developments in international legal instruments that the international community has constructed with the aim of turning the goals of protecting HR into practice. However, it is apparent that a state's decision of whether or not international HR treaties should be ratified is found on the voluntary basis of such state. Therefore, one major issue attracting comments from scholars is the reasons behind states' decision to ratify international HR treaties despite knowing that these treaties are built to "establish and monitor compliance with (international) human rights standards" in the domestic field of states (Hafner-Burton, 2012) and that "human rights are by definition principally a national matter" (Donnelly, 1986, p.616).

For example, scholar (Amiri, 2013) has claimed that the reason non-Western countries ratify international
HR treaties that are evolved from Western tradition is because such traditions has been transferred to these states during the colonial period, through post-independence relationship development, or through both. From another point of view, scholars (Cole, 2009; Landman, 2002) have indicated that democratic states are empirically more likely to ratify HR treaties; while scholars (Hollyer & Rosendorff, 2012) have also noted that this kind of international agreement enables both domestic and international actors and non-actors to engage in more political and legal activities that aim to interfere in states’ domestic HR issues, therefore leaders of autocratic states tend to “vary in their propensity” to join international HR instruments.

There have been many developments in theories of state behaviour in this matter, however, deeply and comprehensively explaining the abovementioned issue is definitely a very broad and difficult task, as states with different political-legal ideologies may possess divergent understandings and cognitions of domestic HR protection and the role of international HR law. Via the case of Vietnam’s ratification of international HR treaties, this paper examines whether such decision behaviour of the socialist state, as a form of autocracy, is shaped by the alignment of domestic and international cognitions on HR values and interests, as claimed by the normative approach. In other words, the paper hopes to contribute to determining whether a socialist state’s ratification of international HR instruments is due to the transfer of “normative commitments of rights” (Landman, 2002).

2. Literature review

2.1. The normative approach

In general, the normative approach in international relations “refers to the moral or ethical dimension of activities in the international sphere” (Neethling, 2004, p.3). According to (Dyer, 1993, p.113), in comparison with other international relations theories, the normative theory traditionally pays attention to “what ought to be as distinct from what is”, as this approach is developed from “the privacy of norms and structures, and thus subverts the traditional distinctions of/ought and fact/value by locating all foundations in value choice”. In other words, the normative approach “focuses on the force of ideas, beliefs, and standards of appropriate behaviour as major influences on governments’ willingness to comply with international agreements” (Simmons, 1998, p.88). As a result, in regard to the explanation of states’ decision behaviour toward the ratification of international HR treaties, scholars (Finnemore, 1996; Koh, 1999; Aloisi, 2011) have asserted that the normative theory highlights the changing of states’ values and interests; states are believed to join international HR treaties when their domestic values and interests conform to those relevant international ones. This is because, under the view of normative scholarship, state behaviour is driven by fundamental ideas that are built by “interaction among individuals, groups, and states” (Hathaway, 2005).

The normative approach is found in both studies of political science and law. In the field of political science, this concept is in fact inherited and developed from a more general theory called constructivism, which is used to explain issues of international relations. It similarly claims that state identity and interests are not changeless, but rather “constructed through level rules, interaction with other states, and the activities of individuals and advocacy groups” (Cohen, 2009, p.643). In addition, international law is said to be able to “change state action [...] not by constraining states with a given set of preferences from acting, but by changing their preferences” (Hathaway, 2005, p.481). International organizations may also be capable of influencing states’ national policies by “teaching states what their interests should
be” (Jackson & Sorensen, 2007, p.169). Otherwise, according to (Chayes & Chayes, 1993, p.179), the sentiment that “states cannot be legally bound except with their own consent” is a core principle of international law, so normative scholars trust that a state does not necessarily need to enter into an international treaty when such treaty does not conform to its interests.

Throughout the process of studying and developing normative approach, various scholars have tried to build more sophisticated models and frameworks with the aim of providing a deeper understanding and clearer explanation on this theory. For example, in order to clarify how the normative theory works, scholar (Koh, 1999) has employed the term “transnational legal process” for his model of repeated cycle containing three elements of “interaction, interpretation, and internalization”. This model indicates that states will ratify international HR treaties when the step of internalization is complete. According to (Koh, 1999, p.1411), in order to “avoid frictions in continuing interactions”, leaders of a nation may be pressured by its interest parties to “shift over time from a policy of violating into one of compliance”. Therefore, normative scholars have suggested that the alignment of domestic and international values and interests does not actually need to have fully occurred at the time of treaty ratification; instead, such domestic values and interests can always be adjusted by state leaders to meet international expectations.

According to (Aloisi, 2011, p.85), normative scholars have argued that international treaties should be viewed as “alternatives that influence state behaviour in changing the content of their domestic interests” rather than as just “set[s] of predetermined and unchangeable options”. Thus, since normative scholars have asserted that values and interests of states can be changed over time, they assume that state ratifying behaviour toward international HR treaties is predicated on whether there is or would be a possible alignment of values and interests recognized by such states and the treaties. This is said to possibly happen for those states that have a certain will to alter their domestic values and interest through the abovementioned process of internationalization in order to meet international standards and recognition.

2.2. Socialist states and HR

First of all, a political regime is defined by the Polity IV data – a well-known project that measures a country’s level of democracy – as “a period in which authority characteristics of a country stay the same” (Besley & Kudamatsu, 2007, p.2). Such authority characteristics that are organized to govern the country and its citizens can be classified into various types, such as democracy, autocracy, anocracy, and oligarchy. In this categorization, autocracy is seen as the direct opposition of democracy. In autocratic regimes, characteristics such as promotion of free and fair election in which citizens of voting age have the right to choose their desired leaders at all governmental levels, or recognition of individual HR (including freedom of speech, religion, etc.), are usually deemed “absent” or “very weak” (Lundell, 2011). Indeed, autocratic leaders tend to “restrict or suppress political participation” in their states (Aloisi, 2011), and leaders and representatives of state and government organs are chosen by the regime’s political elites instead of by the citizens. Therefore, many scholars have noted that autocratic states usually do not have multiple political parties and citizen activities involving the freedom of speech and the establishment of public groups, organizations and associations mandated to judge or criticize state’s leadership or policies are totally banned or strictly limited. With outsiders, autocratic states also strongly restrict and criticize international actors and non-actors’ negative comments and intervention activities, particularly on the issue of how they should operate their systems and
treat their citizens.

For the scope of this paper, the current socialist countries that have a single political party include those adhering to a communist doctrine with Marxist-Leninist ideology, namely China, Cuba, Lao PDR, North Korea, and Vietnam; and with the measurement from Polity IV, according to the data from the ‘Individual Country Regime Trends 1946-2013’ of the ‘Polity IV 2010 Country Reports’, all of them are straightforward autocracies. In these countries, it is usually claimed that the central developments of the state are strongly motivated by its leading communist party (i.e. communist party is the sole decision-maker in this type of state, where the decision-making process is primarily conducted within the party itself, and that such process is kept out of public reach). Although increasing modernization and industrialization are taking place in these countries together with a certain level of openness, it is still evident that the behaviour of these states cannot be easily changed (Lovell, 2003).

Regarding the socialist political-legal model, it comprises three core doctrines: socialist legality, democratic centralism, and collective mastery. First, socialist legality explains the socialist views on the role of law and its strong connection with the ruling social class in each state where law is said to represent the will of such ruling class. Second, democratic centralism can be described as one of the core “organizational principles” in all communist party and state’s decision-making processes (Gillespie, 2005; Wischermann, 2013). This principle was first mentioned by Lenin in 1906 where the term represents the idea of “freedom of discussion – unity of action”. In fact, this slogan is an illustration for how hierarchical order should be organized and followed within the communist party, state agencies, and governmental organizations when seeking a decision toward a major matter. Finally, the doctrine of collective mastery suggests that both the social community and collective working people, with its core being the worker-peasant alliance, are considered the supreme owners and masters of the socialist state. As a result, civil society and individual space are not usually recognized in socialist countries because individual legal rights need to yield to collective ones; similarly, collective values are more significant than those that are individual.

With HR field, socialist states generally argue that HR would not be ensured if they did not align with the interests of socialism (Szabo, 1981). In practice, socialist states set up compulsory conditions to establish and maintain the “unity between the rights and duties of man and citizen” (Przetacznik, 1977, p.246). This is because socialist doctrine establishes the notion of “human” as not actually considered different from the concept of citizen of state. The citizen of a socialist state on one hand is entitled to have certain rights to enjoy his or her participation in various political, economic, and socio-cultural aspects of the state, or to receive protection against governmental organs’ abuses or wrongdoings; on the other hand, such a citizen has the responsibility to act in accordance with the collective interests of the society as a whole.

As a result, socialist states actually recognize no protection for individuals whose behaviour contradicts the state or the collective interests of society as identified by the state. Indeed, socialism acknowledges no natural origin or particular values of individual HR as described by Western democracies. Such system simply treats HR as those very basic and general democratic rights that citizens of a state are entitled to under state’s jurisdiction, as set in the law that the state itself creates. For example, according to scholar (Szabo, 1981), although professional organizations and associations can be established by citizens in a socialist state where the state confirms its respect of the right of freedom of association, it is observed that the establishment of those organizations that present
interests in conflict with the socialist doctrine or those collective interests recognized by the state will not be accepted. Therefore, HR under socialist doctrine are considered a matter genuinely belonging to the state itself, and citizens are considered the direct targets of a state’s implementation of HR protection policies due to the socialist perception that the state should be the real recipient of all rights collectively, so individual rights can only be exist to a regulated extent that does not violate or conflict with the state or the collective interests its has perceived.

2.3. Socialist states with international HR regime

In general, socialist law allows no space for customary rules to exist within the state. Socialist states are therefore claimed to be especially cautious when considering international law, as they are believed to also strictly permit no opportunity for any possible conflict between the norms of international law and those from their domestic law to occur (Lipson, 1980). Hence, socialist states examine international law meticulously and will not accept any law that possesses principles that contradict with those internal ones of the state. The main reason for socialist states to adopt such a perspective of international law is because, according to scholar (Lipson, 1980), socialism traditionally does not believe in the universality of international law. In fact, such a belief can be explained by the two core characteristics of socialism, which are the notion of interests of different social classes in a society and the cognition of purpose of the law.

First, the notion of social classes and their different interests plays a highly dominant role, making socialist states doubt the existence of a possible common interest, especially between the worker class and the bourgeois class within a society. Socialism recognizes no actual common interest between those two social classes; even worse, the interests pursued by these two types of social class are rather seen by the socialist doctrine as “insurmountable antagonism” (Lissitzyn, 1980). Second, following such a perception, socialist doctrine also notices that society today is governed by one type of social class and that the domestic law of a state is actually built to suit the purpose of such ruling class, rather than being an impartial justice system. Therefore, socialist doctrine believes that the law in a so-called capitalist state, which is created to serve the interest of the bourgeois ruling class, cannot pursuit the same interests as the law of a socialist country that is led by the communist party and represents the interests of the worker class. Ultimately, these traditional cognitions have led socialist states to believe that there could be no real international instrument that can support the policies of both capitalist and communist regimes in the world, knowing that the two kinds of interest behind those policies are always in conflict with each other. Therefore, a socialist perspective argues that international law cannot become an effective framework to sufficiently maintain the stability of international relations among states.

Therefore, many scholars have noticed that socialist states interpret certain aspects of international HR law “quite differently” (Donnelly, 1986), especially those under the category of civil and political rights (i.e. they are known to especially restrict signing those international provisions that allow international actors or non-actors (international NGOs) to monitor and make judgments on their domestic conditions). As socialist states usually implement phrases and provisions of international HR instruments in such a way that they will not work against core perspectives and objectives of socialist ideology, fundamental international principles such as sovereignty, non-intervention and non-interference, and equality of states are highly respected and promoted because they expressly and implicitly indicate that the state is the only entity that has “full supremacy over its objects” (Przetacznik, 1977), with these objects obviously
including the state’s citizens and matters that relate to them. In other words, socialist doctrine posits that the scope of international HR law cannot directly cover the rights of individuals of a state; instead, the protection of individual rights can only exist via legal relationships between the state and its own individual citizens. As a result, under the socialist view, there is no direct link between international HR law and the state’s individual citizens.

Thus, it can generally be assumed that socialist states would behave negatively toward the ratification of contemporary international HR treaties compared to other regimes, especially those of the Western states. In practice, however, statistical data from the Indicators of United Nations Human Rights – Office of the High Commissioner (OHCHR) has indicated that five current socialist states of the world have actually signed and ratified some of the 18 treaties listed below.

<table>
<thead>
<tr>
<th>No.</th>
<th>List of Treaties</th>
<th>China</th>
<th>Cuba</th>
<th>Lao PDR</th>
<th>North Korea</th>
<th>Vietnam</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>International Convention on the Elimination of All Forms of Racial Discrimination 1969</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>NA</td>
<td>R</td>
</tr>
<tr>
<td>2</td>
<td>International Covenant on Civil and Political Rights 1976</td>
<td>S</td>
<td>S</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>3</td>
<td>Optional Protocol to the International Covenant on Civil and Political Rights 1976</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>4</td>
<td>Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty 1991</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>5</td>
<td>International Covenant on Economic, Social and Cultural Rights 1976</td>
<td>R</td>
<td>S</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>6</td>
<td>Optional Protocol to the International Covenant on Economic, Social and Cultural Rights 2013</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>7</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women 1981</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>8</td>
<td>Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women 2000</td>
<td>NA</td>
<td>S</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>9</td>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1987</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>NA</td>
<td>R</td>
</tr>
<tr>
<td>10</td>
<td>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2006</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>11</td>
<td>Convention on the Rights of the Child 1990</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>12</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2002</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>NA</td>
<td>R</td>
</tr>
<tr>
<td>13</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography 2002</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>14</td>
<td>Optional Protocol to the Convention on the Rights of the Child on a communications procedure 2014</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>15</td>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 2003</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>16</td>
<td>International Convention for the Protection of all Persons from Enforced Disappearance 2010</td>
<td>NA</td>
<td>R</td>
<td>S</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>17</td>
<td>Convention on the Rights of Persons with Disabilities 2008</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>S</td>
<td>R</td>
</tr>
<tr>
<td>18</td>
<td>Optional Protocol to the Convention on the Rights of Persons with Disabilities 2008</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Table 1: International Human Rights Treaties and Socialist States' Ratification Status

(R = ratified; S = signed but not yet ratified; NA = no action)

Source: Author
contemporary international HR treaties as followed:

3. Research question and Methodology

According to the above table, it can be seen that socialist states in the world have in fact ratified some of the 18 contemporary international HR treaties, given that these particular states possess many factors that many scholars would rather observe as barriers to international human rights treaty ratification, such as being classified as an autocratic regime, having a less developed (or developing) economy as determined by World Bank (WB) and the International Monetary Fund (IMF), and holding poor human rights records.

For the scope of this paper, the research question is: Was there an alignment of domestic and international HR values and interests that led Vietnam to accede to international HR treaties, as explained by the normative approach? Why or why not?

The paper uses qualitative method of which it collects, analyses and discusses secondary data provided by the communist party, the state, the government of Vietnam, etc., given that central developments of the socialist state are significantly motivated, influenced and directed by the leading communist party and that, in this type of regime, the party is the sole decision maker for all important issues of the country. In the context where the decision-making process is primarily conducted within the party itself and generally kept out of reach of the public, contents of resolutions and directives from the periodic national congresses, the Politburo Committee, the party’s Central Committee and its Secretariat, and the government are considered to be the top guidelines, orientations, policies and instructions that must be implemented. In this regard, relevant documents include the contents of the 10th communist party national congress (2006); resolution No.1-NQ/TW (1992) of the Politburo Committee about the ‘Philosophical tasks for the new period’; directive No.12/CT-TW (1992) of the party’s Central Committee Secretariat on ‘Human rights and perspectives, policies of the Party’; the directive No.44/CT-TW (2010) of the party’s Central Committee Secretariat on the ‘Tasks on human rights in the new situation’; as well as resolution No.22-NQ/TW (2013) of the Politburo Committee on ‘About International Integration’.

Other than that, relevant data can also be found in the Communist Review, the theoretical and political agency of the communist party of Vietnam; the Ho Chi Minh City Law Newspaper; the Public Security News; the Propaganda Journal; the Ho Chi Minh Academy of Politics and Public Administration; etc.

Secondary data to answer the research question has also been found in specific government agencies that directly relate to the field of HR, such as the Permanent Office of the Government Steering Board for Human Rights, and in studies of important communist party’s scholars who are or used to be leaders of party’s research agencies.

4. Research findings and Discussion

4.1. Vietnam and its perspectives on contemporary HR

Since the unification in 1975, the Socialist Republic of Vietnam has been commonly known as a one-party communist state where the Marxism-Leninism and Ho Chi Minh ideologies are strictly followed. An important economic reform during the Renovation Period (“Doi Moi”) in the late 1980s made Vietnam cease its centrally planned economy and remove many restrictions on private enterprises, domestic and foreign trades and Western investments in the country (i.e. redirect itself toward a more market-oriented economy and try to align its political reform with economic reform). However, both international
scholars and HR non-governmental organizations (NGOs) believe that this reform should be recognized as a rare solution for that particular time to revive a “near collapsed economy” and a society with “poverty and exhaustion” after many years at war, rather than an indication of a turn toward democracy (Freedom House, 2012).

An important concept called the “socialist rule-of-law state” has been treated as a foundation for the development of Vietnam’s political-legal system to date. It is also known as the “socialist law-based state” that aims to regulate both the state’s internal relations (i.e. between the state and its citizens, between citizens and within state organs) and external relations. Such a term represents a notion that suggests that a state needs to both “embody the law” and “abide by the law” at the same time. The “socialist rule-of-law state” of Vietnam is a state led by only one political party (i.e. the communist party) and that it is the state where the implementation of legislative, executive and judicial rights is unified, assigned and coordinated tightly among state organs. The openness of the Renovation Period is believed to have actually created a new situation for the communist party, whose monopoly of state power is usually accused by various international actors and non-actors, especially Western states and international organizations on HR, of causing lack of basic freedoms within the country (Human Rights Watch, 2016). Besides, the work of civil society in Vietnam is rather done only for apolitical purposes such as community development, poverty reduction and protection of the environment, and it is hard to such non-profit organizations to influence state policy due to the fact that their involvements in policy-making process are usually limited to the communal level (Freedom House, 2012). Therefore, there is no political organization or association in Vietnam that is not created by the communist party, as support for the establishment of multi-political parties in Vietnam is considered by law to be a crime against the state.

On a different note, the National Assembly is seen as another key player of the socialist state’s political system where it is responsible for making decisions to pass laws and approve the country’s budgets and significant investment projects proposed by the government. It is observed that a government proposal is rarely turned down by the National Assembly; this is because more than 90% of National Assembly deputies are members of the communist party who must first obey party’s constitution and resolutions. Hence, policies that have been approved by the communist party via its resolutions and directives and are related to the work of the National Assembly are unlikely to be rejected by the party’s members participating in the National Assembly. As a result, the National Assembly monitors all state organs and their work but not the communist party’s power; instead, it institutionalizes the party’s orientation and policies.

In HR field, Vietnam believes that the nature and understanding of these rights are linked with social class. This is based on the belief that HR represent a form of needs which is created by human dignity; and that, in order for these needs to become rights, they must be recognized and protected by law (Nguyen & Vu, 2013). The communist party further observes that, in practice, the domestic legal system of a state is shaped by that state’s particular political regime, as formed by the state’s ruling class, where the ruling class’s first mandate is to promote and protect the interests of that class, and to restrict certain rights of opposing classes. Within the global framework, the confrontation between the ideologies of capitalism and socialism is recognized by the party as a typical example that indicates such a relation between HR and social class. Therefore, HR and their provisions are believed by the communist party to belong to the superstructure of each individual state, where they are strongly influenced by the characteristics of the ruling
class and the socio-economic status of that state (Communist Review, 2007; Ta, 2015; Nguyen, 2016).

Secondly, HR are not natural rights and must be attached to citizens’ duties. Based on the principle that rights always come with responsibilities, the communist party rejects the view that the notion of HR relates to the responsibility of a state to ensure the rights of an individual citizen, but not to the responsibility of each individual to respect the collective rights of the whole society that he or she belongs to (Communist Review, 2007; Ho Chi Minh Law Newspaper, 2013). Indeed, the party recognizes that it is a necessity for an individual of a state to also respect the rights and freedom of others, as well as the social order and relevant collective interests of the society. This has been clearly outlined in the most recent ‘2013 State Constitution’ (Article 15) Vietnam has adopted.

4.2. Vietnam’s internal driving force toward HR treaty ratification and current policies in HR field

Since the unification of the country in 1975, Vietnam has already ratified nine international HR treaties as follows:

It has been determined that, during thirty-five years of opening the country and implementing the policies of international integration and multilateral diplomacy, Vietnam has faced various challenges, including threats to its national independence and sovereignty, to its chosen political orientation, and to the role of the state in the domestic fields. The communist party came to understanding that many states in the world, especially in the Southeast Asia region – such as China, Singapore, Malaysia, Indonesia, Myanmar, among others – faced numerous pressures with regard to issues of HR. These states have initiated various measures to effectively deal with these pressures and compel others to reduce their criticisms on this matter, including actively and positively joining regional and international HR treaties and forums (Vu, 2014).

According to resolution No.22-NQ/TW (2013) of the Politburo Committee on ‘About International Integration’, international integration (including the field of HR) is a process of both cooperating and resisting efforts. It has been requested by the communist party that Vietnam needs to construct and implement plans to join relevant international organizations and forums that can help to develop and protect the country. This would help the state to increase the consensus needed to attract more international support and limit outsiders’ pressure and criticisms of the issue of its domestic HR conditions.

In this regard, as the standards and criteria for ensuring and protecting HR are believed to depend strongly on the level of economic, social and cultural development of each state, it is determined by Vietnam that a nation should have the right to choose the most

<table>
<thead>
<tr>
<th>Year</th>
<th>International HR Treaty</th>
</tr>
</thead>
</table>
2. International Covenant on Civil and Political Rights 1976  
| 2015 | 8. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1987  

Source: Author
appropriate measures to assist the state to both ensure domestic HR protection and ensure social stability. This understanding of the specificity of HR protection is treated by Vietnam as a fundamental ground for the state to resist any imposition of HR protection framework (Permanent Office of the Government Steering Board for Human Rights, 2014; Tran, 2008; Nguyen, 2016). In addition, Vietnam also believes that the characteristics of mechanisms in a capitalist state are different to those of a socialist state. The national HR protection mechanisms of capitalist countries are said to represent a separation and curbing of state power in state organs, together with the participation of civil society; while the mechanisms of a socialist state are determined by the appropriate efforts of the state’s National Assembly and related organizations in the political system in order to ensure domestic HR protection (Communist Review, 2015; Nguyen, 2016).

As a result, several important policies in the field of HR have been issued by the communist party, by means of Directive No.44/CT-TW (2010) of the communist party’s Central Committee Secretariat on the ‘Tasks on human rights in the new situation’. In detail, first of all, maintaining state sovereignty is the primary prioritized mandate for ensuring and protecting HR in Vietnam. In this regard, the socialist state perceives that state sovereignty comprises two core contents: the supremacy of a nation within its territory, and the nation’s right to be independent in its foreign relations (Public Security News, 2014). In other words, the task of protecting the sovereignty of a socialist state like Vietnam does not only include the protection of its national sovereignty and territorial integrity, but also includes the protection of the communist party, the state and its citizens, as well as the current socialist regime. Indeed, the protection of the national sovereignty of a socialist state entails the protection of such a state’s national independence attached with socialism (Tran, 2015).

Besides, another important mandate is to maintain domestic political and social stability, and to positively and actively expand international cooperation in the field of HR. The communist party requires that the process of democratization and the establishment of relevant mechanisms aimed at guaranteeing domestic HR protection must be made appropriate to the Vietnamese context so that the country’s political and social stability can be maintained. Noticeable, the communist party also indicates that, in the course of contemporary globalization, international cooperation in the development of all areas, including the field of HR, is an exceedingly important task that the state must carry out, especially those activities that can aid in enhancing dialogues with other states and international organizations with regard to the issues of HR as per the party’s resolution of the 10th national congress in 2006 (Communist Review, 2007). In the view of the communist party, this task is currently significant as it would not only allow the state to receive valuable international support in the form of relevant resources and experiences to improve its mandate of ensuring domestic HR conditions, but also provide it with better opportunities to argue for the socialist approach of guaranteeing HR protection, where this is believed to help the state to resist the imposition of criteria for democracy and HR more effectively.

4.3. Normative approach and the socialist state’s ratification behaviour

All of the aforementioned cognitions of Vietnam in relation to the HR field are seen to fully reflect socialism’s traditional view on the role of international HR law. Socialism especially rejects a direct link between international HR law and a state’s citizens; it instead claims that individual rights should only be protected via the legal relationships between a state and its citizens, with international HR instruments existing solely to help regulate relations among
member states on relevant matters. In other words, it is believed by the socialist state that although many aspects of HR can be internationalized, the actual task of ensuring domestic HR conditions remains the state’s jurisdiction. As a result, the party determines that practical implementation to ensure and promote HR protection is rather an internal affair of the state, and that international HR mechanisms would only work as a supplement to the experiences and resources of the current national mechanisms of the state (Permanent Office of the Government Steering Board for Human Rights, 2014; Nguyen, 2016). Besides, it is also ascertained by the socialist state that each nation should be able to protect and ensure its domestic HR conditions in the way it feels is most appropriate and effective. In other words, no state or group of states should impose HR values and protection frameworks on another.

In parallel with that, according to the official document prepared by the Permanent Office of the Government Steering Board for Human Rights for the training conference for work in the field of HR in 2014, Vietnam recognizes the leading role of the UN and its mechanisms in promoting international HR protection. It is perceived by the socialist state that the field of HR today has not only become one of the three main pillars of the UN but is also a significant concern for various regions, nations, the international organizations. It is also observed by the state that, since 1990s, many HR reporting systems, including those initiated by a number of international NGOs working with HR, have been highly valued and promoted by the UN; and as there are still certain important disagreements on some major HR issues that mostly result from different understandings of HR protection by states in the international community, the matter of HR always has a strong possibility of causing conflicts among nations (Cao, 2015).

Moreover, it is identified by Vietnam that the field of HR is significantly affected by the current globalization process in the course of which the objectives, principles and regulations set out by international HR law are considered by many states as the benchmarks for achieving the best practices of HR protection. In this regard, the communist party acknowledges that most states in the international community have already incorporated various international HR instruments into their national laws and have taken steps to implement them domestically (Permanent Office of the Government Steering Board for Human Rights, 2014). More importantly, ensuring HR protection is becoming an important topic in all international relations, where it is increasingly treated as a standard for considering many issues, especially development ones.

It has been pointed out by scholars (Wotipka & Tsutsui, 2001) that normative pressure is an important factor that can shape state behaviour toward the ratification of international HR treaties and that changing a state’s cognition of HR values and interests also can help to overcome the issue of sovereignty fears. Via the case of Vietnam, it is observed that socialist states may have general cognition related to ensuring and protecting HR; however there is insufficient evidence to confirm that the alignment of domestic and international HR values and interests and the state’s ratification behaviour toward an international HR treaty are directly correlated. In fact, Vietnam has only changed its viewpoint in regard to the role of HR in the current global context; there has not been any actual change in the socialist state’s cognition HR values and interests.

Indeed, in relation to the contemporary role of HR, Vietnam has realized that ensuring and protecting HR are important topics in all international relations – where they are treated as a standard consideration, especially in the context of cooperation and development issues. In other words, HR issues have therefore no longer been legal matters, as they were previously perceived. It is believed that the HR field
today instead gives rise to various moral and political issues that all regimes, including socialist regimes, must face, where the topic of HR has been increasingly mentioned in both bilateral and multilateral political and economic relationships in which the socialist state is currently involved (Ministry of Foreign Affairs, 2007; Vu, 2009). As a result, in the current context of globalization, where there is increasing international integration, it is imperative for the state to fully recognize and understand the issue of HR which is now endorsed by the international community as a common value of humanity, while at the same protecting and maintaining its socialist trajectory.

Therefore, it can be observed that the socialist state simply considers HR to be an issue for addressing external relations where international HR treaties serve the interests of the state; and this contributes to explain the reason why the state decides to accede to international HR treaties, rather than potential alignment of domestic and international cognitions on HR values and interests. For example, previously, major events of the state like its ratification of the two ‘Optional Protocols to the Convention on the Rights of the Child’ in 2001 and the official visit of the United States’ President Bill Clinton to Vietnam in 2000 as well as the following implementation of a trade agreement between the two countries that normalized their trade status in 2001 occurred in similar period of time.

5. Conclusion

To sum up, by analysing the case of Vietnam, this paper argues that socialist state’s ratifying behaviour toward international HR treaties was not due to the changing of the state’s cognitions of HR values and interests. In other words, such state behaviour is not shaped by the alignment of domestic and international cognitions on HR values and interests as indicated by the normative approach in the study of HR. Instead, the socialist state's decision to accede to international HR treaties has come from the state’s cognition of the emerging and essential role of HR and international HR treaties in the current globalization context that impact strongly on the state's interests and its international integration process.

References


from http://www.quangnhin.gov.vn/vi-VN/huyenthi/
HuyenCoTo/Lists/Danh%20sch%20cc%20bi%20vit%20thng%20tin%20kh%20%20%20%20
Attachments/82/T%C3%A1i%20li%E1%BB%87u%20t%E1%BA%ADp%20hu%E1%BA%A5n%20
qy%E1%BB%81n%20n%20x%20hi/2014.pdf.
Institute of Global and Area Studies.