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UNIVERSITY OF LAW  
LE THI NGA

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## INTRODUCTION

This book has been written to assist law students in learning and becoming more familiar with the English language in a legal context. In this way, this publication offers law students stimulating and enjoyable instruction designed to progressively enhance relevant and meaningful communication skills in oral and written legal English. Such a task-based approach will enable students to optimise academic and professional effectiveness and offer them a valuable source for academic and professional development. Legal English provides students with the opportunity to build up their language skills in a professional context through units. The exercises provided in this book are suitable to both self-study and group study in a classroom.

Students will benefit from pro-active skill-based exercises that involve the use of texts to develop a working knowledge of legal practice while improving their ability to use legal English.

The book consists of nine units that cover different topics related to various legal disciplines: Constitutional Law, Administrative Law, Criminal Law, Law on Criminal Procedure, Civil Law, Law on Marriage and Family, Labor Law, Land Law and Environmental Law, Intellectual Property Law, Public International Law and Private International Law. Competence is developed throughout the book in a logical sequence of ascending complexity. Exercises are also

cumulative, previous lessons being reinforced and built upon in subsequent exercises.

The units include an explanation of basic legal principles (such as the law of contract and tort) while reviewing language and grammar in the context of ‘portable’ skills training for academic and professional contexts. Bonus sections on journalistic texts, legal research, and study guidance further contribute to making this book valuable to students wishing to further develop their legal English for use in the courses of legal study or practice. It will be of most use, however, to students with at least an intermediate proficiency in the English language. Each unit introduces students to an overview of the designated legal topic and how the remaining chapter is delineated. Students are then provided with a range of language exercises relating to the legal topic for that units. These exercises involve legal skills practice for enabling students to develop their knowledge of legal English language. Answers to the exercises are provided in the Appendix and should be checked after students have undertaken the exercises.

## LIST OF ABBREVIATION

1	APA	Administrative Procedures Act
2	CEDAW	Convention on the Elimination of all forms of Discrimination against women
3	EU	European Union
4	EVFTA	The EU-Vietnam Free Trade Agreement
5	EVIPA	EU-Vietnam Investment Protection Agreement
6	ICJ	International Court of Justice
7	ILO	the International Labour Organization
8	WHO	The World Health Organization



**UNIT 1**  
**CONSTITUTIONAL LAW**

**1. Vocabulary**

1	Adjust	(v)	Điều chỉnh
2	Adhere	(v)	Tuân theo, tham gia
3	Bound	(n)	Giới hạn, ràng buộc
4	Bourgeois	(adj)	Tư sản
5	Citizen's right	(n)	Quyền công dân
6	Codify	(v)	Hệ thống hóa (pháp luật)
7	Collapse	(n)	Sự sụp đổ
8	Constitutional law	(n)	Luật Hiến pháp
9	Constitutional monarchy	(n)	Chế độ quân chủ lập hiến
10	Democratic	(adj)	Dân chủ, khuynh hướng dân chủ
11	Encompass	(v)	Bao gồm, gồm có
12	Establish	(v)	Thiết lập
13	Fundamental	(adj)	Nền tảng, cơ bản
14	Globalization	(n)	Sự toàn cầu hóa
15	Govern	(v)	Quản lý
16	Legal norm	(n)	Quy phạm pháp luật

17	Limit to a certain extent		Giới hạn ở mức độ nhất định
18	Moral	(n)	Đạo đức
19	Nationality	(n)	Quốc tịch
20	Natural rights	(n)	Quyền tự nhiên
21	Obligation	(n)	Nghĩa vụ
22	Principle	(n)	Nguyên tắc
23	Promulgate	(v)	Ban hành
24	Promulgation	(n)	Sự ban hành
25	Proposition	(n)	Mệnh đề
26	Pursue	(v)	Theo đuổi
27	Ratify	(v)	Phê chuẩn
28	Regime	(n)	Chế độ, chính thể
29	Regulate	(v)	Quy định, điều chỉnh
30	Socialist countries	(n)	Các nước xã hội chủ nghĩa
31	Soviet Union	(n)	Liên bang Xô Viết
32	Submissiveness	(n)	Sự phục tùng
33	The principle of socialist centralization		Nguyên tắc tập quyền xã hội chủ nghĩa
34	The three principles of the people		Chủ nghĩa tam dân
35	Virtue	(n)	Đức hạnh

## 2. Text

Constitutional law is a body of law that encompasses Legal Norms that dictates the fundamental relationship of the state's power to organize. When we designate a political system as constitutional, four elements categorize the discussion: first, the legal vesting of authority among office-holders; second, the constraints upon exercising power; third, the institutionalization of procedures for embedding responsibility and accountability; fourth, legal guarantees enforcing and protecting citizen rights.<sup>1</sup> Within those elements contains legal reflection on the economy, cultural and social protections, the electoral system, and the granting of citizenship. Constitutional law is the most fundamental law in a country's legal system, as it governs the most important relationship: that of the government to its sovereign entities. In the early period of development, constitutional law only regulated two issues: the way the state was organized and its citizenship. Over time, the scope of constitutional law has been narrowed to define specific protections of property and privacy as well as to expand on legal rights of minorities.

### *The position of Constitutional Law in the legal system*

Constitutional law regulates the organization of state power, fundamental rights of citizens, and the relationship between the state and civil society in certain aspects of

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<sup>1</sup> Wolin, S. S. (2016). *Politics and Vision: Continuity and Innovation in Western Political Thought-Expanded Edition*: Princeton University Press

individual and collective life. Constitutional law is the highest legal basis in the nation, laying down the most basic rules, which provides the foundation and basis for other laws. However, a constitution's central position does not mean that Constitutional Law will cover and unify all the branches of government and civil society. Constitutional law only establishes a basic legal framework; therefore, judicial and legislative practices must apply and interpret the framework.

*The stages of development of Constitutional Law*

**The first stage (from 1787 to 1917):** there are two main characteristics in this first stage of development. First, during this time, there were very few countries under a constitutional system, either democratic governments (such as the United States and France) or a select few constitutional monarchies (such as England, Germany, and Japan). Second, constitutional law regulated two basic contexts: the organization of state agencies and certain liberal rights of citizens. Liberal means the liberty and freedom of individual expression, mainly in economic activities.

**The second stage (from 1917 to 1945):** contemporaneous with the expanding constitutional law of bourgeois countries, was the emerging constitutional law of Socialist countries. Socialist Countries' constitutional law had three characteristics:

- Broadening the scope of regulation in the economy, society, culture, and education;



- Incorporated Montesquieu's theory of the “separation of powers”. They only apply the principle of socialist centralization.
- Applying the “natural rights of man” as “citizen’s rights”.

**The Third stage (from 1945 to 1989):** This stage witnessed the proliferation of constitutional law and the undoing of colonial structures embodied by Pan-African independence. Furthermore, the growing importance of the field of constitutional law and emerging parallel institutions such as university law schools and non-governmental organizations (American Civil Liberties Union and Amnesty International).

The Fourth stage (from 1990 to present): because of the collapse of the Soviet Union and Eastern European Socialist countries, Socialist countries in Asia and Latin America (such as China, Korea, Vietnam, Cuba, and Laos) had to try utmost to pursue the socialist path through reforms and innovations. As a result, constitutional amendments occur to satisfy government institutions and society's needs.

### **3. Practice**

#### ***Exercise 1: Matching***

**Match each statement with the proper term. Make your selection for each match to the left of the statement.**

1. Nationality	A. Something that a person feels morally or legally forced to do
2. Promulgate	B. A basic idea or rule that explains or controls how something happens or works
3. Regulate	C. Promote or make widely known (an idea or law)/Announcing something publicly, especially a new law.
4. Obligation	D. Conduct the policy, actions, and affairs of (a state, organization, or people)
5. Principle	E. Adhering or basing on the principles of socialism.
6. Socialist	F. The status of belonging to a particular nation.
7. Govern	G. Checking that the activities of a business or organization are legal and follow official rules or laws.

***Exercise 2: Multiple choices.***

***Answer the following multiple-choice questions by selecting the correct response. Only one response is correct.***

1. \_\_\_\_\_ belonging to an individual by virtue of citizenship, especially the fundamental freedoms and privileges guaranteed by Constitutional Law.
  - A. Natural rights
  - B. Citizen's right
  - C. Obligation
  - D. Nationality

- 2. What does the reader of this text learn about Constitutional Law?**
- A. Constitution Law is the most fundamental law in a country's legal system, which contains and covers other law branches.
  - B. The research of Constitutional Law is finite throughout time.
  - C. Constitutional Law of Socialist countries only applies "Civil rights".
  - D. Economy and Culture are all the areas that Constitutional Law regulates.
- 3. Which of the following word means “a form of government with an emperor at the head”?**
- A. Regime
  - B. Promulgation
  - C. Legal norm
  - D. Monarchy
- 4. Constitutional Law becomes common in numerous countries all over the world because of \_\_\_\_\_**
- A. The Soviet Union and Eastern European Socialist countries had been collapsed.
  - B. More and more people are interested in researching the Constitution Law.
  - C. Africa's independence war had made many countries be born.

D. The content of the Constitution Law is increasingly diverse and meets the requirements of the society.

***Exercise 3: Choose the correct word from the list below to complete each blank.***

offender	prohibit	principles
encompass	grant	submissiveness
ratified	constitutions	arrest

Not all nation-states have codified ...(1)..., though all such states have a common law, or the law of the land, that may consist of a variety of imperative and consensual rules. These may include customary law, conventions or international rules and norms. Constitutional law deals with the fundamental ...(2)...by which the government exercises its authority. In some instances, these principles ...(3)... specific powers to the government, such as the power to tax and spend for the welfare of the population. Other times, constitutional principles act to place limits on what the government can do, such as prohibiting the ...(4)... of an individual without sufficient cause.


In most nations, such as the United States, India and Singapore, Constitutional law is based on the text of a

document ...(5)... at the time the nation came into being. Other Constitutions, including that of the United Kingdom, rely heavily on unwritten rules known as constitutional conventions.

***Exercise 4: Discussion***

*Should freedom of speech be regulated in the Constitution?*

Instruction: Dividing students into two groups: the Affirmative and the Negative to debate two sides of the given topic.



**CONSTITUTION LAW OF THE UNITED STATES OF AMERICAN<sup>2</sup>**

**What is Constitutional Law?**

Constitutional law is the law that relates to interpreting, implementing and amending the United States Constitution and the constitutions of the 50 states. It is an area of law that focuses on what the constitution says, what it means, and what its limitations are. As social and political issues change and develop in the United States, attorneys who practice constitutional law bring these issues to the courts to ask for clarification about the meaning, interpretation and enforcement of the constitution.

**Why Become a Constitutional lawyer?**

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<sup>2</sup> Available at: <http://legalcareerpath.com/what-is-constitutional-law/>, Accessed: 10:00, 8/29/19

Constitutional law has the potential to impact American society in an instant profoundly. Some of the most influential changes in American society happen because constitutional lawyers bring cases to the court. For lawyers who enjoy politics, constitutional law is a great way to have a powerful impact on society.

For example, the 1954 case *Brown v. Board of Education* determined that racially segregated schools violate the equal protection clause of the U.S. constitution. The case arguably set the U.S. civil rights movement into motion. The lawyers who worked on the case have the satisfaction of knowing that they ushered in an era of social change and made a lasting difference in the lives of all Americans.

Modern constitutional lawyers do work that is no less significant. In 2015, the Supreme Court case *Obergefell v. Hodges* legalized same-sex marriage in all 50 states. It also requires states to recognize same-sex marriages that are performed in other states.

Another recent, significant constitutional law case is the *Burwell v. Hobby Lobby* case. That case asks whether corporations have to provide insurance coverage for abortions for their employees. Hobby Lobby argues that the mandate to provide insurance covering abortions violates the religious liberties of the people who own and run the corporation. Ultimately, the court agreed and ruled that the legislature must use a less restrictive means to regulate employer-based insurance. The decision in the Hobby Lobby case impacts daily life for many Americans and made national headlines. The

attorneys who presented the case worked on an issue with national significance.

Constitutional lawyers have the potential to change society. While lawmakers and the attorneys who assist them also have significant power in that they create laws, whether those laws are invalidated or upheld depends on the courts. The success of a case depends on the oral and written work of constitutional lawyers.

If you enjoy grappling with philosophy and political issues, constitutional law might be for you. Rather than arguing a case in court once each day or week, constitutional lawyers might practice for months just for one court appearance. The success of a case might hang on being able to answer one question correctly or being able to point the court to a little-known case. Constitutional law is for lawyers who enjoy pouring over minute details.

Constitutional law is often exciting. You may even become a federal court judge or a Justice of the Supreme Court. Whether you practice in the Supreme Court or you spend hours drafting the perfect brief, many influential people and legal experts throughout the world might review your work and use it to make decisions of critical importance throughout society.

## UNIT 2

### ADMINISTRATIVE LAW

#### 1. Vocabulary

1	Adjudication	(n)	Sự xét xử, phán quyết
2	Administrative	(adj)	(thuộc về) điều hành
3	Administrative law	(n)	Luật hành chính
4	Affair	(n)	Công việc, vấn đề
5	Agenda	(n)	Chương trình
6	Arrest	(n)	Sự bắt giữ
7	Arise	(v)	Phát sinh, hình thành
8	Breach of (something)		Vi phạm (cái gì đó)
9	Civil law	(n)	Luật dân sự
10	Codify	(v)	Soạn thảo, luật hóa
11	Command	(n)	Mệnh lệnh
12	Completion	(n)	Sự hoàn thành
13	Concretize	(v)	Cụ thể hóa
14	Consensual	(adj)	Đồng thuận
15	Constitutional law	(n)	Luật hiến pháp
16	Convention	(n)	Công ước
17	Criminal law	(n)	Luật hình sự



18	Customary	(n)	Luật tục
19	Domestic	(adj)	Trong nước, đối nội
20	Encompass	(v)	Bao gồm, gồm có
21	Enforcement	(n)	Sự tuân theo, việc thực thi
22	Executive	(adj)	Chấp hành
23	Foreign	(adj)	Ngoài nước, đối ngoại
24	Grant	(v)	Trao cho
25	Immigration	(n)	Sự nhập cư
26	Implement	(v)	Triển khai thực hiện
27	Imperative	(adj)	Bắt buộc
28	Legislative bodies	(n)	Cơ quan lập pháp
29	Management	(n)	Sự quản lý
30	Manufacturing	(n)	Sản xuất
31	Material	(adj)	(về) vật chất
32	National defense	(n)	Quốc phòng
33	Object	(n)	Đối tượng, mục tiêu
34	Offender	(n)	Người phạm tội
35	Organize	(v)	Tổ chức, thành lập
36	Principle	(n)	Nguyên tắc
37	Prohibit	(v)	Cấm, cản trở

38	Ratify	(v)	Phê chuẩn
39	Sanction	(v)	Quy định hình phạt
40	Scheme	(n)	Chương trình làm việc, kế hoạch
41	Security	(n)	An ninh, sự bảo vệ
42	Social relation	(n)	Quan hệ xã hội
43	Sphere of	(n)	Lĩnh vực về
44	Spiritual	(adj)	(về) tinh thần
45	Submissiveness	(n)	Sự phục tùng
46	Sufficient	(adj)	Đủ, đầy đủ
47	Unilateral	(adj)	Đơn phương, một bên
48	Violation	(n)	Sự vi phạm, sự xâm phạm
49	Welfare	(n)	Phúc lợi

## 2. Text

Administrative law is a body of law that encompasses the whole of Legal Norms that regulate social relations arising in the process of organizing and implementing the executive and administrative activities of state agencies. In general, the object of regulation of administrative law includes the following issues:

- The establishment, improvement of the organizational structures, the improvement of working operations, and intra- and inter-agency working relations.

- Manage economic, cultural, social, and national and international security.
- Directly serve the material and spiritual needs of the people.
- Rewarding individuals and organizations for making contributions in the field of state administration or social life; also, sanctioning individuals and organizations that breach of the State administrative management order.

***The relationships between Administrative Law and some other Legal branches***

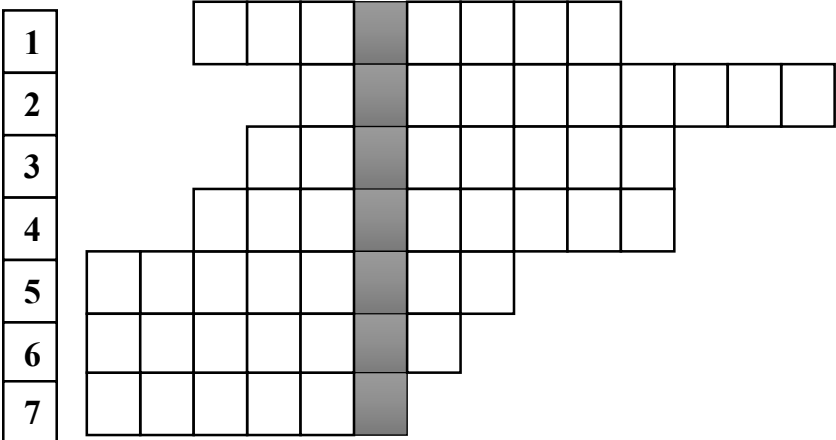
- **Administrative Law and Constitutional Law:** constitutional law's subject of adjustment is broader than that of administrative law. Constitutional law includes the legal framework for civil society, such as the state's policy in the domestic and foreign affairs, economic and electoral systems, and the principles of organization and operation of government. Meanwhile, administrative law plays an essential role in concretizing and detailing the state legal norms in order to adjust the social relations arising in the different branches of government (executive, legislative, and judicial).
- **Administrative Law and Criminal Law:** both laws regulate the behavior of individuals who violate the law by imposing various fines or penalties. The difference

between administrative law and criminal law is that the former deals with rules and regulations made and enforced by government agencies, while the latter deals directly with legal infractions and their prosecution.

- **Administrative Law and Civil Law:** civil law includes various matters of private property and personal relations. The adjustment method of civil law is equality and agreement. Moreover, in the civil law's relationship, all subjects are equal in rights and obligations. In contrast, the object of regulation of administrative law is the social relations that arise in the executive and administrative work. The rule of administrative law is a unilateral command, based on the principle of authority - submissiveness.

**3. Practice**

*Exercise 1: Complete the crossword.*



Look at the hint and write your answers in the table. If you complete the table correctly, you will reveal a keyword.

1. A person who commits an illegal act.
2. \_\_\_\_\_ performed by or affecting only one person, group, or country involved in a particular situation, without the agreement of another or the others.
3. To arrange or prepared for (an activity or event); to establish as an organization:
4. A breach or infringement, as of a law or promise.
5. A threatened penalty for disobeying a law or rule.
6. The action of defending from or resisting attack.
7. An act of breaking or failing to observe a law, agreement, or code of conduct.

***Exercise 2: Multiple choices.***

*Answer the following multiple-choice questions by selecting the correct response. Only one response is correct.*

- 1. Which of the following response is *incorrect* about Administrative Law?**
  - A. A part of Administrative Law's content is the economic, cultural and social regulations.
  - B. Both Criminal Law and Administrative Law regulate the Violations of law and handling of crimes.

- C. Praising and rewarding is one of the issues which Administrative Law has to regulate.
- D. The fundamental rule of Administrative Law is an authority - submissiveness.
- 2. Which of the following word means “*Something that gives or ensures safety*”?**
- A. Security
- B. Principle
- C. Criminal Law
- D. Submissiveness
- 3. The regulation’s object of Administrative Law is quite narrow because**
- A. The adjustment method of Administrative Law is not based on the principle of equality and agreement.
- B. There are differences between Administrative Law and Criminal Law
- C. Administrative Law specifies the social relations arising in the executive and administrative work.
- D. The mission of Administrative Law if directly server the material and spiritual needs of the people.
- 4. Which of the following statements is true?**
- A. Administrative Law only has a relationship with Constitutional Law, Civil Law and Criminal Law.
- B. Administrative Law regulates foreign affairs matters, economic and political regime of a country.

- C. Matters of parenting and child adoption also belong to Administrative Law's subjects of adjustment.
- D. It is Administrative Law which can be applied if the level of violation is less serious or the first violation.

***Exercise 3: Choose the correct word from the list below to complete each blank.***

immigration	prohibit	principles
encompass	regulate	governs
branch	Constitutions	scheme

Administrative Law is a body of law ... (1)... the activities of administrative agencies of government. Government agency action can include rulemaking, adjudication, or the enforcement of a specific regulatory agenda. Administrative Law is considered a ... (2)... of public law.


As a body of law, administrative law deals with the decision-making of the administrative units of government that are the part of a national regulatory ... (3)... in such areas as police law, international trade, manufacturing, the environment, taxation, broadcasting, ... (4)... and transport. Administrative Law expanded greatly during the twentieth century, as legislative bodies worldwide created more

government agencies to ...(5)... the social, economic and political spheres of human interaction.

***Exercise 4: Discussion***

*“The government should tighten the management of information online”.*

*Do you agree or disagree with this opinion? Why?*

	<p><b>ADMINISTRATIVE LAW OF THE USA<sup>3</sup></b></p>
	<p><b><i>Overview</i></b></p>
	<p>Although many people are familiar with the United States judicial court system, many laws and binding legal decisions come from both state and federal administrative agencies. Administrative agencies can be basically defined as official government bodies that have the power and authority to direct, supervise, and implement certain legislative acts or statutes. Not all administrative agencies have the term “agency” in the title. Many are referred to as boards, departments, divisions, or commissions.</p>
	<p>There are a number of ways that administrative agencies are created. At the federal level, Congress and the President have the authority to establish administrative agencies and to vest them with certain powers. An agency that is established by the president is referred to as an executive agency, while agencies established</p>

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<sup>3</sup> Available at: <https://www.justia.com/administrative-law/>, Accessed: 10:10, 8/29/19



by an act of Congress are referred to as independent agencies. Overall, there are very few differences between executive and independent agencies. The primary difference between an executive agency and an independent agency is that Congress typically restricts the President from removing the head of an independent agency without just cause. The heads of executive agencies serve at the will of the President and can be removed at any time.

Some of the most widely known federal administrative agencies include the United States Department of Agriculture, the Federal Food and Drug Administration, and the Department of Justice. At the state level, agencies are created in the same way and typically mirror some of the key federal agencies. For example, the federal government established the Occupational Health and Safety Administration, and almost every state has established some agency dedicated to matters involving occupational health and safety.

#### ***How Administrative Agencies Create Laws?***

In 1947, Congress adopted the Administrative Procedures Act (“APA”), which governs the process by which administrative agencies create and enact laws. The Act was implemented in order to ensure that the public has adequate notice of proposed laws, that there is an opportunity to comment on the proposed law, and that there are clear standards for agency rulemaking. The APA also specifies when courts may review and nullify administrative agency rules and provides standards for any administrative hearings that are conducted.

Federal agencies—both executive and independent—have to follow the rulemaking procedures outlined in the APA. First, the

agency must publish a proposed rule in the Federal Register and give the public at least 45 days to review the rule and submit a public comment if they choose. Public comments can either oppose or support the proposed rule and can be submitted by virtually anyone, including individuals, companies, and interest groups. During this period, the agency has the option of conducting a public hearing on the proposed rule. If the agency does not hold a hearing, however, an interested party can submit a written request for a hearing at least 15 days before the close of the public review period. The agency reviews the comments and considers whether to make any changes to the proposed law. Depending on how drastic the change to the rule is, the agency may be required to allow the public 15 days to review and comment on the amended version. This cycle may happen a few times before the rule reaches its nearly final form. The APA requires agencies to summarize and respond to each public comment and each comment is made available to the public as part of the rulemaking record.

The agency must send its proposed rule to the Office of Administrative Law ("OAL"), which oversees all rulemaking activities of federal agencies, within one year from the date the proposed rule was first released to the public. OAL reviews the law and the procedures the agency utilized to determine whether they complied with the APA. If the OAL determines that the agency followed the APA appropriately, the agency can complete the process and publish a final rule, which is then printed in the Federal Register and the Official Code of Federal Regulations.

### Challenging Administrative Decisions

Most administrative agencies have the power to enforce and adjudicate the laws that they create. Typically, enforcement proceedings resemble courtroom practices and procedures in which the parties must present evidence and argue their case. The decisions of administrative enforcement proceedings create a body of administrative law, much like judicial court opinions.

According to the APA, a party wishing to challenge an agency's determination can ultimately appeal the decision to a court within the judicial branch for review. To appeal the decision to a judicial court, however, the party seeking review must exhaust any administrative appeal procedures made available to that party by the agency and the APA. This process is designed to create sufficient checks and balances between the three branches of government.

Courts use different standards of review to evaluate administrative agency laws. The standard of review determines the amount of deference that the court gives to the administrative agency that created the rule. When reviewing an administrative decision, the court will consider whether the agency's action was arbitrary and capricious or an abuse of discretion.

### UNIT 3

## CIVIL LAW - MARRIAGE AND FAMILY LAW

### 1. Vocabulary

1	Adjoining immovable property	(n)	Bất động sản liền kề
2	Agreement	(n)	Thỏa thuận
3	Civil	(adj)	Thuộc về dân sự
4	Civil liability	(n)	Trách nhiệm dân sự
5	Civil transaction	(n)	Giao dịch dân sự
6	Compensation	(n)	Bồi thường
7	Contract	(n)	Hợp đồng
8	Divorce	(n/v)	Ly hôn
9	Guardian	(n)	Người giám hộ
10	Illegitimate child	(n)	Con ngoài giá thú
11	Inheritance	(n)	Thừa kế
12	Juridical person	(n)	Pháp nhân
13	Legal capacity	(n)	Năng lực hành vi
14	Legal entity	(n)	như Juridical person
15	Legal personality	(n)	Năng lực pháp luật
16	Limitation period	(n)	Thời hiệu
17	Married couple	(n)	Cặp vợ chồng

18	Minor	(n)	Người chưa thành niên/vị thành niên
19	Natural person	(n)	Cá nhân
20	Next of kin	(n)	Người thân thích
21	Private law	(n)	Luật tư
22	Right of ownership	(n)	Quyền sở hữu
23	Settlement	(n)	Hòa giải
24	Sham (marriage/divorce)	(n)	(kết hôn/ly hôn) giả tạo
25	Spouse	(n)	Vợ/chồng
26	Surface right	(n)	Quyền bề mặt
27	Surrogacy	(n)	Mang thai hộ
28	Usufructuary right	(n)	Quyền hưởng hoa lợi
29	Ward	(n)	Người được giám hộ
30	Will	(n)	Di chúc

## 2. Text

Civil law is a body of rules that defines and protects the private rights of citizens, offers legal remedies in disputes, and covers areas of law such as contracts, torts, property and family law. Civil law is derived from the laws of ancient Rome, which used doctrines to develop a code that determined how legal issues would be decided.

Contract law deals with agreements between two or more parties, each of which is obligated to hold up their portion of the agreement. For example, two parties agree to the lease of an apartment. The Lessor has the right to use the apartment, and the landlord receives rent money as compensation. If one party violates any of the provisions of the contract, they have committed a civil wrong known as “breach of contract.” Generally speaking, contracts may be oral or written; however, certain types of contracts must be in writing.

Tort law is a branch of civil law that is concerned with personal injury and civil wrongdoing. A tort is a civil wrong, done by one person or entity to another, which results in injury or property damage, and frequently involves monetary compensation to the injured party.

Strict liability is a tort that does not require actual negligence or intent to injure. It is based on an absolute or “strict” duty to ensure something is safe. Strict liability frequently comes into play with hazardous activities, such as bungee jumping. The company that owns the bungee cords, or offers the activity to consumers, has an absolute duty to make sure the bungee cords are intact, hooked up correctly, and are ready to operate safely. If a consumer is injured because the cord breaks or comes undone, the company will be liable for the injury under strict liability.

Property law covers both personal property and real property. Personal property or tangible property refers to such things as jewelry, animals, and merchandise, or intangible such as patents, copyrights, stocks, and bonds—also referred to as intellectual property. Real property refers to land and anything built on it that cannot be easily removed, as well as anything under the surface of the land, such as oil and minerals.

Family law is a branch of civil law dealing with marriage, divorce, annulment, child custody, adoption, birth, child support, and any other issues affecting families. This branch of civil law is unique in that no one person committed a legal violation. This is particularly true in states that have no-fault divorces. The family court gets involved with dividing up property and finances after a divorce, establishing child custody, child support, and spousal support among other things. Some newer areas that fall under the family law umbrella are same-sex marriage, artificial conception, surrogate motherhood, in vitro fertilization and palimony.

### **3. Practice**

#### ***Exercise 1: True/False***

1. A Contract shall be oral or written
2. In a divorce case, there shall be a person committing a civil wrong.
3. A natural resource is a type of real estate.

4. The bungee company is liable for the injury of their customers in any circumstances under strict liability.

***Exercise 2: Multiple Choices***

**1. Which of the following statements best describes a "legal personality"?**

- A. Natural persons only
- B. Juridical persons only
- C. Both natural and juridical persons
- D. None of the options given are correct

**2. Which of the following is the most accurate description of civil law?**

- A. Civil law is an aspect of public law
- B. Civil law relates to controlling conduct or wrongdoing of which it disapproves
- C. Civil law relates to the enforcement of particular forms of behavior
- D. Civil law is a form of private law and involves the relationships between individuals

**3. Which of the following could be seen as a breach of a contract?**

- A. Using dangerous production processes in a Chinese subsidiary that endangered the health and safety of employees.
- B. A Japanese restaurant selling blowfish testicles which poisoned its customers.



C. Chemical firms setting up an international cartel in the EU

D. Supplying computer chips that do not match the agreed product specifications.

**Exercise 3: Complete the paragraph with the words from the box. Not all the words will be used.**

The custom in Vietnam is that (1) ..... owners rarely make (2) ..... to bequeath their property. In families, there is no clear-cut distinction between personal property of the husband and the wife and their (3) ..... property, or between parents' and children's property. Yet, reality shows that most disputes over (4) ..... occur when property owners do not make testaments. Therefore, (5)..... inheritance constitutes an important but complicated institution which must satisfy the practical requirements of life while conforming to Vietnamese customs and practices.

<i>Property</i>	<i>Inheritance</i>	<i>Legal</i>
<i>Common</i>	<i>Will</i>	<i>At-law</i>
<i>Contract</i>	<i>Dead</i>	<i>Separate</i>

**Exercise 4: Discussion**

Phuong and Minh have been married for 10 years and are both aged 37. They have two children, aged 9 and 4.

They live in a four-bedroom house valued at £500,000, with a mortgage of £200,000. The balance of the purchase

price (£300,000 eight years ago) was met by a gift of £100,000 to Phuong by his father, who had won the lottery. At that time, Phuong and Minh agreed in writing that the gift should be regarded as 'belonging to Phuong' and that although the home was registered in their joint names, Minh should have a proportionately smaller share of the equity. Phuong is an engineer and earns £80,000 p.a. Minh is a qualified nurse who was earning £23,000 when she gave up work on the birth of their first child. She had not wanted to stop working but she and Phuong could not afford the childcare costs at that time. She is hoping to return on a part-time basis when their younger child starts school in a year's time. If she were to work full-time, she could earn up to £30,000 p.a. They have a car worth £5000. Phuong has contributed for 10 years to a private pension scheme which will payout when he retires at age 65; Minh stopped making her NHS pension contributions when she gave up work, but can re-start them if she goes back to nursing. They are divorcing and Phuong is living in a two-bedroom rented flat with a new partner, Giang, who is expecting his baby.

Advise on the financial settlement that a court might order in this case.



## CIVIL LAW<sup>4</sup>

Emperor Justinian, I ruled ancient Rome from 527 A.D. to 565 A.D. One of his lasting legacies is his rewriting of Roman law in "Corpus Juris Civilis," ("Body of Civil Law") which still serves as a basis for modern civil law systems worldwide.

In the United States, civil law has a couple of different meanings. In most parts of the U.S., civil law is synonymous with "common law," or "judge-made law" which relies on prior court decisions to determine the outcome of cases. The governing principle is "Stare Decisis," which means that the outcome of a lawsuit depends on the outcomes of previous similar cases.

The primary purpose of civil law is to resolve disputes and provide compensation for someone injured by someone else's acts or behavior.

In civil law, it is the injured person who brings the lawsuit. Civil law cases are concerned only with private law. In some instances, a person may be entitled to file a complaint, trusting the legal system to punish the wrongdoer with the prosecution, while bringing a civil lawsuit to receive compensation for the damages done by the wrongdoer.

A plaintiff need only prove his civil law case by a "preponderance of the evidence." This standard requires that the

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<sup>4</sup>Available at: <https://legaldictionary.net/civil-law/>, Accessed: 14:00, 8/29/19

plaintiff convince the court that, based on the evidence presented at trial, it is "more likely than not" that the plaintiff's allegation is true.

Civil law cases are divided into four main categories, each covering a range of issues.

### **Contract Law**

Contract law deals with agreements between two or more parties, each of which is obligated to hold up their portion of the agreement. For example, two parties agree to the lease of an apartment. The Lessor has the right to use the apartment, and the landlord receives rent money as compensation. If one party violates any of the provisions of the contract, they have committed a civil wrong known as "breach of contract." Generally speaking, contracts may be oral or written. However, certain types of contracts must be put in writing.

### **Tort Law**

Tort law is a branch of civil law that is concerned with personal injury and civil wrongdoing. A tort is a civil wrong, done by one person or entity to another which results in injury or property damage, and frequently involves monetary compensation to the injured party. There are three categories of torts: negligence, intentional tort, and strict liability.

Negligence is an unintentional tort, to which four elements must be satisfied.

1. Duty. The defendant had a duty to act in a reasonable manner.

2. Breach of Duty, meaning that the defendant failed to act reasonably.

3. Causation. The defendant's breach of duty must be the cause of the plaintiff's injury or loss.

4. Damages. Monetary, property, or other loss.

An intentional tort is a deliberate wrongdoing in which the defendant acted with the intent to cause harm or injury. Some examples of intentional torts include assault and battery, false imprisonment, fraud, invasion of privacy, and intentional infliction of emotional distress.

Strict liability is a tort that does not require actual negligence or intent to injure. It is based on an absolute or "strict" duty to ensure something is safe. Strict liability frequently comes into play with hazardous activities, such as bungee jumping. The company that owns the bungee cords, or offers the activity to consumers, has an absolute duty to make sure the bungee cords are intact, hooked up correctly, and are ready to operate safely. If a consumer is injured because the cord breaks or comes undone, the company is liable for the injury under strict liability.

### **Property Law**

Property law covers both personal property and real property. Personal property can be tangible, such as jewellery, animals, and merchandise, or intangible such as patents, copyrights, stocks, and bonds. Real property refers to land and anything built on it that cannot be easily removed, as well as anything under the surface of the land, such as oil and minerals. There are two types of property law torts: trespass and conversion.

Trespass to chattels refers to a defendant intentionally and physically interfering with the plaintiff's right to possession and use of their personal property.

Trespass to land occurs when a defendant enters the plaintiff's private property without the consent of the plaintiff.

Conversion refers to a defendant depriving a plaintiff of their personal property without the plaintiff's consent and then using the plaintiff's property as his own.

For example, a lady sees her neighbour planting flowers in her garden, and notices she has five extra containers of flowers with no place to plant them. The lady decides she would like flowers in her garden as well and takes the leftover containers of flowers without asking for permission from the neighbour. The lady deprived the neighbour of her flowers, planting them instead in her own garden. The lady has committed conversion.

#### ***CASE STUDY***

**Liebeck v. McDonald's Restaurants CV-93-02419, 1995 (N.M. Dist., Aug. 18, 1994)**

This case began when 79-year-old Stella Liebeck, who was a passenger in her grandson's car, purchased a cup of coffee at McDonald's drive-through. While the car was still parked, Liebeck removed the lid from the cup to add some creamer to her coffee, inadvertently dropping the cup and spilling the scalding hot coffee on her lap. Liebeck suffered third-degree, deep tissue burns on her legs that required multiple surgeries and skin grafts.

Liebeck filed a civil lawsuit against McDonald's for her injuries under the torts of strict liability and negligence. This case

was controversial in that the media portrayed Liebeck's civil lawsuit as frivolous because she was suing over coffee being too hot. However, the damages to her body, her pain and suffering, loss of income, and loss of enjoyment in life due to pain were real and she did prevail in court. The jury found that the defendant's product (the coffee) was defective (too hot to drink) and this constituted a breach of implied warranty (the assumption that the coffee was safe to drink). The jury also found that Liebeck was twenty per cent at fault for her injuries.



#### **FAMILY LAW AND MARRIAGE LAW<sup>5</sup>**

Family law is the branch of civil law that deals with marriage, divorce, annulment, child custody, adoption, birth, child support, and any other issues affecting families. This branch of civil law is unique in that there is not necessarily a person who committed a civil wrong. This is particularly true in states that have no-fault divorces. The family court gets involved with dividing up property and finances after a divorce, establishing child custody, child support, and spousal support, among other things. Some newer areas that fall under the family law umbrella are same-sex marriage, artificial conception, surrogate motherhood, in vitro fertilization, and palimony.

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<sup>5</sup> Ib (cần viết rõ ra đầy đủ)

Legislation on marriage should protect women's rights and guarantee equality. At a minimum, family and marriage laws should guarantee equal rights and responsibilities between women and men in marriage, divorce and dissolution; ensure that all marriages involve the free and full consent of both parties; establish a registration system for all marriages and births; provide for a marital property system that protects women's right to equality; protect the rights of widows and girls to inherit; prohibit polygamous marriages, and; guarantee both parents equal rights and responsibilities with regard to children during marriage, divorce, dissolution, as well as with regard to children born outside of marriage. Drafters should ensure any constitutional protections against discrimination in marriage are codified in statutory law to ensure the adequate protection of women and girls.

As specified in the CEDAW Committee's General Comment No. 29 (2013), "In the absence of unified family law, the system of personal status laws should provide for individual choice as to the application of religious law, ethnic custom or civil law at any stage of the relationship. Personal laws should embody the fundamental principle of equality between women and men, and should be fully harmonized with the provisions of the Convention to eliminate all discrimination against women in all matters relating to marriage and family relations." Para. 15.

***CASE STUDY:***

Legislation should ensure that constitutional protections are implemented by and promoted in civil laws. Uganda's Constitution (1995) provides constitutional guarantees to protect



the rights of women in marriage. Importantly, it establishes the minimum age for marriage at 18 years, guarantees equal rights to both parties at, during and upon dissolution of the marriage, and it requires explicitly Parliament to legislate protections for widows and widowers in inheritance and the parental rights of their children:

“(1) Men and women of the age of eighteen years and above, have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution.

(2) Parliament shall make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses and to enjoy parental rights over their children.

(3) Marriage shall be entered into with the free consent of the man and woman intending to marry.

(4) It is the right and duty of parents to care for and bring up their children.

(5) Children may not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons, except in accordance with the law. Affirmative action in favour of marginalised groups" (Art. 32)

Legislation, including amendments to the Succession Act and enactment of the Marriage Bill, to ensure that inheritance laws comply with the Constitution remains pending.

Drafters should ensure that these protections extend to consensual and non-formal unions and customary marriages. Drafters should pass laws subjecting consensual, religious and customary unions to the same laws governing civil unions. For example, South Africa's 1998 Recognition of Customary Marriages Act guarantees the same legal rights to women in customary marriages or civil marriages if they are registered.

**UNIT 4**  
**CRIMINAL LAW**

**1. Vocabulary**

1	assassination	(n)	Sự ám sát
2	assassin	(n)	Người ám sát/ kẻ ám sát
3	Authority	(n)	Chính quyền
4	bombing ⇒ bomber	(n)	Vụ đánh bom Người đánh bom
5	burglary ⇒ burglar	(n)	Vụ trộm Kẻ ăn trộm
6	Corruption	(n)	Nạn tham nhũng
7	Curfew	(n)	Lệnh giới nghiêm
8	Domestic Violence		Bạo lực gia đình
9	Gang	(n)	Băng đảng, côn đồ
10	Hardened	(adj)	Cứng đầu
11	Human trafficking		Buôn bán người
12	Justice	(n)	Công bằng, công lý
13	Juvenile Delinquency		Tội phạm vị thành niên
14	Murder	(n)	Tội giết người
15	Prostitution	(n)	Nạn mại dâm

16	Snatch ⇒snatcher	(v)	Giật đồ ⇒Kẻ giật đồ
17	Separation	(n)	Sự cách ly
18	Suicide	(n)	Sự tự tử
19	Terrorism ⇒Terrorist	(n)	Khủng bố Kẻ khủng bố
20	Theft	(n)	Sự ăn trộm, sự trộm cắp
21	Violent	(adj)	Bạo lực

## 2. Text

Until two years ago, Clearing, Illinois, a tranquil suburb of Chicago. However, residents grew alarmed when they noticed armed teenagers on the streets, giving gang signals and shouting at passing cars. Then came a series of burglaries and graffiti messages on storefronts. By the time local authorities realized they had a gang problem, it was too late. Last December, two 13-year-old girls were shot outside their school as they sat in a car with two members of a local gang, the Ridgeway Lords.

Nearly all fifty states have recently passed laws that allow youths aged 14-17 to be tried in court as adults. In about twenty-five states, they have passed laws to punish parents for their children's behaviour. Furthermore, in 146 of the nation's largest cities, they have imposed curfews to reduce juvenile violence. When you look at the spectacular rise of violent

crime among young people recently, it is easy to understand the concern. Over the past decade, adult murders have declined, while murder rates for youths between 14 and 17 have surged.

For young offenders who are not sent to prison, the punishments vary: some are ordered to perform community service; others are placed in job training programs, while others are sent to youth prisons. However, the Republicans in Congress want to reverse a fundamental principle of juvenile justice: the separation of young criminals from hardened adult criminals in prison. The reasons are partly financial – to reduce the cost of having separate prisons – and partly psychological – to end what Republicans consider as society's overly protective attitude towards young criminals.

### 3. Practice

*Exercise 1: Match each word in column A with its correct definition in column B.*

A	B
1. armed	A. no longer likely to change a bad way of life or feel sorry about it
2. murder	B. relating to a young person who is not yet old enough to be considered an adult
3. juvenile	C. fairness in the way people are dealt with
4. hardened	D. using or carrying weapons

5. gang	E. to kill a person or animal by firing a bullet or arrow at him, her, or it
6. shoot	F. the crime of intentionally killing a person
7. justice	G. a place where trials and other legal cases happen, or the people present in such a place, especially the officials and those deciding if someone is guilty
8. court	H. a group of criminals who work together

***Exercise 2: Read the passage and choose the correct answer to each of the following questions.***

**1. Where is located Clearing?**

- A. In Great Britain
- B. In Spain
- C. In the USA

**2. Why were residents unhappy?**

- A. Because taxes increased.
- B. Because rents were too high.
- C. Because gangs came into their town.

**3. What happened in December?**

- A. A policeman shot a young man.

B. Two girls were killed because they were with two members of another gang.

C. Criminality decreased.

**4. What is "a curfew"?**

A. Young people are not allowed to smoke.

B. Young people are not allowed to drink.

C. Young people are not allowed to go out when it is too late (night).

**5. What would the Republicans like to do?**

A. They would like to separate young criminals from adult criminals.

B. They would like to put young criminals into prisons for adults.

C. They would like to ban youth prisons.

***Exercise 3: Read the passage and decide if each of the following statements is true or false.***

1. Parents are not responsible for what their children do.

A. TRUE

B. FALSE

2. The Ridgeway Lords is a famous band.

A. TRUE

B. FALSE

3. There is an increase in the number of crimes committed by young people.

A. TRUE

B. FALSE

4. What the Republicans do would cost less money.

A. TRUE                      B. FALSE

5. Young people cannot be tried in court in most U.S. states.

A. TRUE                      B. FALSE

***Exercise 4: Discussion***

1. What are the most common crimes in your society?

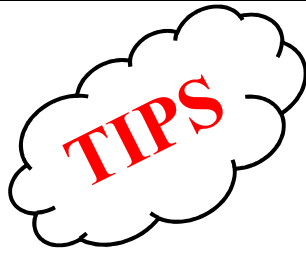
2. In some societies, the number of crimes committed by teenagers is growing. Some people think that regardless of age, teenagers who commit major crimes should receive adult punishment. To what extent do you agree?

3. Cyber crime is increasing rapidly as more and more people around the world are accessing to the internet. What are the worst cyber crimes, in your opinion? How can they be prevented?

4. Death penalty is the best way to control and reduce serious crime. To what extent do you agree?

5. While it is sometimes thought that prison is the best place for criminals, others believe that there are better ways to deal with them. What is your opinion?





**MAN GOES ON EXPLETIVE-FILLED RANT IN COURT OVER PRISON SENTENCE, SO JUDGE ADDS 6 MORE YEARS<sup>6</sup>**

Sarah Harvard New York

Wednesday 20 March 2019 21:19

A defendant will be learning a long and hard lesson following his tirade in an Ohio court.

Manson M Bryant, 32, ended up with six additional years added to his prison sentence after he went on a profanity-laden rant against the judge and his 22-year prison sentence in Lake County Common Pleas court.

Bryant appeared in court on March 1 for his sentencing hearing on charges of aggravated robbery, aggravated burglary, and carrying a concealed weapon.

After Judge Eugene Lucci announced that Bryant would spend 22 years in prison, Bryant got up from his seat and began yelling.

The moment was captured in video footage of the hearing that was released on Tuesday.

“F\*\*\* your courtroom, you racist-a\*\* b\*\*\*\*! F\*\*\* your courtroom, man. You racist as f\*\*\*!” Bryant, who is African-American, is heard shouting in the video. “Twenty-two f\*\*\*\*\* years! You racist-a\*\* b\*\*\*\*”

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<sup>6</sup> Available at: <https://www.independent.co.uk/news/world/americas/us-politics/man-court-video-judge-ohio-sentence-a8832571.html>, Accessed: 10:30, 8/29/19

Officers in the courtroom restrained the defendant and backed him away from the judge as he continued to yell. In response, the judge added six more years.

"Actually, you know what? Remember, remember when I said that you had shown remorse", Mr Lucci said over Bryant's shouting. "When I said you had a certain amount of remorse, I was mistaken. The court determines, the court determines maximum imprisonment is needed".

Bryant will now spend 28 years in prison.

There is documented evidence proving that black men often get longer sentences for the same crimes committed by white men. In the case of federal crimes, a US Sentencing Commission report found black men receive 19.1 per cent longer sentences than their white counterparts.

**UNIT 5**  
**LAW ON CRIMINAL PROCEDURE**

**1. Vocabulary**

1	Appeal a court's judgment		Kháng cáo bản án của tòa án
2	Appellate judgment	(n)	Bản án phúc thẩm
3	Client	(n)	Thân chủ, khách hàng
4	confessing or self-surrendering offender		Người phạm tội đầu thú, tự thú
5	Defense	(n)	Bào chữa, biện hộ
6	Defendant	(n)	Bị cáo
7	Distrain of property		Kê biên tài sản
8	Decision to bring the case for trial		Quyết định đưa vụ án ra xét xử
9	Evidence	(n)	Bằng chứng
10	first-instance judgment	(n)	Bản án sơ thẩm
11	Indictment	(n)	Cáo trạng
12	Initiation	(n)	Khởi tố
13	Investigation	(n)	Điều tra
14	Judge	(n)	Thẩm phán, quan tòa
15	Judgment deliberation	(n)	Nghị án

16	Lawyer	(n)	Luật sư
17	Magistrate	(n)	Quan tòa
18	Prosecution Prosecutor	(n)	Truy tố Người truy tố, đại diện VKS
19	Protest against a court's judgment		Kháng nghị bản án của tòa án
20	Solicitor	(n)	Cố vấn pháp luật
21	To solicit expert assessment		Trung cầu giám định
22	Trial	(n)	Xét xử

## 2. Text

In many countries, the legal systems have become very complex due to their longevity in developing legal precedent. Every time a new case is decided, it can affect future cases. A precedent is formed when a previous decision will affect future cases as it determines the outcome of the present case.

Many people work in criminal procedural law, such as solicitors, district attorneys, and judges. A solicitor is a lawyer who spends most of their time advising their clients and preparing legal documents, such as wills or contracts for buying and selling houses. They need to be very careful and make sure that all the details are correct; otherwise, their clients might lose a significant amount of money.

A barrister is a type of lawyer who works in courtrooms. They will either work for the prosecution or defense. If they are a prosecution lawyer, they are trying to prove that the defendant (the person on trial) committed a crime. They have to present evidence to show that the defendant is guilty. If they are a defense lawyer, then they work for the defendant and have to show that the evidence presented is not enough to prove that their client is guilty, and he/she should be acquitted of the present charges.

Then there are judges and magistrates. A magistrate will hear trials about less severe crimes, while judges will preside over more severe cases. Judges determine the appropriate fines and penalties that correspond to the crime committed. Punishments can range from a small fine up to a lengthy prison sentence, and in extreme cases, capital punishment. The trial happens in the judge's courtroom, so the judge is responsible for making sure the trial is run fairly and follows the law. If a lawyer believes that a trial was not fair or there was a mistake during the proceeding, they can ask for a new trial that will generally be heard by an appeals court where an appellate judge will be in charge.

### **3. Practice**

***Exercise 1: Match each word/phrase in column A with its correct definition in column B.***

A	B
1. Guilty	a. A person in a law case who is accused of having done something illegal
2. Legal	b. The case in which someone's guilt is being judged has begun
3. Procurator	c. Responsible for breaking a law
4. Precedent	d. A legal official who accuses someone of a crime
5. Defendant	e. Treating someone in a way that is right or reasonable
6. Barrister	f. A type of lawyer who can argue a case in both higher and lower courts
7. Fair	g. Connected with the law
8. On trial	h. A decision about a particular legal case that makes it likely that other similar cases will be decided in the same way

***Exercise 2: Read the passage and choose the correct answer to each of the following questions.***

**1. What do lawyers have to be?**

- A. nice
- B. clever
- C. greedy
- D. fast workers

**2. What could happen if a solicitor makes a mistake?**

- A. Someone innocent could go to prison.
- B. Someone could lose their job.
- C. The client could lose some money.
- D. The client could learn something new.

**3. What does a defence lawyer have to do?**

- A. Show that the prosecution's evidence is not enough.
- B. Prove that the defendant is guilty.
- C. Show that the defendant was someone else.
- D. Prove that the judge has made a mistake.

**4. What is the most severe punishment a judge could give?**

- A. A long time in prison.
- B. A fine.
- C. A judge does not give punishment.
- D. Capital punishment.

**5. Why might an appeal be needed?**

- A. The first trial was not fair.
- B. The first trial took too long to finish.
- C. The first trial was done perfectly.
- D. The first trial had too many people watching.

***Exercise 3: Discussion***

Work in groups of 4 or 5 and discuss the following question.

*Under the Vietnam's legal system, criminal law is a type of substantive law, and criminal procedural law is a type of*

*adjective law. In your opinion, what are the effects of substantive law and adjective law?*



### **STAGES OF A CRIMINAL CASE<sup>7</sup>**

Criminal prosecution develops in a series of stages, beginning with an arrest and ending at a point before, during or after trial. The majority of criminal cases terminate when a criminal defendant accepts a plea bargain offered by the prosecution. In a plea bargain, the defendant chooses to plead guilty before trial to the charged offences, or to lesser charges in exchange for a more lenient sentence or the dismissal of related charges.

#### **Arrest**

Criminal prosecution typically begins with an arrest by a police officer. A police officer may arrest a person if (1) the officer observes the person committing a crime; (2) the officer has probable cause to believe that that person has committed a crime; or (3) the officer makes the arrest under the authority of a valid arrest warrant. After the arrest, the police book the suspect. When the police complete the booking process, they place the suspect in custody. If the suspect committed a minor offence, the policy might issue a citation to the suspect with instructions to appear in court at a later date.

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<sup>7</sup> Available at: <https://www.justia.com/criminal/docs/stages-of-a-criminal-case/>, Accessed: 10:30, 8/29/19



### **Bail**

If a suspect in police custody is granted bail, the suspect may pay the bail amount in exchange for a release. Release on bail is contingent on the suspect's promise to appear at all scheduled court proceedings. Bail may be granted to a suspect immediately after booking or at a later bail review hearing. Alternatively, a suspect may be released on his "own recognizance". A suspect released on his recognizance need not post bail but must promise in writing to appear at all scheduled court appearances. Own recognizance release is granted after the court considers the seriousness of the offence, and the suspect's criminal record, a threat to the community and ties to family and employment.

### **Arraignment**

The suspect makes his first court appearance at the arraignment. During the arraignment, the judge reads the charges filed against the defendant in the complaint and the defendant chooses to plead "guilty," "not guilty" or "no contest" to those charges. The judge will also review the defendant's bail and set dates for future proceedings.

### **Preliminary Hearing or Grand Jury Proceedings**

The government generally brings criminal charges in one of two ways: by a "bill of information" secured by a preliminary hearing or by grand jury indictment. In the federal system, cases must be brought by indictment. States, however, are free to use either process. Both preliminary hearings and grand juries are used to establish the existence of probable cause. If there is no

finding of probable cause, a defendant will not be forced to stand trial.

A preliminary hearing, or preliminary examination, is an adversarial proceeding in which counsel questions witnesses and both parties makes arguments. The judge then makes the ultimate finding of probable cause. The grand jury, on the other hand, hears only from the prosecutor. The grand jury may call their witnesses and request that further investigations be performed. The grand jury then decides whether sufficient evidence has been presented to indict the defendant.

### **Pre-Trial Motions**

Both the prosecution and the defence bring Pre-trial motions in order to resolve final issues and establish what evidence and testimony will be admissible at trial.

### **Trial**

At trial, the judge or the jury will either find the defendant guilty or not guilty. The prosecution bears the burden of proof in a criminal trial. Thus, the prosecutor must prove beyond a reasonable doubt that the defendant committed the crimes charged. The defendant has a constitutional right to a jury trial in most criminal matters. A jury or judge makes the final determination of guilt or innocence after listening to opening and closing statements, examination and cross-examination of witnesses and jury instructions. If the jury fails to reach a unanimous verdict, the judge may declare a mistrial, and the case will either be dismissed or a new jury will be chosen. If a judge or

jury finds the defendant guilty, the court will sentence the defendant.

### **Sentencing**

During the sentencing phase of a criminal case, the court determines the appropriate punishment for the convicted defendant. In determining a suitable sentence, the court will consider several factors, including the nature and severity of the crime, the defendant's criminal history, the defendant's circumstances and the degree of remorse felt by the defendant.

### **Appeal**

An individual convicted of a crime may ask that a higher court reviews his or her case. If that court finds an error in the case or the sentence imposed, the court may reverse the conviction or find that the case should be re-tried.

## UNIT 6

### COMMERCIAL LAW - COMPETITION LAW

#### 1. Vocabularies

##### a. Commercial/Trade Law

1	Commercial activities	(n)	Hoạt động thương mại
2	Commercial advertising	(n)	Quảng cáo thương mại
3	Commercial arbitration	(n)	Trọng tài thương mại
4	Commercial brokerage	(n)	Môi giới thương mại
5	Commercial franchise	(n)	Nhượng quyền thương mại
6	Commercial intermediary activity	(n)	Hoạt động trung gian thương mại
7	Commercial processing	(n)	Gia công hàng hóa
8	Commercial promotion		Xúc tiến thương mại
9	Commercial remedies	(n)	Chế tài thương mại
10	Lease of goods	(n)	Cho thuê hàng hóa
11	Provision of services		Cung ứng dịch vụ
12	Purchase and sale of goods	(n)	Mua bán hàng hóa
13	Purchase and sale of goods by mandated dealers	(n)	Ủy thác mua bán hàng hóa
14	Resolution of commercial disputes	(n)	Các hình thức giải quyết tranh chấp thương mại
15	Sale promotion	(n)	Khuyến mại
16	Traders	(n)	Thương nhân

*b. Competition Law*

1	Abuse	(n/v)	Lạm dụng
2	Agreements in restraint of competition	(n)	Thỏa thuận hạn chế cạnh tranh
3	Causing Disruption	(n)	Gây rối hoạt động kinh doanh của doanh nghiệp khác
4	Coercion in business	(n)	Ép buộc trong kinh doanh
5	Defamation	(n)	Gièm pha doanh nghiệp khác
6	Dominant market position	(n)	Vị trí thống lĩnh
7	Economic concentration	(n)	Tập trung kinh tế
8	Infringement of business secrets	(n)	Xâm phạm bí mật kinh doanh
9	Market share/Combined market share	(n)	Thị phần/thị phần kết hợp
10	Monopoly position	(n)	Vị trí độc quyền
11	National Competition Commission	(n)	Ủy ban Cạnh tranh Quốc gia
12	Practices in restraint of competition	(n)	Hành vi hạn chế cạnh tranh
13	Relevant market	(n)	Thị trường liên quan
14	Selling Below Cost	(n)	Bán hàng hóa, cung ứng dịch vụ dưới giá thành toàn bộ
15	Unfair competitive practices	(n)	Hành vi cạnh tranh không lành mạnh

## **2. Text**

### ***2.1. Text on Commercial Law***

The first commercial law to help regulate economic activities came in 1997, with the current revised version implemented on January 1, 2006. The commercial code plays a crucial role in the legal system by guiding commercial activities of enterprises, corporations, and traders (domestic and foreign importers).

According to the current commercial law, the terminology of commercial activities is broadly defined to include all activities to generate profits, including sales, purchase of goods, provision of services, investment, commercial promotion, commercial intermediary activities, and commercial activities. Sale and purchase of goods are commercial activities whereby the seller is obliged to deliver goods, transfer ownership of goods to the purchaser, and receive payment; the purchaser is obliged to pay to the seller and receive goods and the ownership thereof as agreed. Meanwhile, for the provision of services, its object is similar to goods but immaterial. In other words, service is any action and result that one party may provide to the other and mostly intangible and does not lead to ownership.

Commercial promotion is a type of activity aimed at finding opportunities for buying and selling goods and services such as marketing and advertising. This activity supports the business operation of traders most effectively.

Commercial intermediary activities, unlike the activities mentioned above, do not include trade in goods or services, but rather, the performance of an intermediary to contribute to the sales of goods and services. Besides production and distribution, commercial law also regulates activities such as processing and commercial leasing franchising.

Contracts play a crucial role because they are the basis for the establishment, change, and termination of the parties' rights and obligations in carrying out commercial activities. Therefore, a contractual breach could lead to applying commercial remedies or could be the origin of disputes. They have to be handled by the resolution of commercial disputes in which commercial arbitration is an increasingly chosen process to mediate the situation.

## ***2.2. Text on Competition Law***

Competition is considered to be a source for innovation and growth, and the driving forces of enterprises to improve the quality and cost of their goods and services. Nonetheless, a system of perfect competition also contains risks if enterprises compete to influence the market structure, infringe on the interests of the state, or reduce the rate of profit to zero. As a result, the Competition Law is used as the most important tool to regulate the competition of enterprises in the market. The National Assembly of Vietnam passed an updated version of the Law on Competition on June 12, 2018. The new law governs mergers and acquisitions, and anti-

competitive activities in the Vietnamese market, and took effect from July 1, 2019.

In terms of content, the new competition law regulates behaviors, practices in restraint of competition, monopolization, and unfair practices. The law aims at promoting competition between market participants or reducing the presence of abusive market power that distorts competition. Under the new law, acts such as mergers, consolidations, acquisitions, joint ventures, and other actions deemed monopolistic are prohibited if they are evaluated to have or potentially have the effect of significantly restricting competition in the market.

The law deals with behaviors of enterprise that is contrary to the principles of goodwill, honesty, and commercial practice. Also, other standards in business and that may cause loss and damage to the legitimate rights and interests of other enterprises. The new law on competition retains some of the original prohibitions, including infringement of business secrets, coercion in business, defamation, and causing disruption. On the other hand, the 2018 Competition Law removes several other prohibitions that overlap with more detailed legislative provisions that cover similar types of conduct (e.g., Commercial Law, Advertising Law, Intellectual property Law). Lastly, the 2018 law on competition also introduced a new form of unfair competitive practice – selling goods or services below actual



cost, which excludes another enterprise from conducting business in the same type of goods or services.

In terms of form, the competition law regulates the procedure for handling and administering sanctions to a specific act and the respective authority. The body in charge of competition issues is the National Competition Commission, a sub-unit of the Ministry of Industry and Trade of Vietnam.

### 3. Practice

#### *Exercise 1: Match each word with its correct definition*

1. Traders	A. Means a dispute resolution method (Alternative Dispute Resolution) agreed by the parties and can be used to replace the traditional way of litigation in court
2. Commercial promotion	B. Means competitive practices (by an enterprise during the business process) which are contrary to general standards of business ethics and which cause or may cause damage to the interests of the State and/or to the legitimate rights and interests of other enterprises or of consumers.
3. Commercial arbitration	C. No enterprises are competing in selling goods and providing services in which such enterprise conducts business in the relevant market

4. Unfair competitive practices	D. Include organizations legally established to conduct commercial acts or individuals with full legal capacity and conduct commercial activities as their jobs on an independent and regular basis
5. Monopoly Position	E. Are the activities for promoting and searching for opportunities to purchase and sell goods and provide services, including sale promotions, commercial advertising, display and introduction of goods and/or services, services and trade fairs and exhibitions

***Exercise 2: Choose the word that best completes the sentence/statement***

1. The ..... formed by consolidating the two bodies, is now the only body having the duty to organize dealing with all of the competition cases in Vietnam.

- A. National Competition Commission
- B. Competition Council
- C. Administrative Body for Competition
- D. Commercial arbitration

2. Based on ....., it is often possible to assess the market power of an enterprise in comparison with others on the relevant market.

- A. Dominant market position

B. Monopoly Position

C. Market share

D. Combined market share

3. Contractual breach is one of the four grounds to apply ..... including seven different types listed in the Commercial Law in 2005.

A. Resolution of commercial disputes

B. Commercial remedies

C. Commercial arbitration

D. The Court

4. .... are activities carried out by a trader to effect commercial transactions for one or several identified traders, including representation for traders, commercial brokerage, goods sale or purchase entrustment, and commercial agency.

A. Commercial promotion

B. Representation of traders

C. Commercial intermediary activities

D. Commercial advertising

5. Among the forms of ..... regulated by the Commercial Law in 2005, negotiations between the parties are the form commonly used in prior to the others.

A. Commercial practice/activities

B. Commercial remedies

C. Representation of traders

D. Resolution of commercial disputes

***Exercise 3: Complete the paragraph with the words from the box. Not all the words will be used.***

Commercial brokerage    Commercial intermediary activities

Purchase and sale of goods by mandated dealers

Trader

Commercial remedies

Commercial practice/activity    Sale promotion

Similar to (1) ....., one of the (2) ..... whereby the mandatory conducts the purchase and sale of goods in his/her/its own name under terms agreed upon with the mandatory and is entitled to receive mandate commission, (3) ..... is a/an (4) ..... is performed by an intermediary, who must be a (5)....., acting for the benefit of the service hirer to get paid remuneration.

***Exercise 4: Discussion***

**Each group chooses/draws one of the following topics and then presents briefly the group's opinion. The whole-class discussion will follow:**

*a. Is commercial arbitration increasingly preferred by traders instead of the Court?*

Suggestion: What are the advantages and disadvantages of each resolution of commercial disputes? What are the most important factors for traders in choosing resolution of commercial disputes?

*b. Should the State use the Competition Law to prohibit monopoly on the market?*

Suggestion: In what ways can an enterprise obtain a monopoly position? What are the consequences for banning the monopoly position of an enterprise?

*c. Why economic concentration is no longer included in the group of Practices in restraint of competition?*

Suggestion: What are the content of the 2014 Enterprise Law on economic concentration? What are the misunderstandings and contradictions of the 2004 Competition Law and the 2014 Enterprise Law's regulation on economic concentration?

## UNIT 7

### LAND LAW - ENVIRONMENTAL LAW

#### 1. Vocabulary

1	Artificial material elements	(n)	Yếu tố vật chất nhân tạo
2	Absorption	(n)	Sự hấp thu, sự hấp thụ
3	Address/ Tackle/ Deal with environmental problems	(v)	Giải quyết các vấn đề về môi trường
4	Administrative procedures	(n)	Thủ tục hành chính
5	Aquatic organism	(n)	Sinh vật thủy sinh
6	Biodiversity resources	(n)	Tài nguyên đa dạng sinh học
7	Certificates of land use rights	(n)	Giấy chứng nhận quyền sử dụng đất
8	Compensation for land	(n)	Sự bồi thường về đất đai
9	Consequences	(n)	Kết quả, hậu quả
10	Conserve/ Preserve	(v)	Bảo tồn, giữ gìn
11	Deforestation	(n)	Nạn phá rừng
12	Deterioration	(n)	Sự suy giảm, sự suy thoái
13	Ecosystem	(n)	Hệ sinh thái

14	Emission/ Gas exhaust	(n)	Khí thải
15	Environmental component	(n)	Thành phần môi trường
16	Environmental pollution	(n)	Ô nhiễm môi trường
17	Excessively	(adv)	Quá mức
18	Exploit	(v)	Khai thác, khai khẩn
19	Extinction	(n)	Sự tuyệt chủng
20	Forest fire	(n)	Cháy rừng
21	Greenhouse effect	(n)	Hiệu ứng nhà kính
22	Greenhouse gas emissions	(n)	Khí thải nhà kính
23	Groundwater	(n)	Nguồn nước ngầm
24	Land acquisition/land recovery	(n)	Sự thu hồi đất
25	Land allocation	(n)	Sự giao đất
26	Land lease	(n)	Sự cho thuê đất
27	Land users	(n)	Người sử dụng đất
28	Legal norms	(n)	Quy phạm pháp luật
29	Natural material elements	(n)	Yếu tố vật chất tự nhiên
30	Natural resources	(n)	Tài nguyên thiên nhiên
31	Neglect	(v)	Lơ là, bỏ mặc
32	Over-abuse	(v)	Lạm dụng quá mức

33	Overemphasis	(n)	Sự chú trọng quá mức
34	Ozone layer	(n)	Tầng ozon
35	Pollute	(v)	Làm ô nhiễm, làm dơ bẩn
36	Prompt	(adj)	Nhanh chóng, kịp thời
37	Promulgate	(v)	Ban hành, ban bố (luật)
38	Registration of land	(n)	Sự đăng ký về đất đai
39	Regulate	(v)	Quy định
40	Resettlement assistance	(n)	Sự hỗ trợ tái định cư
41	Restriction	(n)	Sự hạn chế
42	Rights and obligations	(n)	Quyền và nghĩa vụ
43	Soil erosion	(n)	Sự xói mòn đất
44	Sustainable development	(n)	Sự phát triển bền vững
45	Untreated toxic gases	(n)	Khí thải độc hại chưa qua xử lý
46	Weather phenomena	(n)	Hiện tượng thời tiết
47	Wrongdoings	(n)	Những hành vi sai trái

## 2. Text

Environmental law is a body of the Vietnamese legal system, which encompasses the whole of legal norms expressed in the form of treaties, conventions, and regulations aimed at adjusting the interaction of humans and the natural



environment in order to minimize the negative impacts of human activities. Environmental law is divided into two main areas: (1) pollution control and remediation, (2) the issue of conservation and management natural resources.

The environment is a broad term because it is made up of many natural and artificial elements, therefore, "Environmental Law" in the Vietnamese legal system does not exist. However, environmental law does exist in more specific instances such as environmental protection, land law, and the law on water resources. Each document has specific subjects and methods of adjustment.

The environment is a matter of growing importance in the twenty-first century. This is the result of an overemphasis on the nation's economic development and disregard for the conservation and sustainability of ecosystems, cause widespread environmental degradation. Humans put pollutants into the environment by exploiting natural resources.

Also, cases of extreme weather become more frequent and exacerbate greenhouse gas emissions such as CO<sub>2</sub>, SO<sub>2</sub>, NO, CFC. Each is a significant factor that causes negative impacts on the ozone layer.

Furthermore, the deterioration of surface water quality and groundwater impacts the habitat of aquatic organisms, which in turn affects the balance of ecosystems. Typically, the decline in the number and quality of the habitats, leading to

the increases and expediency of species extinction. The task of this law is to unify human behavior concerning the environment through regulations that permit or prohibit particular human behavior. Also, by providing solutions to address environmental problems by preventing causes of pollution, promptly detect, and strictly deal with wrongdoers as well as the conservation of biodiversity and natural resources.

Land is an essential environmental component, an exceptional property owned by the entire people, and the State is the owner's representative, the State shall grant land use rights to land users. In order to protect the land resources, the Land Law was formulated to regulate the social relations arising in this area between the State and the land users (land allocation, land lease, land acquisition, compensation and resettlement assistance, registration of land, houses and other land-attached assets, registration of land changes, administrative procedures for land). Subsequently, between land users in a dispute over certificates of land use rights, ownership of houses and other assets attached to land). The Land Law provides specified provisions on how to deal with and adjust land relations towards the protection of land resources and the subjects' rights and obligations.

### **3. Practice**

#### ***Exercise 1. Summary***

- ❖ Summarize the text's content using your vocabulary.

❖ Picking up some vocabularies from the box and writing a short paragraph by using them.

***Exercise 2. Matching***

**Connecting words in column A to its properly mean in column B**

<b>Column A</b>	<b>Column B</b>
<b>1- Pollution</b>	<b>A</b> - A biological community of interacting organisms and their physical environment.
<b>2- Ecosystems</b>	<b>B</b> - The variety of life in the world or in a particular habitat or ecosystem.
<b>3- Exploitation</b>	<b>C</b> - Reduce (something, especially something unwanted or unpleasant) to the smallest possible amount or degree
<b>4- Emission</b>	<b>D</b> - The presence in or introduction into the environment of a substance or thing that has harmful or poisonous effects.
<b>5- Neglection</b>	<b>E</b> - A contract by which one party conveys land, property, services, etc., to another for a specified time
<b>6- Minimize</b>	<b>F</b> - The state or fact of being uncared for
<b>7- Lease</b>	<b>G</b> - The action of making use of and benefiting from resources.
<b>8- Biodiversity</b>	<b>H</b> - The production and discharge of something, especially gas or radiation

***Exercise 3. Multiple choices***

***Answer the following multiple-choice questions by selecting the correct response. Only one response is correct.***

**1. What is the main factor causing environmental pollution?**

- A. People putting pollutants into the environment.
- B. Excessively exploit natural resources
- C. Extreme weather phenomena cause negative consequences for the environment
- D. All are correct

**2. The habitat of humanity is severely damaged, forcing us to quickly find a solution to solve this problem.**

*(What phrase could replace the position of the underlined phrase in the question that has the same meaning?)*

- A. put up with environmental problems
- B. face to face with environmental problems
- C. cope with environmental problems
- D. respect to environmental problems

**3. What is incorrect statement about the Land Law?**

- A. Land Law regulates administrative procedures in land relations.
- B. Land allocation relations are formed by land users.
- C. Land is a special property that does not belong to a particular individual.

D. Protecting land resources is the responsibility of the whole community.

**4 ..... is a term used to refer to the phenomenon of seawater warming, which causes a series of extreme weather phenomena.**

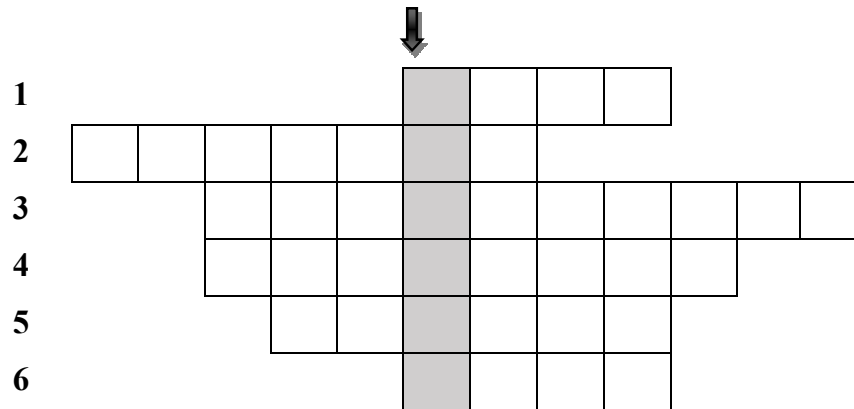
A. Earthquake

C. Typhoon

B. Greenhouse effect

D. El Nino

***Exercise 4. Crossword***



**Horizontally**

1. Fog or haze combined with smoke and other atmospheric pollutants.

2. Contaminate (water, air, or a place) with harmful or poisonous substances.

3. The envelope of gases surrounding the earth or another planet.

4. A state or situation in which something needed cannot be obtained in sufficient amounts.

5. Physical harm caused to something in such a way as to impair its value, usefulness, or normal function.

6. The upper layer of earth in which plants grow, a black or dark brown material typically consisting of a mixture of organic remains, clay, and rock particles.

**Keywords**

*“A violent disturbance of the atmosphere with strong winds and usually rain, thunder, lightning, or snow.”*

***Exercise 5. Discussion***

Some people believe tourism can create advantages for environmental development, while others say no. What is your point of view?



**VIETNAM REJECTS  
INTERNATIONAL FINDING ON  
HANOI AIR POLLUTION<sup>8</sup>**

Hanoi has been ranked the second most polluted city in Southeast Asia based on incomplete data, says Vietnam.

Vo Tuan Nhan, deputy minister of Natural Resources and Environment, said at a Tuesday press conference that the World Air Quality Report released early last month, which says Hanoi had the second-worst air quality in Southeast Asia, is not precise.

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<sup>8</sup> Viet Tuan, Nguyen Quy, Available at:  
<https://e.vnexpress.net/news/news/vietnam-rejects-international-finding-on-hanoi-air-pollution-3904037.html>, Accessed: 10:50, 8/29/19

The report surveyed air quality in over 3,000 cities globally by measuring PM2.5 levels, referring to particulate matter of up to 2.5 micrometres (PM2.5) in size data, regarded as the pollutant with the most health impacts.

In Southeast Asia, however, data has been used from 20 cities in four countries - Indonesia, Thailand, the Philippines and Vietnam.

"Due to the lack of full data from 11 Southeast Asian countries, there is no convincing evidence to jump to the conclusion that Hanoi is the second most polluted city in Southeast Asia" Nhan said.

Nhan admitted that the concentration of PM2.5 in Hanoi had exceeded the permitted level, but only on some days, especially in the first three months of 2019, and the pollution was not widespread.

PM, or particulate matter, is the term for a mixture of solid particles and liquid droplets found in the air. PM2.5, also described as superfine particles, is a fraction of the width of a human hair, which is released from vehicles, industry and natural sources like dust.

Nhan blamed Hanoi's worsening air quality on dense traffic, emissions from construction projects, industrial facilities and waste burning.

The ministry will work closely with the city's leaders to take more feasible measures to improve air quality in the capital, he said.

He also said that in the coming time, the ministry is planning to install 80 more automatic air monitoring stations

across the city, allowing the public to keep track of air quality every day.

The World Air Quality report compiled by Greenpeace and Switzerland-based air quality monitor IQAir AirVisual showed the average PM2.5 level in Hanoi last year was 40.8 micrograms per cubic meter of air as opposed to 45.8 in 2017. The World Health Organization (WHO) Air Quality Guideline recommends an annual mean exposure threshold of 10 µg/m<sup>3</sup> to minimize health risks.

Although Hanoi has seen the improvement in air quality over the past year, it remained among the most polluted capital cities in the world, the report said, ranking it 12th among the 62 most polluted cities globally in 2018 and second in Southeast Asia, after Indonesia's Jakarta.

The 2018 Sustainable Cities Index, commissioned by Arcadis, an Amsterdam-based design and consultancy firm, ranked Hanoi among the least environmentally friendly cities in the world.

The city of eight million people has more than five million motorbikes and 550,000 cars. Data shows the number of private vehicles has been increasing at a rate of 4.6 per cent annually, but the amount of land allocated for transportation projects has only been expanding at a rate of 0.4 per cent.

In its pollution fight, the city legislature made a controversial decision last July to approve a ban on motorcycles by 2030.

The ostensible aim was to boost the use of public transportation, including a new metro system, but this is a poorly developed sector in the capital city.



## UNIT 8

### INTELLECTUAL PROPERTY

#### 1. Vocabulary

1	Amendments	(n)	Sự sửa đổi
2	Comprehensive	(adj)	Toàn diện
3	Derived from		Có nguồn gốc từ...
4	Enactment	(n)	Sự ban hành
5	Entity	(n)	Thực thể
6	Infringement	(n)	Sự vi phạm
7	Labor process	(n)	Quá trình lao động
8	Mechanism	(n)	Cơ chế
9	Problem-recognition mechanism	(n)	Cơ chế nhận biết vấn đề
10	Prosperous	(adj)	Thịnh vượng
11	Utility solutions	(n)	Giải pháp tiện ích
12	Transcend	(v)	Vượt qua giới hạn
<b><i>Copyright and Related Rights</i></b>			
13	Author	(n)	Tác giả
14	Broadcaster	(n)	Tổ chức phát sóng
15	Copyright	(n)	Quyền tác giả

16	Copyrighted work	(n)	Tác phẩm được bảo hộ quyền tác giả
17	Derivative work	(n)	Tác phẩm phái sinh
18	Economic right	(n)	Quyền tài sản
19	Joint authorship	(n)	Đồng tác giả
20	Moral right	(n)	Quyền nhân thân
21	Neighbouring right	(n)	Quyền liên quan (đến quyền tác giả)
22	Original work	(n)	Tác phẩm gốc
23	Producer(s) of phonograms/ videograms	(n)	Nhà sản xuất bản ghi âm/ ghi hình
24	Publish	(v)	Công bố
25	Related right	(n)	Như Neighbouring right
26	Work	(n)	Tác phẩm
27	Assignment	(n)	Chuyển nhượng
<b><i>Industrial Property Rights</i></b>			
28	Certification mark	(n)	Nhãn hiệu chứng nhận
29	Collective mark	(n)	Nhãn hiệu tập thể
30	Date of filing of the first application	(n)	Ngày nộp đơn đầu tiên
31	First to file	(n)	(Nguyên tắc) nộp đơn đầu tiên

32	Geographical indications	(n)	Chỉ dẫn địa lý
33	Industrial designs	(n)	Kiểu dáng công nghiệp
34	Inventions	(n)	Sáng chế
35	Layout design of semiconductor integrated circuit		Thiết kế bố trí mạch tích hợp bán dẫn
36	License	(n)	Chuyển quyền sử dụng đối tượng SHCN (Li-xăng)
37	Patent	(n)	Bằng độc quyền (sáng chế/GPHI)
38	Term of protection	(n)	Thời hạn bảo hộ
39	Trade secret	(n)	Bí mật kinh doanh
40	Trademarks	(n)	Nhãn hiệu
41	Transfer	(n)	Chuyển giao
42	Utility solution	(n)	Giải pháp hữu ích

## 2. Text

Globalization is mainly an economic process of growing connectivity between countries participating in economic development. Despite being secondary forces, culture and politics do play a role in globalization trends. In this context, cooperation and business relations transcend boundaries imposed by national borders as more and more mechanisms of

cooperation between different governments are recognized. Along with more significant innovation and the incorporation of novel technologies, countries and societies can skip steps in the development process. As a result, social relations are under significant stress from the forces of globalization.

Intellectual property is an ever-important component in the continuation of globalization. Without the protections afforded with accompanying intellectual property rights, innovations and technologies would remain within the confines of borders or move much more slowly.

Intellectual property can exist in many different forms, such as literary and artistic works, television shows, as well as audio and video recordings. It can also be inventions, technical solutions, or even utility solutions that create more comfortable mechanisms to meet the needs of daily life. More controversial examples of intellectual property are varieties of seeds or digital software. Through the process of investing time and effort, each individual creates a product that has certain trademarks. Moreover, intellectual property is similar to other types of assets such a financial.

Disputes over intellectual property are common because of the significant profits derived from this model. Disputes mainly revolve around issues of determining copyrights, determining the rights of individuals and organizations that own audio and video records in the process of exploiting, and using the value of these works.

The settlement of disputes over intellectual property is not easy. Determining intellectual property rights entails going along with the mechanism of granting the right to exploit and seek profit from the property for that entity. In order to create an effective problem-recognition mechanism, the Vietnamese legal system is developing a comprehensive framework for recognizing intellectual property. The framework will establish general rights and actions against infringement.

The 2005 Intellectual Property Law (and its 2009 amendment) aims at regulating focus on three basic subjects: i) Copyright and copyright-related rights, ii) Industrial property rights, and iii) rights to plant crop varieties. By identifying the intellectual property right owner of the protected product, the owner of the intellectual property right directly may either authorize or allow another entity to use or profit from the property. In some cases, intellectual property rights transfer contracts that are also governed by the law in case of ownership transfers of underlying assets.

Although it is recognized in the legal mechanism about making the insurance towards intellectual property rights, many behaviors cause serious harm to the rights and interests of property owners. Also, technical infrastructure and modern technologies have made it easier to violate intellectual property rights. In the future, it is necessary to continue to have more evident perspectives on mechanisms of protection for intellectual property rights, for property owners,

establishing a favorable environment for advancement, and develop stably and sustainably.

***Read the given passage and briefly answer the following questions:***

- a. What is the importance of intellectual property protection?
- b. The current situation of Intellectual Property dispute resolution?
- c. What is the basic content of the 2005 Intellectual Property Law (and its 2009 amendment)?

### **3. Practice**

#### ***Exercise 1: Matching***

1. Trademark	A. Something that has never been made before, or the process of creating something that has never been made before
2. Copyrights	B. An organization that broadcasts programmes on television or radio, or over the internet
3. Patent	C. A name or symbol on a product that shows a particular company made it, and that other companies cannot use it without permission
4. Inventions	D. The official legal right to make or sell an invention for a particular number of years
5. Broadcaster	E. The legal right to control the production and selling of a book, play, film, photograph, or piece of music

**Exercise 2: Fill in each blank with a suitable word(s)**

In general, (1) ..... rights give the "exclusive" or sole right to do something with your creation: your design, invention, artistic expression, trademark etc. Most rights need registration, but some, like (2) ....., for example, often do not, depending on the local law. Countries have laws to protect for two main reasons. One is to give statutory expression to the (3) ..... and (4) ..... rights of creators in their creations and the rights of the (5) ..... in access to those creations.

(*'The IP Handbook'*, Office for Harmonization in the Internal Market, page 7; and *'Intellectual Property Handbook': Policy, Law and Use*, WIPO, page 3)

**Exercise 3: Multiple Choices**

**1. The term 'Intellectual Property Rights' covers:**

- A. Copyrights
- B. Know-how
- C. Trade dress
- D. All of the above

**2. Which of the following statements is wrong about intellectual property?**

- A. Translators and adapters of original works must seek permission and pay royalties and remuneration to copyright owners.
- B. Trademarks must be visible.
- C. Translators have the right to name translated works of which they are authors.

**3. Which of the following words means “make information available to people, especially in a book, magazine, or newspaper, or to produce and sell a book, magazine, or newspaper”?**

- A. Publish
- B. Transfer
- C. Transcend

***Exercise 4: Discussion***

*Should students be prohibited from photocopying textbooks?*

Instruction: Dividing students into two groups: the Affirmative and the Negative to debate two sides of the given topic.



# UNIT 9

## INTERNATIONAL LAW

### 1. Vocabulary

1	Bona fides	(adj)	Trung thực, chân thành
2	Customary international law	(phr)	Tập quán pháp quốc tế
3	Consent-based governance	(phr)	Vận hành trên sự đồng thuận
4	Criticism	(n)	Sự chỉ trích
5	Consular relation	(phr)	Quan hệ lãnh sự
6	Convention	(n)	Hiệp ước, Hiệp định
7	International Criminal Court	(phr)	Tòa hình sự quốc tế
8	International law	(phr)	Luật quốc tế
9	International relation	(phr)	Quan hệ quốc tế
10	Intervention	(n)	Sự can thiệp
11	Invasion	(n)	Sự xâm lăng, xâm lược
12	Geneva Convention		Hiệp định Geneva
13	Human rights	(n)	Các quyền con người
14	Sanction	(v)	Trừng phạt, Hình phạt

15	Loss of influence	(phr)	Mất đi sự ảnh hưởng
16	Nation	(n)	Quốc gia, dân tộc
17	Non-state actors	(phr)	Các chủ thể phi nhà nước
18	Peremptory norm (jus cogens)	(phr)	Quy tắc khắt khe
19	Provisional measure	(phr)	Biện pháp tạm thời
20	State sovereignty	(n)	Chủ quyền quốc gia
21	Supranational tribunals	(phr)	Các tòa án liên quốc gia
22	Transfer	(n) (v)	Sự chuyển chuyển, chuyển đổi, chuyển nhượng, chuyển giao
23	Treaty	(n)	Hiệp ước, công ước
24	Violation	(n)	Sự xâm phạm, sự vi phạm
25	Use of force	(n)	Sử dụng vũ lực

## 2. Text

**International law** is the set of rules generally regarded and accepted as binding in relations between states and nations. It serves as a framework for the practice of stable and organized international relations. International law differs from state-based legal systems in that it is primarily applicable to countries rather than to private citizens. National law may become international law when treaties delegate national

jurisdiction to supranational tribunals such as the European Court of Human Rights or the International Criminal Court. Treaties such as the Geneva Conventions may require national law to conform to respective parts.

Much of international law is consent-based governance. This means that a state member is not obliged to abide by this type of international law unless it has expressly consented to a particular course of conduct. This is an issue of state sovereignty. However, other aspects of international law are not consent-based but still are obligatory upon state and non-state actors such as customary international law and peremptory norms (*jus cogens*).

There is much a state can lose through a violation of international law. Apart from the legal sanctions that might be imposed, there are other political and economic costs to be paid. The loss of influence and the loss of trust consequent upon a breach of the law may mean a reduction in overseas trade, loss of foreign aid, or a refusal to enter into negotiations over some other matter. Similarly, many states may not be prepared to enter into new treaties with a state if it has a history of violating existing agreements. When the USA invaded Grenada, for example, the loss of influence and trust throughout the states of the non-aligned world was a cost that hampered the future of US policy in the Caribbean. The same is true of its use of force in Panama in 1989, especially in respect of Latin American states, and the true international

cost of US and UK intervention in Iraq and Afghanistan is still not known. Similarly, New Zealand may doubt the bona fides of France after the Rainbow Warrior affair, and the UK was for many years wary of Argentinian promises after the latter's invasion of the Falkland Islands. Who will listen to a US lecture on human rights while prisoners are detained without trial at Guantanamo Bay, and what chance does the current Syrian Government have of operating effectively in the international arena after the civil war of 2012? Moreover, apart from these more tangible considerations, one should not underestimate the very public and embarrassing criticism which flows from a breach of international law, especially in such fields as human rights and crimes against humanity. In November 1998, the USA issued an apology to 'the Government and people of Paraguay' following its violation of the Vienna Convention on Consular Relations, as highlighted by the Case Concerning the Vienna Convention on Consular Relations (Paraguay v US) (Provisional Measures) 1998 ICJ Rep 248. Unfortunately, this embarrassment was not enough to prevent the USA apparently violating the same Convention in a similar way in the La Grand case (Case Concerning the Vienna Convention on Consular Relations (Germany v US) 1999 ICJ Rep). Some states are more easily embarrassed than others.<sup>9</sup>

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<sup>9</sup> Martin Dixon, *Textbook on International Law*, Oxford University Press, 2013, p. 13.

### 3. Practice

#### *Exercise 1. Briefly answer the following questions:*

- a. Who are the subjects of international law?
- b. How does international law differ from national law?
- c. What is the relationship between international law and national law?

#### *Exercise 2. Match the words with the right definitions*

<b>Column A</b>	<b>Column B</b>
<b>1-Sanctions</b>	<b>A-</b> An agreement under international law entered into by actors in international law, namely sovereign states and international organizations
<b>2-International law</b>	<b>B-</b> Punitive acts taken by one nation against another nation that has violated a treaty or International Law
<b>3-Treaty</b>	<b>C-</b> Made in good faith without fraud or deceit
<b>4-Bona fides</b>	<b>D-</b> Interim orders issued by the International Court of Justice or another international body
<b>5-Provisional measures</b>	<b>E-</b> A set of rules generally regarded and accepted as binding in relations between states and between nations
<b>6. European Court of Human Rights</b>	<b>F-</b> An intergovernmental organization and international tribunal that sits in The Hague in the Netherlands

7. <i>State sovereignty</i>	<b>G-</b> A supranational or international court established by the <i>European Convention on Human Rights</i>
8. <i>International Criminal Court</i>	<b>H-</b> The international independence of a state, combined with the right and power of regulating its internal affairs without foreign interference.

***Exercise 3. Choose the right answer.***

**1. The heading of the third paragraph is**

- A. Violation of international law
- B. The political cost
- C. US embarrassment
- D. Human rights

**2. The consequences of a violation of international law by a state include**

- A. reduction in overseas trade
- B. loss of influence and trust
- C. legal sanctions and political and economic costs
- D. the use of force

**3. Which is not an affair that resulted in the loss of influence and trust of a related state?**

- A. The USA invaded Grenada
- B. US use of force in Panama
- C. UK invasion of the Falkland Islands

D. Rainbow Warrior

**4. In La Grand Case**

A. The US again violated the Vienna Convention

B. The US apologized Paraguay

C. The US was more easily embarrassed

D. Germany prevented the US to file the case to the ICJ

***Exercise 4. Complete these sentences with the words that you have seen in the text.***

*Loss of trust*

*violation*

*use of force*

*human rights*

*Convention*

1. The decision is a serious new ..... of international law and democratic freedoms since it is directed against a large popular movement in Colombia which has considerable support not only inside the country but also abroad.

2. There is clearly a ..... between the majority of Germans who embrace social-democratic ideals and the SPD.

3. The European press comments on the incident and takes stock of the US ..... in the country.

4. According to ..... and refugee organizations, member of Serb, Romany, Ashkali and Muslim Slav minorities still face “danger to life and limb” in Kosovo.

5. The applicability of the ..... on Contracts for the International Sale of Goods is precluded.

**Exercise 5. Fill the blanks with a suitable word given**

<i>states</i>	<i>authority</i>	<i>International law</i>	<i>apparatus</i>
<i>goals</i>	<i>political</i>	<i>individuals</i>	<i>territory</i>

The first salient feature of (1) ..... is that most of its rules aim at regulating the behaviour of (2) ....., not that of (3) ..... States are the principal actors on the international scene. They are legal entities, aggregates of human beings dominated by an (4) ..... that wields (5) ..... over them. Their general (6) ..... are quite distinct from the goals of each individual group. Each state owns and controls a separate (7) .....; and each is held together by (8) ....., economic, cultural (and frequently also ethnic or religious) links<sup>10</sup>.

**Exercise 6. Discussion**

**The ruling in the South China Sea case:**

The Hague tribunal overwhelmingly backed the Philippines in a case on the disputed waters of the South China Sea (East Sea of Vietnam), ruling that rocky outcrops claimed by China - some of which are exposed only at low tide - cannot be used as the basis of territorial claims. It said some of the waters were "within the exclusive economic zone of the Philippines

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<sup>10</sup> Antonio Cassese, *International Law*, 2<sup>nd</sup> Edition, Oxford University Press, 2005, p. 3.



because any possible entitlement of China does not overlap those areas". The tribunal furthermore found China had violated the Philippines' sovereign rights in those waters by interfering with its fishing and petroleum exploration and by constructing artificial islands.

China has said it will not accept a ruling against it in a key international legal case over strategic reefs and atolls that Beijing claims would give it control over disputed waters of the South China Sea.

***Do you agree with the judgment of the court? Discuss the declaration of China.***



**COMMERCIAL LAW,  
INTERNATIONAL LAW AND  
LABOR LAW - EU-VIETNAM  
PACT TO DELIVER TRADE  
AND INVESTMENT BONAZAS<sup>11</sup>**

By Dr. Oliver Massmann July 3,  
2019 | 01:28 pm GMT+7

The EU will eliminate duties for 84 per cent of the tariff lines for goods imported from Vietnam immediately at the entry into force of the EU-Vietnam Free Trade Agreement (EVFTA).

The EVFTA will grant Vietnam easier access to a market of 500 million-plus people and a total GDP of \$15 trillion.

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<sup>11</sup>Available at: <https://e.vnexpress.net/news/business/eu-vietnam-pact-to-deliver-trade-and-investment-bonanzas-3946607.html>, Accessed: 15:50, 8/29/19.

The EVFTA was split into two separate agreements in June 2018, one on trade and one on investment. The deals, signed in Hanoi last Sunday after nine years of negotiations, are the first comprehensive and ambitious trade and investment agreement that the EU has ever concluded with a developing country. It is the second agreement in the ASEAN region after Singapore.

The EVFTA needs to be ratified by the European Commission and European Parliament while the EU-Vietnam Investment Protection Agreement (EVIPA) must be additionally ratified by the Parliament of each EU member country.

The new generation FTA covers a range of critical areas, from trade in goods and services to public procurement, labour protection and investor-to-state dispute settlement.

#### **Market access parameters**

The EU has agreed to eliminate duties for 84 per cent of the tariff lines for goods imported from Vietnam immediately at the entry into force of the EVFTA. Within 7 years from the effective date of the FTA, more than 99 per cent of the tariff lines will have been eliminated for Vietnam.

Vietnam will benefit more from the EVFTA compared with other FTAs since Vietnam and the EU are considered to be two supporting and complementary markets: Vietnam exports goods that the EU cannot or does not produce itself (i.e. fishery products, tropical fruits, etc.) while the products imported from the EU are also those Vietnam cannot produce domestically.

### **Government procurement**

Vietnam has one of the highest ratios of public investment-to-GDP in the world (39 percent annually from 1995). However, until now, Vietnam has not agreed to its government procurement being covered by the Government Procurement Agreement (GPA) of the WTO. Now, for the first time, Vietnam has undertaken to do so in the EVFTA.

The FTA commitments on government procurement mainly deal with the requirement to treat EU bidders, or domestic bidders with EU investment capital, equally with Vietnamese bidders when a government purchases goods or requests a service worth over the specified threshold.

Vietnam undertakes to publish information on tender in a timely manner, allow sufficient time for bidders to prepare for and submit bids and maintain the confidentiality of tenders.

The FTA also requires its parties to assess bids based on fair and objective principles, evaluate and award bids only based on criteria set out in notices and tender documentation and create an effective regime for complaints and settling disputes. These rules require parties to ensure that their bidding procedures match the commitments and protect their own interests, thus helping Vietnam to solve its problem of bids being won by cheap but low-quality service providers.

### **Labor protection**

The EVFTA requires member states to comply with the following fundamental principles of the International Labour Organization (ILO): the freedom of association and the effective

recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; the elimination of discrimination in respect of employment and occupation.

This means that the member states must legislate, for example, minimum wages, hours of work and safety and health security standards. However, it is not settled in these agreements to what extent those rights must be legislated. As a result, it is up to the member states to establish a minimum wage (which might be ridiculously low).

As Vietnam already sets out minimum wages, the most important ILO standard for Vietnamese labour law is the freedom of association, i.e. the freedom of labourers to found an independent trade union, to choose a trade union they want to be a member in and the right of the trade unions to affiliate with each other.

The EVFTA names the right of freedom of association and the effective recognition of the right to collective bargaining as one of the most important standards of ILO in the published agreement text.

The parties are obliged to make continued and sustained efforts towards ratifying, to the extent it has not yet done so, fundamental ILO conventions.

This is important for Vietnam, as although it is a member of the ILO, it has not ratified ILO Convention No.87 and No.98 on freedom of association and collective bargaining respectively.

### **Enforcement of ISDS**

This is now covered in the EVIPA. The term "investment" under the EVIPA is limited to kinds of assets that are owned or controlled, directly or indirectly, by an investor of EU/ Vietnam in the territory of Vietnam/ EU; and have the characteristics of an investment (for example, commitment of capital or other resources, the expectation of gain or profit, the assumption of risk and a certain duration).

In disputes regarding the investment, an investor is allowed to take them to the Investment Tribunal for settlement (Investor-to-State dispute settlement mechanism - ISDS).

This means that the investors do not need to lobby their governments to file the case on their behalf. With the goal is to ensure fairness and independence of the arbitration court, a permanent international investment tribunal will be formed with nine members, three nationals appointed from each of the EU and Vietnam; and three nationals appointed from third countries.

Cases will be heard by a 3-member tribunal selected by the chairman of the Tribunal in a random, unpredictable way.

This seeks to ensure consistent rulings in similar cases, thus making the dispute settlement more predictable. The EVIPA also allows a sole tribunal member where the claimant is a small or medium-sized enterprise, or the compensation of damaged claims is relatively low. This is a flexible approach considering that Vietnam is still a developing country.

In case either disputing parties disagree with the decision of the tribunal, they can approach the Appeals Tribunal. While this is

different from common arbitration proceedings, it is quite similar to the 2-level dispute settlement mechanism in the WTO (Panel and Appellate Body). We believe that this mechanism can save time and cost for the proceedings.

The final settlement is binding and enforceable without question from the local courts regarding its validity, except for five years following the entry into force of the FTA for Vietnam.

However, it has to be noted that the ISDS does not automatically apply in all disputes regarding the investment covered under the IPA.

Parties to the disputes can agree to solve the dispute by other means, for example, international commercial arbitration, local courts, action in the framework of the World Trade Organization or any other actions under any other international agreement to which both EU and Vietnam are parties.

Parties must choose the right forum to maximize the chances of winning the case.

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## **BASIC LEGAL ENGLISH**

In 500 bản, khổ 14,5x20,5cm, tại Công ty Cổ phần in và Dịch vụ Giáo dục Huế, số 02 Sóng Hồng, phường Phú Bài, thị xã Hương Thủy, tỉnh Thừa Thiên Huế. Số xác nhận đăng ký xuất bản: 1960-2020/CXBIPH/4-24/ĐHH. Quyết định xuất bản số: 117/QĐ/ĐHH-NXB, cấp ngày 19 tháng 6 năm 2020. In xong và nộp lưu chiểu năm 2020.

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