



LEGAL PROVISIONS AND CHALLENGES IN PROTECTING WOMEN'S PERSONAL DATA IN VIETNAM

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ABSTRACT

In the digital age, women's personal data is often violated, leading to privacy violations, women being followed by bad guys, being scammed, having their property appropriated, and even being sexually abused. The article focuses on researching current Vietnamese legal regulations and challenges in protecting women's personal data in Vietnam. Besides pointing out the need to protect women's personal data, the article also points out unreasonable points in the provisions of Decree No. 13/2023/ND-CP (the first legal document of Vietnam direct regulations on personal data protection). Difficulties and obstacles when implementing legal regulations on protecting women's personal data and factors affecting the effectiveness of law enforcement on protecting women's personal data in Vietnam is also mentioned. The article also proposed specific solutions to improve the effectiveness of women's personal data protection activities in Vietnam.

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Introduction

Personal data is an issue closely related to human rights, protecting women's personal data is also protecting human rights for women in Vietnam. In order to concretize the provisions of the 2013 Vietnamese Constitution on the inviolable right to privacy, Decree No. 13/2023/ND-CP on personal data protection was issued. Decree No. 13/2023/ND-CP has made great strides in regulating issues related to personal data protection in general and the protection of women's personal data in particular.

The content of the article is structured into 04 parts: Part 1 explains the need to protect women's personal data; Part 2 reviews Vietnam's current legal regulations on protecting women's personal data; Part 3 forecasts difficulties and obstacles in applying legal regulations on protecting women's personal data; Part 4 proposes solutions to improve the law and improve the effectiveness of personal data protection activities of Vietnamese women.

Material and Methods

The article is based on a review of documents on personal data breaches conducted by the Ministry of Public Security and the Ministry of Information and Communications of Vietnam. More and more studies suggest that protecting women's personal data in Vietnam is necessary. Vietnam has issued specialized documents regulating personal data protection. Many studies cited in the article have also shown that Decree No. 13/2023/ND - CP is considered an effort by the Vietnamese Government to prevent violations of women's personal data.

The article examines the factors affecting the effectiveness of women's personal data protection activities in Vietnam, especially requiring women's understanding in protecting their own personal data. The article also referred to various documents obtained from publications and reports made by the Government of Vietnam, domestic and international non-governmental organizations (NGOs), and civil society

organizations (CSO) as well as evidence collected from various articles available on the internet about the current situation of personal data infringement and the effectiveness of women's personal data protection activities in Vietnam. The results of this study are relevant to legislators and other stakeholders involved in the development and implementation of laws on personal data protection and the protection of women's personal data in Vietnam.

Results and Discussion

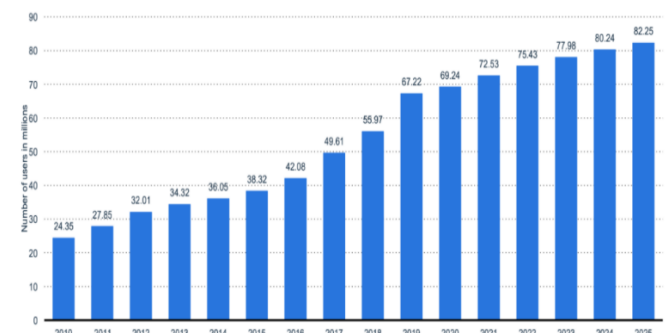
Part 1, The need to protect women's personal data in Vietnam

In the digital age, women's personal data is often compromised, protecting women's personal data is necessary. The past years have shown that:

1.1 Firstly, the risk of personal data loss of women in Vietnam is always present when women log on to internet-connected platforms. According to data from the Statista report, as of early 2021, Vietnam had 68.72 million Internet users, accounting for 70.3% of the population. According to the report, the mobile internet users in Vietnam reached 71.54 million people in 2021, accounting for 98.6% of the country's total internet users, and predicted to increase for the next coming years¹. The digital infrastructure is evolving rapidly, and the data infrastructure is improving. The Vietnamese government is making efforts to build an e-Government, towards a digital government and a digital economy, and has achieved many important results. However, the higher the level of technology application, the greater the provision and use of personal data. Activities to prevent and handle violations of the law on personal information must be ensured in accordance with the Constitution, provisions of Vietnamese law as well as international law². Currently, the population of Vietnam is 99,674,566 (Source: <https://danso.org/viet-nam/>), you can see the number of individuals in Vietnam using the internet and the platforms that need to provide data. individual is great. The number of internet users including women in Vietnam is very large, the amount of women's personal data processed daily is also very large, making bad objects often

pay attention and find ways to infiltrate data illegal. Through preliminary review, Vietnam's Ministry of Public Security discovered more than 60 organizations and individuals involved in illegal trading and use of information and personal data in cyberspace, including: company providing technology solutions, real estate brokers, bank employees, government agencies, people who have access to e-government systems in education, healthcare, securities, hospitals hospital...

Internet users in Vietnam 2010-2025



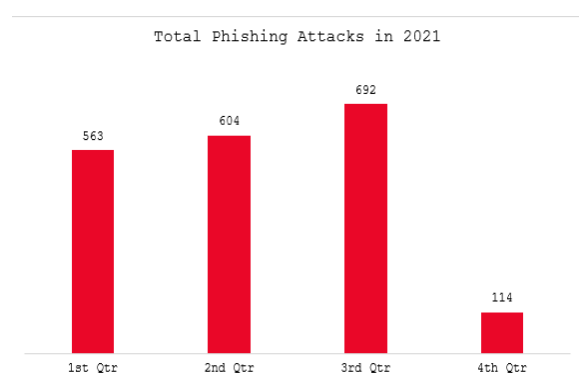
Source: Retrieved from Statista (30/10/2023)

1.2 Second, in the attacks and breaches of personal data in Vietnam, women are often the ones who bear the heaviest consequences. The Department of Cybersecurity and High-Tech Crime Prevention, Ministry of Public Security of Vietnam, said that the situation of cybercrime and high-tech crime is increasing in both quantity and scale. There are many dangers to women and girls. Many sophisticated tricks are used by the objects such as cheating on love and money online to appropriate the property of the victims, which are often emotionally deprived, lonely and gullible women. In fact, over the years, criminals have used the social network WhatsApp, some Nigerian subjects pretending to be foreign soldiers and doctors to make friends and get acquainted with Vietnamese women. After a while of talking and asking for love, this group of foreigners will express their desire to give gifts and send high-value foreign currency to the victims as bait. When they get the victim's information, they pass it on to other subjects

¹ Vietnam Internet Usage Report 2020-2025: Viet Nam, link: <https://marketreport.io/internet-usage-in-vietnam-report>.

² Draft report on development of Decree on Personal Data Protection, 2019, link: <https://bocongan.gov.vn/vanban/Pages/van-ban-moi.aspx?ItemID=418>, access date: 20.06 .2023.

living in Cambodia to get information about bank accounts that scam women, causing very serious consequences³. They steal women's bank account information and appropriate property, a situation that banks warn about a lot. According to the statistics of Viettel Threat Intelligence, there were 1,976 phishing attacks and 1,108 impersonation attacks in the second half of 2021, an increase of 3 times compared to the first one. These campaigns have become more sophisticated and challenging to detect because they accessed the phishing sites by subdomain or by phone⁴.



Source: Retrieved from Viettel Security (30/10/2023)⁵

1.3Third, having many scientific research and publications related to women's personal data protection will contribute to raising the awareness of Vietnamese women about the protection of their own personal data, especially personal data sensitive personal data...Through research results provide women with legal knowledge to prevent women's personal data behavior.

Part 2. Current Vietnamese legal regulations on the protection of women's personal data

2.1First, the definition of women's personal data

On April 17, 2023, the Government of Vietnam issued Decree No. 13/2023/ND-CP regulating the protection of personal data, this document takes effect from July 1, 2023. Decree

No. 13 stipulates personal data protection and personal data protection responsibilities of relevant agencies, organizations and individuals. This Decree shall apply to Vietnamese agencies, organizations and individuals; foreign agencies, organizations and individuals in Vietnam; Vietnamese agencies, organizations and individuals operating abroad; foreign agencies, organizations and individuals directly participating in or related to personal data processing activities in Vietnam. According to this Decree, women's personal data is understood as information in the form of symbols, letters, numbers, images, sounds or the like on the electronic environment associated with a particular woman. can or help identify a particular woman. General personal data and women's personal data include: firstly, basic personal data (first and last name, date of birth, gender, place of birth, nationality, personal image, phone number, identity card number, citizen identification number, account number, personal identification number, license plate, tax code, ...) and secondly, sensitive personal data (opinion) politics, religion, health status, racial origin, genetics, sex life, location data, credit institution customer information, etc.)⁶.

Decree 13 stipulates: Protection of women's personal data is the prevention, detection, prevention and handling of violations related to women's personal data in accordance with the law.

2.2Second, the provisions of Vietnamese law on the protection of women's personal data

2.2.1Firstly, Vietnamese law already stipulates prohibited acts with respect to women's personal data

Article 8 of Decree 13 stipulates that prohibited acts include:

(i) Processing personal data contrary to the provisions of the law on protection of personal data. For example, collecting women's personal data without her consent.

(ii) Processing personal data to create information and data to fight against the State of the Socialist Republic of Vietnam;

³ Vietnam Women's Union, "The dangers of cyberspace for women are increasingly unpredictable", link: <https://hoilhpn.org.vn/web/guest/tin-chi-tiet/-/chi-tiet/cac-hiem-hoa-tren-khong-gian-mang-doi-voi-phu-nu-ngay-cang-kho-luong-54505-8.html>, accessed date: 12.06.2023.

⁴ Link: <https://blog.viettelcybersecurity.com/vietnam-cybersecurity-market-report-in-2021/> accessed date: 12.06.2023.

⁶ Decree No. 13/2023/ND-CP on Personal Data Protection, link to access documents: <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-13-2023-ND-CP-bao-ve-du-lieu-ca-nhan-465185.aspx>, accessed date: 12.06.2023.

(iii) Processing personal data to create information and data that affect national security, social order and safety, and legitimate rights and interests of other organizations and individuals;

(iv) Obstructing personal data protection activities of competent authorities;

(v) Taking advantage of personal data protection activities to violate the law. For example: Through the fact that women provide evidence of personal data infringement cases, the data recipients then illegally transfer personal data to bad platforms, dark web sites aimed at evading people for profit.

2.2 Second, Vietnamese law already has provisions on measures to protect women's personal data

Decree 13/2023/ND - CP stipulates personal data protection measures to be applied from the very beginning and throughout the processing of personal data.

Depending on who implements personal data protection, personal data protection measures include:

(i) Management measures taken by organizations and individuals related to the processing of personal data; (ii) technical measures taken by organizations and individuals related to the processing of personal data; (iii) measures taken by competent State management agencies in accordance with this Decree and relevant laws; (iv) investigative and procedural measures taken by competent State agencies; (v) other measures prescribed by law.

Depending on the type of personal data to be protected, personal data protection measures include:

(i) The basic protection of women's personal data is the application of basic personal data protection measures through the development and promulgation of regulations on the protection of personal data, specifying the what needs to be done according to the provisions of this Decree; encourage the application of personal data protection standards appropriate to the fields, industries and activities related to the processing of personal data; check the network security of the system and the means and equipment for personal data processing before processing, irrecoverable deletion or destruction of devices containing personal data.

Protection of women's sensitive personal data means that the subject has the right to apply basic personal data protection measures, and at the same time to designate a department with the

function of protecting personal data; appoint personnel in charge of personal data protection and exchange information about the department and individual in charge of personal data protection with the Personal Data Protection Authority. In case the personal data controller, personal data controller and processor, data processor or third party is an individual, it is necessary to exchange information about the individual performing; notify the data subject of the processing of the data subject's sensitive personal data, except in some specified cases.

2.3 Third, Vietnamese law already has regulations on agencies in charge of protecting women's personal data

According to the provisions of Article 19 of Decree 13/2023/ND - CP, the agency in charge of personal data protection is the Department of Cybersecurity and High-Tech Crime Prevention and Control (Ministry of Public Security), responsible for: Responsible for assisting the Ministry of Public Security in performing the State management of personal data protection. Decree 13 also stipulates the National Portal on Personal Data Protection to provide information on the Party's guidelines, guidelines and policies, and the State's laws on personal data protection; propagate and disseminate policies and laws on protection of personal data; update information, personal data protection situation; receive information, records and data on personal data protection activities through cyberspace; provide information on assessment results of personal data protection work of relevant agencies, organizations and individuals.

In addition, the National Personal Data Protection Portal receives notifications of violations of regulations on personal data protection; warn and coordinate in warning about risks and violations of personal data in accordance with the law; handle violations of personal data protection in accordance with the law; perform other activities in accordance with the law on protection of personal data.

Part 3. Difficulties and obstacles when implementing legal regulations on protection of women's personal data in Vietnam

3.1 Firstly, women's awareness regarding self-protection of personal data is not high, leading to the initiative in protecting personal data and the self-discovery of personal data breaches by women. to complain and denounce is not really

effective. Vietnam still has nearly 27% of the population lacking Internet connectivity at the beginning of 2022, and nearly 6 out of 10 girls and boys aged 15-24 do not have basic ICT skills. Some studies on human resources with information technology capabilities in general and women with digital capabilities in particular have not yet developed commensurate with their potential⁷. This fact leads to many cases where women do not realize that they are victims of personal data breaches, and fail to promptly prevent them, leading to extremely serious consequences. For example: The case that female singer V.M.H of Vietnam had a bad guy infiltrate the camera at her home and reveal a lot of her sensitive data, leading to her being severely psychologically affected. The female singer is an influence on the public, when her sensitive images were infringed and made public illegally, V.M.H suffered and suffered a severe breakdown⁸.

3.2Second, Decree No. 13/2023/ND-CP has just been issued, so state management agencies will also need to introduce new technology applications, review, inspection and evaluation tools, automatic monitoring to detect violations of personal data protection early, especially when there are many systems that collect and process personal data.

3.2Third, the newly issued Decree No. 13/2023/ND-CP needs time to verify the operational efficiency. At the same time, the direct regulations on the protection of small-scale handicrafts just stop at the Decree with many regulations that will not be effective. Example: Regulations on the limitation of personal data protection rights of data subjects - women to personal data.

Part 4. Proposing solutions to improve the effectiveness of the application of the law on protection of women's personal data in Vietnam

4.1Firstly, strengthen the digital capacity of citizens, especially Vietnamese women

Vietnamese women need to know the importance of their personal data, need to be equipped with knowledge and understand how to infringe personal data of bad actors. Women need

to be equipped with technological knowledge to be able to take measures to protect personal data on their own. For example: Women need to know how to install two-layer security for electronic devices or avoid installing cameras in private areas such as bedrooms, bathrooms, family rooms, etc. used to infiltrate and reveal sensitive data.

4.2Second, strengthen propaganda activities to disseminate the law on protection of personal data for women

Decree No. 13/2023/ND-CP on the protection of personal data in general has just been issued, so it is necessary for the coordination of agencies, including the Vietnam Women's Union, in public propaganda activities. change the law for women to understand their rights and obligations in the protection of personal data. Women need to know when their personal data is compromised what action they need to take, how to notify a personal data protection authority, and how specific personal data can be protected.

4.3Third, strengthen international cooperation in the protection of women's personal data

The Vietnam Women's Union, the agency in charge of protecting personal data in Vietnam, needs to strengthen international cooperation activities in researching solutions to protect the personal data of Vietnamese citizens. Through international cooperation activities, learn and transfer experiences in the prevention, detection, prevention and handling of violations of women's personal data. Researching specific personal data breach situations in countries with high technology level, thereby learning from experience in handling similar situations when these cases occur in Vietnam. Thereby, improving the effectiveness of personal data protection activities, protecting the legitimate rights and interests of Vietnamese women.

Conclusions

Overall, the introduction of Decree No. 13/2023/ND-CP on personal data protection has provided an important legal basis for protecting

⁷ "Digital literacy" - indispensable capacity for citizens in the digital age, access link: <https://mt.gov.vn/cntt/tintuc/1209/84225/-hieu-biet-so- ---nang-luc-khong-the-thieu-doi-voi-cong-dan-thoi-dai-so.aspx>, accessed date: 20.06.2023.

⁸ How was the person who spread Van Mai Huong's sensitive clip? Access link: <https://kienthuc.net.vn/xa-hoi/ke-phat-tan-clip-nhay-cam-cua-van-mai-huong-bi-xu-the-nao-1323143.html>, accessed date: 20.06.2023.

women's personal data in Vietnam. Decree No. 13/2023/ND - CP has granted women the right to self-determination regarding personal data in agreeing or not consenting to the processing of their data by other subjects. Vietnamese legal regulations are basically close to international legal regulations on personal data protection, with many regulations similar to the EU's GDPR 2016 on the rights of data subjects⁹, with a competent authority specializes in protecting personal data like China, has a mechanism to report personal data infringements like Australia's 1988 Privacy Protection Act... In the coming time, to improve efficiency to protect women's personal data, Vietnam needs to:

(i) Promulgation of the Law on Personal Data Protection: Personal data protection is associated with protecting the privacy of data subjects and protecting the human rights of data subjects. Therefore, the mere provisions in the Decree are not enforceable enough to protect personal data, Vietnam needs to develop a Law on Personal Data Protection to provide a strict, enforceable legal basis. High standards for personal data protection¹⁰.

(ii) Need to ensure independence for personal data protection agencies: Personal data protection agencies need to ensure independence in finance, organization, and personnel to ensure independence in operations .

(iii) It is necessary to improve technological capacity and increase legal understanding of women's personal data protection to support this group of subjects in self-awareness and effective self-protection of their personal data¹¹.

(iv) Investment in infrastructure development: Protecting women's personal data is an activity that requires close coordination between sectors and levels in all fields, especially coordination. of technologists and lawmakers to build a legal framework that regulates effective and feasible personal data protection.

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⁹ Tran Thi Thu Phuong, "European Union General Regulations on personal data protection and some recommendations to the National Assembly and Government of Vietnam", *Journal of Legislative Studies*, No. 23 (447) December 2021.

¹⁰ Chu Thi Hoa, "Vietnamese law on personal data protection: Current status and the way forward, Workshop "Sharing experiences on developing and enforcing laws on

personal data protection", Institute of War strategy and legal science, Ministry of Justice, October 2023.

¹¹ Vietnam Women's Union, "Decision Promulgating the Scientific Research Program on Women and Gender Equality of the Vietnam Women's Union for the period 2023 – 2027". Link: <https://hoillhpn.org.vn/>

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