Fighting Domestic Violence - Vietnam

1. Legal provisions

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# 1.1 What are the relevant statutes and codes?

The relevant statutes and codes include the following:

2013 Constitution of Vietnam

Male and female citizens are equal in all aspects

Law No. 02/2007/QH12

The Law on Prevention of Domestic Violence

Penal Code

Criminalization of specific actions related to domestic violence

Decree No. 08/2009/ND-CP

Decree detailing and guiding the implementation of the Law on Prevention of Domestic Violence

Decree No. 167/2013/ND-CP

Decree on administrative sanctions in social order and security, the prevention of social evils, the prevention of fire and the prevention of domestic violence

1979 Convention on the Elimination of All Forms of Discrimination Against Women

Convention on rights for women in civil, political, economic, social and cultural fields

# 1.2 What is the controlling case law?

Vietnam is a civil law jurisdiction and, in general, court judgments are not binding. There is a project by the Supreme Court of Vietnam to recognize certain court judgments as precedents. As of the date of this report, there is no recognized court judgment precedent specifically addressing domestic violence in Vietnam.

# 1.3 What are the specific parts of the court system that address domestic violence?

Vietnamese court trials are divided into two levels of trials for all categories of cases (civil, criminal and administrative), which are the first instance and appellate trials.

Domestic violence can be addressed by first instance trials in a civil or criminal case (if the domestic violence amounts to an offense under the Penal Code). If the first instance judgments/decisions are appealed, the case will be escalated to the appellate trials.

# 1.4 What are potential causes of action?

We understand that "causes of action" refer to the factual elements that allow for a legal remedy in a lawsuit.[1] Vietnamese laws do not have any identical concept.

However, according to the Civil Code, a person can be subject to civil lawsuits for violating a person's life, health, honor, dignity, reputation, property, or other legal rights or interests that result in damage.

Per the Family and Marriage Law (defined in Section 2.5), parents' rights over their minor children can be restricted due to the following reasons, including domestic violence against their children:

if parents are convicted of any crime that intentionally violates their children's health, life, honor or dignity or that severely violates their obligations of childcare toward their children

if parents damage their children's property

if parents have a corrupt lifestyle — some local courts have interpreted that a corrupt lifestyle may include drug abuse, alcoholism, storing or purchasing or selling pornographic or violent materials[2]

if parents solicit or force their children to do illegal or unethical things

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