

Protecting human rights through trade: lessons from the *EU–Vietnam Free Trade Agreement*

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Abstract: The *EU–Vietnam Free Trade Agreement (EVFTA)* marks a significant milestone in Vietnam’s trade policy, integrating human rights protection alongside economic objectives. Ratified in 2020, the *EVFTA* requires Vietnam to align its legal framework with international standards. This paper examines the *EVFTA*’s human rights mechanisms through two key questions: the effectiveness of the agreement in promoting human rights alongside economic development and the extent of Vietnam’s legislative adaptations to fulfil its obligations. Using a doctrinal methodology, the study finds that, despite substantial legal reforms, enforcement remains weak due to legal inconsistencies and governance challenges. To enhance compliance, the paper recommends internalization of treaty obligations, legal reforms, improved stakeholder coordination and greater transparency to strengthen human rights protection under the *EVFTA*.

Keywords: *EU, EVFTA, human rights, Vietnam*

1. Introduction

The integration of human rights into trade agreements has become increasingly significant in global trade policies over the past few decades. Reflecting this trend, the *EVFTA* incorporates specific commitments to human rights, particularly labor rights and environmental protection, within its framework. The Agreement builds on Vietnam's long-standing cooperation with the European Union (EU), dating back to the 1995 *Vietnam–European Community Cooperation Framework Agreement*. The *EVFTA* evolved from the 2012 *Partnership and Cooperation Agreement (PCA)*, which explicitly commits both parties to upholding democracy and human rights. Concluded in 2015 and ratified in 2020, it stands as one of Vietnam's most comprehensive FTAs, merging economic objectives with commitments to sustainable development. By embedding these obligations, the EU aims to drive both economic growth and legal reforms in Vietnam. However, the Agreement's reliance on cooperative mechanisms rather than binding enforcement raises concerns about its effectiveness in ensuring substantive compliance.

This study examines the human rights mechanisms in the *EVFTA*, focusing on its provisions and Vietnam's legislative adaptations. It analyzes the Agreement's alignment with international legal standards, including the International Labor Organization (ILO) conventions, the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* and the *United Nations Guiding Principles on Business and Human Rights (UNGPR)*. While Vietnam has introduced reforms such as recognizing independent labor unions and strengthening environmental regulations, enforcement remains inconsistent. The study highlights the limitations of cooperative mechanisms and advocates for enforceable obligations. It concludes that the *EVFTA* has the potential to advance human rights in trade policy and serve as a model for future FTAs.

2. Human rights provisions in the *EVFTA*

2.1 The scope of human rights in the *EVFTA*

Although primarily a trade agreement, the *EVFTA* integrates human rights provisions, reflecting a comprehensive approach to trade and sustainable development. It mandates that economic cooperation align with the principles of *PCA*, particularly in terms of respect for human rights. This commitment is explicitly stated in the *EVFTA*'s preamble, in which both parties commit to strengthening economic ties while upholding sustainable development, environmental protection and labor standards in line with international agreements.

The concept of human rights in the *EVFTA* is interpreted in a broad and inclusive manner, incorporating three main categories: first-generation rights (civil and political rights), second-generation rights (economic, social and cultural rights) and third-generation rights (environmental, security and development-related rights).

First-generation rights: civil and political rights

Encompassing civil and political rights such as the right to life, freedom of speech and freedom of belief, first-generation human rights are primarily addressed in the *EVFTA* through its reaffirmation of commitments under existing international human rights instruments such as the *United Nations Charter 1945* and the *Universal Declaration of Human Rights 1948 (UDHR)*. While the *EVFTA* does not impose direct human rights obligations upon businesses, it incorporates provisions on corporate social responsibility and references international standards for protecting human rights in the trade and investment context. Furthermore, the *EVFTA* links human rights considerations to potential trade measures. Under Article 17(18) of the *EVFTA*, if one party commits a serious breach of human rights, as outlined in the *PCA*, the other party may impose appropriate measures, including trade-related responses. However, while these provisions formally integrate civil and political rights into the Agreement, their enforcement remains largely dependent on diplomatic engagement rather than binding dispute-resolution mechanisms.

Second-generation rights: economic, social and cultural rights

The *EVFTA* explicitly acknowledges the importance of economic, social and cultural rights through its commitment to labor rights, social

protections and intellectual property (IP) rights. Labor rights are protected in the *EVFTA* by referencing international standards and conventions within the framework of the ILO. However, Vietnam's domestic labor policies sometimes diverge from these standards, posing challenges in implementation. For instance, while Vietnam has made significant strides in aligning with ILO conventions, issues such as restrictions on independent labor unions and the enforcement of collective bargaining rights remain complex. The balance between international labor obligations and domestic sociopolitical constraints continues to shape the practical realization of these commitments. This recognition emphasizes the ILO conventions in addressing labor issues in a globalized economy. To integrate social standards into the *EVFTA*, the EU has reinforced the parties' commitments and obligations as ILO members, elevating them to a more comprehensive and ambitious level (Nguyen, 2024, p. 116). The Agreement reaffirms the parties' commitment to promoting fundamental labor rights in alignment with the ILO core conventions. Article 13(4) of the *EVFTA* commits the parties to uphold four labor rights: (1) freedom of association and the right to collective bargaining, (2) elimination of all forms of forced or compulsory labor, (3) abolition of child labor and (4) elimination of discrimination in employment and occupation. However, enforcement mechanisms remain relatively weak, as trade sanctions are not explicitly linked to non-compliance with labor rights provisions.

The Agreement also recognizes the role of IP rights in promoting economic and social rights. Chapter 12 of the *EVFTA* establishes comprehensive IP protections, covering all categories prescribed in the *TRIPS Agreement*. The Chapter aims to foster a sustainable and inclusive economy for both parties by setting robust standards for the protection and enforcement of IP rights (Nguyen, 2022, p. 90). The *EVFTA* introduces commitments to protect against unfair competition and adheres to the most-favored-nation (MFN) principle. Notably, the *EVFTA* (Article 12(39)) balances IP protection with public health concerns, affirming that enforcement should not impede access to essential medicines in line with the *Doha Declaration on TRIPS and Public Health*. These provisions also aim to strike a balance between encouraging the development of new medicines and facilitating the availability of generic medicines. In addition, the *EVFTA* incorporates commitments to other cultural rights and artistic expression. These rights are reinforced through the robust protection of copyright and investment laws, which serve to safeguard creative endeavors and cultural heritage.

Third-generation rights: environmental, security and developmental rights

The *EVFTA* incorporates third-generation rights through commitments that address issues related to the environment, security and sustainable development (Ngo, 2019, p. 92). Article 13(5) of the *EVFTA* highlights the importance of multilateral environmental agreements and international cooperation in addressing global environmental challenges. The Agreement promotes high levels of environmental protection by encouraging legal and policy frameworks that address issues such as climate change, biodiversity conservation and pollution control (*EVFTA*, Article 13(6)). However, Vietnam faces specific environmental issues such as industrial pollution, deforestation and overexploitation of natural resources. Although the *EVFTA* encourages high levels of environmental protection, its provisions may not comprehensively address these pressing concerns. For instance, mechanisms for enforcing sustainable practices in industries contributing to pollution remain limited, and the impact of Agreement on curbing deforestation is yet to be fully realized. These challenges highlight the need for stronger domestic measures to complement *EVFTA* commitments.

The *EVFTA* also incorporates provisions on trade-related environmental governance, requiring parties to consult and cooperate on environmental issues and adopt sustainable resource management policies. The parties commit to consulting and cooperating on trade-related environmental issues to the greatest possible extent (*EVFTA*, Articles 13(6)(1), 13(7) and 13(8)). The *EVFTA* further integrates sustainability by encouraging responsible trade practices in key areas, including wildlife protection and the regulation of wildlife products, ensuring legality in timber trade and promoting the trade of environmentally friendly goods. These commitments demonstrate the Agreement's holistic approach to third-generation rights, linking trade policies with broader goals of environmental conservation, security and sustainable economic development.

2.2 Mechanisms for human rights protection in the *EVFTA*

The *EVFTA* addresses human rights responsibilities in business by recognizing the obligations of both businesses and the member state. This optimal goal of the Agreement is reflected in the provisions of Chapter 13 'Trade and sustainable development' (TSD). Notably, this chapter includes

provisions that explicitly or implicitly address obligations to uphold human rights and a specialized mechanism to resolve disputes (Gammage, 2018, p. 8). Beyond this chapter, the *EVFTA* integrates additional provisions related to human rights across various sections of the Agreement. These regulations establish mechanisms for the protection of human rights in key areas, including labor rights, environmental sustainability and intellectual property rights.

2.2.1 Protection of labor rights

Regarding labor rights, the *EVFTA* (Article 13(4)) does not establish labor standards, but instead reaffirms those set forth in the eight fundamental ILO conventions. These rights are upheld through measures such as promoting decent work, setting minimum wages, regulating working hours, ensuring occupational health and safety, enforcing labor laws, fostering corporate social responsibility and facilitating labor dialogue. Concerning the responsibilities of businesses, the *EVFTA* emphasizes the promotion of corporate social responsibility (CSR) as a core principle (*EVFTA*, Article 13(10)). At the same time, state parties are obligated to commit to measures ensuring that these principles are implemented in a manner that avoids arbitrary or unjustifiable discrimination or disguised restrictions on trade (*EVFTA*, Article 13(10)). To support the implementation of CSR, the Agreement outlines various measures, including the exchange of information and best practices, education and training initiatives and the provision of technical advice, thereby fostering a more equitable and responsible approach to labor rights.

2.2.2 Environmental protection and intellectual property rights

Similarly, the environmental commitments outlined in the *EVFTA* (detailed in Chapter 13) reaffirm adherence to the principles enshrined in multilateral environmental agreements to which the parties are signatories, including the *Convention on Biological Diversity (CBD)*, the *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*, the *United Nations Framework Convention on Climate Change (UNFCCC)*, and the *Forest Law Enforcement, Governance and Trade (FLEGT)* initiative, among others (*EVFTA*, Article 13(4)). The Agreement mandates that parties endeavor to maintain high levels of environmental protection and explicitly prohibits reducing the legal efficacy of environmental regulations to attract trade and investment. While each party retains the discretion to determine its environmental protection measures, these standards must not fall

below the commitments established in other multilateral environmental agreements (Ngo, Nguyen and Nguyen, 2020, p. 669).

Regarding IP rights, the commitments of the parties are outlined in Chapter 12. The primary objective of this chapter is to foster the creation, production and commercialization of innovative and creative products between the parties, thereby contributing to a more sustainable and inclusive economy for each party (*EVFTA*, Article 12(1)). Additionally, it aims to establish an adequate and effective level of protection and enforcement of intellectual property rights. Commitments in this area encompass various aspects of intellectual property including copyrights, inventions, patents as well as provisions related to pharmaceuticals and geographical indications.

2.2.3 Dispute settlement mechanism

In order to achieve the goal of ensuring the above commitments, Chapter 13 of the *EVFTA* adopts a soft approach in dealing with infringements of provisions in this chapter. This means that any dispute under this chapter shall be settled through government-to-government consultations and cooperation on joint platforms (Navasartian, 2020, p. 567), rather than through ordinary dispute settlement procedure equipped in this Agreement. To facilitate such cooperation, Articles 13(15) and 13(17) of the *EVFTA* provide for the designation of a contact point within the administration of each party and for establishing three different (sets of) bodies with varying responsibilities: the Committee on Trade and Sustainable Development, domestic advisory groups (DAG) and a panel of experts.

- 1) *The Committee on Trade and Sustainable Development* comprises senior officials from the relevant administration of each party. It is instituted under the guidance of the Trade Committee, established under Article 17 of the FTA, which possesses general competence for the oversight of the correct implementation of the FTA.
- 2) Chapter 13 allows each state party to set up its own *domestic advisory group* (DAG). These groups are to be comprised of independent representative organizations, ensuring a balanced representation of economic, social and environmental stakeholders. The main function of the DAGs is to submit views and recommendations to their respective parties on the implementation of Chapter 13. The two DAGs should meet once a year in a joint forum for dialogue on the Chapter and may include in those fora other stakeholders as well.
- 3) *A panel of experts* serves as a key enforcement mechanism under the *EVFTA*'s TSD chapter. According to the Agreement, the Committee

on Trade and Sustainable Development must establish this panel at its first meeting following the *EVFTA*'s entry into force. The panel consists of independent experts with specialized knowledge in labor and/or environmental law, tasked with reviewing disputes when issues remain unresolved. If a labor rights violation or environmental concern arises and is not satisfactorily addressed by the Committee on Trade and Sustainable Development within 120 days (or within an extended period agreed upon by both parties), the panel of experts is convened to conduct an in-depth examination. This mechanism provides an additional layer of oversight, helping to ensure compliance with *EVFTA* labor commitments, including those related to fundamental ILO conventions. For example, if Vietnam fails to adequately enforce provisions on freedom of association and collective bargaining and independent worker organizations encounter barriers to registration or operation, the panel of experts could be activated. In this scenario, EU trade unions or civil society groups could raise concerns through DAGs, prompting the EU and Vietnam to hold consultations under the TSD Committee. If Vietnam fails to take corrective action within the designated timeframe, the matter could escalate and be brought before the panel of experts, who would conduct an independent review, issue a public report with recommendations and push for corrective measures to bring Vietnam's policies in line with its ILO and *EVFTA* obligations.

2.3 Features and limitations of human rights protection mechanisms in the *EVFTA*

The *EVFTA* incorporates human rights considerations as a fundamental aspect of its framework, reflecting the EU's commitment to linking trade to sustainable development and democratic values. However, while the agreement includes mechanisms for addressing human rights issues, their effectiveness remains limited. Based on the above analysis, human rights protection under the *EVFTA* can be described as follows:

2.3.1 Reaffirmation of existing human rights commitments in international law

The *EVFTA* does not introduce new human rights obligations for state parties but rather reinforces commitments already established in international treaties. In principle, this reinforces Vietnam's obligations under existing human rights conventions, ensuring that the *EVFTA* does not permit deviations from prior agreements, particularly the PCA. The *EVFTA*

strengthens these commitments by linking human rights compliance with trade-related measures. Specifically, Article 17(18) allows a party to adopt “appropriate measures” if the other party commits a fundamental breach of the PCA. Despite this formal linkage, practical enforcement of human rights commitments through trade sanctions remains uncertain. While the EU retains the right to impose trade-related measures in response to serious human rights violations, such actions are politically sensitive and rarely implemented due to economic and diplomatic considerations. The absence of clear criteria for triggering such measures further limits their deterrent effect. Consequently, while the *EVFTA* theoretically reinforces human rights protection, its effectiveness in compelling compliance is debatable.

2.3.2 Distinctive dispute resolution procedure for human rights issues

The *EVFTA*’s dispute resolution mechanism differentiates human rights violations: breaches of civil and political rights fall under the PCA, while labor, environmental and sustainability issues are addressed through non-binding mechanisms such as consultations and expert panels. Chapter 13 is excluded from the binding dispute settlement in Chapter 15, which means that while commercial violations face enforceable arbitration, labor and sustainability breaches rely solely on diplomatic dialogue and persuasion. From a textual perspective, it appears that the inclusion of Chapter 13 was offset by the exclusion of binding obligations (Bronckers and Gruni, 2019, p. 1597). The lack of enforceability significantly weakens the effectiveness of human rights protection within the *EVFTA*, as it fails to provide concrete legal consequences for non-compliance. Without stronger enforcement provisions, this dispute resolution framework remains largely procedural rather than substantive. Although the two procedures share similarities, the latter includes provisions for arbitration in the event of an unresolved dispute, stricter compliance requirements for the final report and a system of remedies if a party fails to comply. Consequently, it is regrettable that the dispute resolution mechanism in Chapter 13 is not integrated into the broader dispute settlement framework established in Chapter 15 (Navasartian, 2020, p. 569). This imbalance raises concerns about the effectiveness of the Agreement’s human rights commitments and emphasizes the need for stronger enforcement mechanisms to ensure meaningful compliance.

2.3.3 The soft approach to sustainable development obligations

The *EVFTA*'s approach to human rights in the context of sustainable development is largely non-binding, limiting its ability to drive tangible improvements. Chapter 13 includes commitments to labor rights and environmental protection, but its language is mostly declaratory rather than imposing specific legal obligations. Moreover, the chapter lacks accountability mechanisms, penalties for non-compliance or any form of direct enforcement, making it difficult to ensure that commitments translate into meaningful policy changes. The reliance on voluntary adherence rather than binding obligations creates a fundamental weakness in the *EVFTA*'s human rights framework. Without legal consequences for breaches, sustainable development and labor rights commitments depend entirely on the goodwill of the parties rather than enforceable legal guarantees. While the inclusion of these provisions signals a political commitment to human rights, their practical impact remains uncertain due to the absence of concrete enforcement mechanisms.

3. Legislative reforms in Vietnam: Responses to the *EVFTA* and a critical evaluation

3.1 Vietnam's legislative reforms: aligning with the *EVFTA*'s commitments

3.1.1 Overview of the legislative reform in Vietnam

Since the initiation of the Doi Moi ('renovation') reforms in the 1980s and Vietnam's subsequent transition to a socialist market economy, the country has adopted a development model focused on international integration (Marslev and Staritz, 2023, p. 1130). Throughout this process, Vietnam has consistently recognized its people as both the ultimate goal and the driving force behind national development (Nguyen *et al.*, 2024, p. 680). Vietnam expects the *EVFTA* to enhance economic and social rights by boosting production, job creation and living standards while strengthening labor and environmental regulations. To meet its commitments, Vietnam has undertaken significant legislative reforms, particularly in labor rights, aligning domestic laws with international standards. Having ratified twenty ILO conventions, including key agreements on employment age, equal pay, non-discrimination and forced labor, Vietnam builds a solid legal foundation to fulfil its *EVFTA* obligations. Vietnam's participation in major FTAs such as the *CPTPP* and *EVFTA* has driven extensive legal reforms to meet its commitments. The National Assembly adopted 'Resolution No. 72/2018/

QH14’ and ‘Resolution No. 102/2020/QH14’, both emphasizing the necessity of revising and supplementing key legal frameworks. As part of this effort, numerous laws have been amended or enacted over the past decade to ensure full compliance with the new FTAs obligations.

Table 1: Vietnam’s legislative reforms in response to the *EVFTA*’s commitments

Category	Reform measures	Legal instruments	Implementation status	<i>EVFTA</i> obligation addressed
Labor standards	Ratification of ILO fundamental conventions: CO182, CO29, CO98, CO100, CO105, CO111, CO138	CO182, CO29, CO98, CO100, CO105, CO111, CO138	Implementation processing	Compliance with the <i>EVFTA</i> ’s commitments on labor rights (Chapter 13)
	Amendments to the <i>Labor Code</i> to strengthen worker rights	<i>Labor Code 2019</i>	In effect since January 2021	Alignment with the <i>EVFTA</i> ’s labor protection standards (Chapter 13)
	Amendment to the <i>Law on Trade Unions</i>	<i>Law on Trade Unions 2024</i>	In effect since January 2025	Alignment with the <i>EVFTA</i> ’s labor protection standards (Chapter 13)
Environmental protection	Amending the <i>Law on Environmental Protection</i> to strengthen environmental impact assessment regulations	<i>Law on Environmental Protection</i> (amended 2020)	Enforced in January 2022	Compliance with sustainable development commitments (Chapter 13)
	Enhancing corporate responsibility for sustainable practices	<i>National Green Growth Strategy</i> (2021–2030)	Implementation in progress	Promoting corporate social responsibility and green policies (Chapter 13)
Investment and trade regulations	Revisions to investment laws to ensure fair competition	<i>Law on Investment</i> (amended 2020)	In effect since 2021	Ensuring a level playing field for businesses and foreign investors (Chapter 8)
	Enacting new law on insurance trade	<i>Law on Insurance Trade 2022</i>	In effect since January 2023	Compliance to the <i>EVFTA</i> ’s commitments (Allowing the establishment of branches of foreign reinsurance companies)

Category	Reform measures	Legal instruments	Implementation status	EVFTA obligation addressed
Governance reforms	Enhancing transparency and anti-corruption measures	<i>Anti-Corruption Law 2018</i>	Active implementation	Compliance with the EVFTA's provisions on good governance and transparency (Chapter 15)
	Expanding anti-bribery regulations to cover private sector corruption	'Decree No. 59/2019/ND-CP'	Enforced from July 2019	Strengthening anti-corruption in business and public sectors (Chapter 15)
	Improving public participation in policy-making	<i>Law on Access to Information 2016</i>	In effect since 2018	Increasing stakeholder engagement and transparency (Chapter 15)
Intellectual property rights	Ratifying the <i>WIPO Copyright Treaty – WCT</i>	<i>WIPO Copyright Treaty – WCT</i>	In effect since February 2022	Fulfilment the obligation in the EVFTA
	Ratifying the <i>WIPO Performances and Phonograms Treaty – WPPT</i>	<i>WIPO Performances and Phonograms Treaty – WPPT</i>	In effect since July 2022	Fulfilment the obligation in the EVFTA
	Strengthening protection of trademarks, patents, and geographical indications	<i>Law on Intellectual Property</i> (amended in 2022)	Enforced in January 2023	Compliance with the EVFTA's commitments on IP protection (Chapter 12)
	Enhancing enforcement measures against IP infringement	'Decree No. 126/2021/ND-CP'	Enforced in January 2022	Administrative sanctions for violations in the field of industrial property (Chapter 12)
	Expanding copyright and related rights protection	'Decree No. 17/2023/ND-CP'	In effect since April 2023	Strengthening copyright and related rights enforcement (Chapter 12)
	Strengthening protection of rights to plant varieties	'Decree No. 79/2023/ND-CP'	In effect since 15 November 2023	Measures to enforce the <i>Law on Intellectual Property</i> on rights to plant varieties (Chapter 12)
	Enhancing enforcement measures against IP infringement	'Decree No. 46/2024/ND-CP'	In effect since July 2024	Administrative sanctions for violations in the field of industrial property (Chapter 12)

Two notable legislative reforms contributing to this effort include the adoption of the *Labor Code 2019* and the *Law on Trade Unions 2024*. Both laws introduced significant changes aimed at enhancing labor rights, safeguarding workers and promoting decent labor practices in line with Vietnam’s commitments under the *EVFTA*.

3.1.2 The *Labor Code 2019* and the *Law on Trade Unions 2024*: advancing compliance with the *EVFTA*’s commitments

Approved by the National Assembly on 20 November 2019, the 2019 *Labor Code* represents a landmark reform in Vietnam’s labor law framework. With its progressive provisions, the Code aligns Vietnam’s labor standards more closely with international obligations, enhancing worker protection and promoting fair labor practices (Henriett, Nguyen and Nguyen, 2023, p. 85).

The *Labor Code (Vietnam) 2019* introduces significant reforms to strengthen worker protections and align with international labor commitments. One notable change is the recognition of employment relationships beyond formal contracts (*Labor Code 2019*, Article 3(6)). By closing previous loopholes, this expansion reduces worker vulnerability and improves the enforcement of labor rights. However, challenges remain in ensuring compliance, as many informal workers continue to face difficulties in claiming their rights owing to weak enforcement mechanisms. The Code also modernizes worker representation by allowing the formation of “employee organizations at enterprises”, breaking the monopoly of grassroots trade unions under the Vietnam General Confederation of Labor (VGCL) (*Labor Code 2019*, Article 3(3)). This reform aligns with Vietnam’s commitments under the *CPTPP* and *EVFTA*, reflecting efforts to comply with the *ILO Convention No. 87 on Freedom of Association*. However, these organizations still operate under state oversight, raising concerns about their independence and effectiveness in genuinely representing workers’ interests.

Additionally, clearer regulations on apprenticeship and training address exploitative practices by capping apprenticeship periods at three months (*Labor Code 2019*, Article 25) and aligning training duration with vocational education requirements (*Labor Code 2019*, Article 61). The Code also strengthens workplace gender equality through enhanced maternity protections, anti-sexual harassment measures (*Labor Code 2019*, Article 3(8)(9)), and prioritizes contract renewals for pregnant employees (*Labor Code 2019*, Articles 137 and 138). These align with *ILO Conventions No. 183 on Maternity Protection* and *No. 190 on Violence and Harassment*. However,

cultural and institutional barriers still hinder its effective implementation. Stricter safeguards for juvenile workers reinforce Vietnam's commitment to eliminating child labor, in line with its obligations under ILO Conventions No. 138 and No. 182. While these provisions represent progress, gaps remain in addressing child labor in informal sectors, where monitoring mechanisms are weaker. Failure to comply with these protections not only risks harming workers but also jeopardizes Vietnam's reputation and market competitiveness (Khuyen and Nguyen, 2021, p. 482).

Building on the reforms introduced by the *Labor Code 2019*, the National Assembly approved the *Law on Trade Unions 2024*, set to take effect on 1 January 2025. This Law strengthens the role of trade unions in Vietnam, enhancing their capacity to advocate for workers' rights and adapt to evolving labor dynamics. A key advancement is the expansion of membership eligibility, allowing both informal workers and foreign employees to join trade unions (*Law on Trade Unions 2024*, Article 5(1)). This inclusivity improves representation and aligns with ILO principles on freedom of association (*Law on Trade Unions 2024*, Article 6). The Law also refines trade union governance, clarifies operational guidelines and fosters international cooperation. Further, it formalizes the responsibilities of trade unions in representing, protecting and advancing workers' rights, reinforcing their role as key actors in Vietnam's labor relations framework (*Law on Trade Unions 2024*, Article 11). The 2024 Law grants trade unions supervisory and consultative functions, enabling them to monitor state agencies and contribute to labor legislation through policy feedback (*Law on Trade Unions 2024*, Articles 16 and 17). While this represents progress in aligning with *ILO Conventions No. 87* and *No. 98 on Freedom of Association and Collective Bargaining*, limitations persist. Trade unions in Vietnam remain structurally linked to the VGCL, which restricts their independence. Strengthening enforcement mechanisms and fostering a genuinely independent trade union movement will be critical for translating these reforms into meaningful protections for workers.

3.2 Barriers to the fulfilment of the *EVFTA*'s commitments

Despite notable progress, Vietnam faces substantial challenges in fulfilling its commitments under the *EVFTA*.

3.2.1 Incompatibilities between Vietnamese law and *EVFTA* commitments

A critical challenge lies in Vietnam's incomplete ratification of ILO fundamental conventions, as mandated by the *EVFTA*. Although Vietnam has ratified seven of the eight fundamental ILO conventions, it is yet to adopt Convention No. 87 (CO87). The delay stems from the need to align this convention with Vietnam's unique political and social conditions (Nguyen, Nguyen and Nguyen, 2022, p. 80). However, even as a non-signatory to CO87, Vietnam is bound by the 1998 *ILO Declaration on Fundamental Principles and Rights at Work* (section 2 ff.) to respect, promote and implement the spirit of the convention in "good faith". Compliance requires Vietnam to harmonize its domestic legal framework, particularly the *Labor Code 2019* and the *Trade Union Law 2024*, with the principles of CO87. This entails not only legislative amendments but also addressing the broader challenge of recognizing and regulating worker organizations outside the Vietnam General Confederation of Labor. In fact, when the *EVFTA* takes effect, Vietnam and other countries will start to welcome "a wind of change" in the investment and trade development and one of the main challenges that must be addressed is the emergence of organizations or associations which are not members of the Vietnam Trade Union (Nguyen, 2020, p. 438). Therefore, reviewing the regulations governing associations is one of the most important actions for implementing Vietnamese commitments under the *EVFTA*.

3.2.2 Governance challenges affecting the implementation of human rights

According to the Office of the High Commissioner of Human Rights (OHCHR), a country's ability to ensure and respect human rights depends largely on the level of good governance. Good governance not only reinforces human rights but also serves as a prerequisite for their effective implementation. In Vietnam, quality of governance significantly affects the country's ability to meet its *EVFTA* commitments, particularly those related to human rights. According to the OHCHR, governance quality can be measured by indicators such as voice and accountability, political stability and absence of violence/terrorism, government effectiveness, regulatory quality, rule of law and

control or corruption. An analysis of Vietnam's indicators for the period 2013–2023 (World Bank, 2024) revealed persistent challenges.

- 1) Vietnam continues to face structural barriers to freedom of speech and inclusive political participation, which are critical for fostering a robust industrial relations system. The World Bank Voice and Accountability Index, which assesses freedom of expression and public participation in governance, remained low at 15.2% in 2023. Although this represents an upward trend, it underscores the persistent constraints on independent worker representation and collective bargaining, which are key elements for fulfilling the ILO CO87 commitments. Without greater civic space and institutional reforms, Vietnam risks delays in aligning its legal framework with international labor standards, potentially affecting its ability to fully comply with the *EVFTA* obligations.
- 2) Regulatory effectiveness remains a key challenge. Vietnam's Regulatory Quality Index, which measures the government's ability to develop and enforce policies, has remained below 50th percentile over the past decade. While there has been incremental improvement from 2013 to 2023, weak institutional capacity and bureaucratic inefficiencies continue to hinder the implementation of the *EVFTA*'s labor and human rights commitments. The slow pace of labor law reform—particularly in ensuring transparent union registration procedures and allowing independent worker organizations—illustrates these regulatory shortcomings. Strengthening tripartite consultation mechanisms involving the government, employers and workers would be a crucial interim step to improve regulatory quality and lay the groundwork for CO87 ratification.
- 3) Corruption remains a major barrier to enforcing labor protections and achieving meaningful compliance with Vietnam's international commitments. The Control of Corruption Index has seen modest gains, but remains below 50th percentile between 2019 and 2023, indicating persistent governance weaknesses. While the Vietnamese government has intensified anti-corruption measures, challenges such as patronage networks, opaque decision-making and weak enforcement mechanisms continue to undermine labor law implementation. Corruption affects labor inspections, dispute resolution and worker protections, making it difficult to guarantee fair collective bargaining and independent union activity outside the VGCL. To prepare for CO87 ratification, Vietnam could introduce pilot programs allowing worker representation outside the VGCL in select industries, establish stronger whistleblower

protections for union activists and increase oversight on labor dispute resolution mechanisms to build institutional readiness for a more pluralistic industrial relations system.

4. Recommendations to address barriers to the *EVFTA*'s commitments

The *EVFTA* presents a valuable opportunity for both Vietnam and the EU not only by expanding access to international markets but also by reinforcing human rights standards. However, the Agreement's human rights provisions have not been fully implemented due to various structural and legal barriers. The following recommendations propose measures to enhance the effectiveness of the Agreement's human rights commitments and strengthen Vietnam's compliance.

1) Strengthening the accountability and compliance provision in the EVFTA

To enhance the effectiveness of human rights protection under the *EVFTA*, reforms should focus on strengthening accountability mechanisms and integrating enforceable dispute resolution procedures. A fundamental reform would be to extend the enforceability of Chapter 13 by incorporating it into the broader dispute settlement mechanism described in Chapter 15. This would allow violations of labor and environmental commitments to be subject to binding arbitration and, if necessary, trade-related penalties. The *Canada–EU Comprehensive Economic and Trade Agreement (CETA)* provides a relevant comparison, as it allows for trade sanctions in cases of non-compliance with sustainability provisions (Zerk, 2019, p. 31). A similar approach in the *EVFTA* would ensure that commitments to human rights and sustainable development have legal consequences. Additionally, the creation of an independent review body, periodic reporting requirements and a formal complaints mechanism, which are similar to those in the *EU–South Korea Free Trade Agreement* (Article 15(1)), would enhance transparency and accountability from state parties.

2) Preparing policy adaptation to fully internalize EVFTA commitments

Strengthening Vietnam's capacity to internalize international treaty commitments is essential. This requires translating *EVFTA* provisions into enforceable domestic regulations while aligning policies with the Agreement's economic and social objectives. Integrating labor and

environmental standards into national frameworks will support compliance and promote equitable development. Ratifying ILO Convention No. 87 without delay alongside related conventions is crucial. Additionally, the government should implement annual ILO recommendations, including a decree on workers' representative organizations to meet international labor standards (Nguyen and Nguyen, 2024, p. 91). Simultaneously, Vietnam must strategically balance international integration with its national sovereignty and domestic priorities.

3) Continuing the legal reform for EVFTA compliance

Legal reforms are crucial for the effective implementation of the *EVFTA*, particularly in labor and environmental standards. The National Assembly plays a key role in this process by ratifying treaties and overseeing their integration into domestic law. Additionally, Vietnam's engagement with global institutions such as the ILO and the International Centre for Settlement of Investment Disputes (ICSID) will enhance its capacity to meet these obligations. Effective implementation also requires strengthened coordination among stakeholders, including central and local governments, private enterprises and international organizations. Collaborating with entities such as the ILO and the United Nations will provide technical expertise and best practices, while facilitating dialogue between government agencies and the private sector will help address challenges and ensure compliance with the *EVFTA* commitments.

4) Enhancing governance for the effective implementation of EVFTA provisions.

Beyond legal reforms, strengthening governance is essential for creating an environment conducive to the fulfilment of *EVFTA* commitments. Enhancing transparency, improving public participation and combatting corruption are vital measures to promote accountability and build public trust in state institutions. These efforts should be complemented by policies that support the development of democratic institutions and safeguard fundamental freedoms. Aligning governance structures with international human rights standards ensures that trade development and human rights promotion are mutually conducive to Vietnam's economic growth and social progress.

5. Concluding remarks

The *EVFTA* marks a major step in Vietnam's global integration, combining trade liberalization with commitments to human rights and sustainable development. Despite promising economic opportunities, effective implementation requires addressing the legal, institutional and governance challenges. This study examined the *EVFTA*'s human rights provisions, highlighting key obstacles and proposing reforms to enhance compliance. Strengthening legal frameworks, governance structures and international cooperation is crucial for aligning Vietnam's trade practices with global standards. Beyond trade, the *EVFTA* has the potential to drive broader reforms, embedding human rights and environmental commitments into Vietnam's development agenda. However, its long-term impact remains uncertain. Future research should assess the effectiveness of its enforcement mechanisms and broader sociopolitical implications. Ensuring a balance between economic growth and human rights protection will be key to Vietnam's continued global engagement.

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