

LEGAL FRAMEWORK FOR THE DIGITAL ECONOMY IN VIETNAM

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Abstract: *The economy will inevitably undergo a digital revolution, and there will be significant qualitative differences from the conventional economy, which has been producing a lot of advantages with great efficiency. Beyond the benefits, Vietnam's economy is currently undergoing a digital transformation that has brought about several obstacles and hurdles, including legal environment-related problems that require in-depth investigation. Along with the Party's and the State's plans and policies, the legal system's concretization needs to be enhanced and put into practice with solutions based on best practices and scientific research.*

• Keywords: *digital transformation, digital economy, laws regulating the digital transformation process.*

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Tóm tắt: Quá trình chuyển đổi số nền kinh tế là tất yếu theo quy luật khách quan, điều này khiến cho nền kinh tế hiện nay có nhiều thay đổi về chất so với nền kinh tế truyền thống, từ đó mang lại rất nhiều lợi ích với tính hiệu quả cao. Ở Việt Nam, bên cạnh những thuận lợi thì quá trình chuyển đổi số nền kinh tế vẫn còn đối mặt với nhiều khó khăn, thách thức, trong đó, vấn đề về khung pháp lý cần phải được nghiên cứu, bổ sung và hoàn thiện một cách toàn diện. Mặc dù Đảng và Chính phủ đã đưa ra nhiều định hướng về chiến lược, chính sách nhưng quá trình cụ thể hóa các vấn đề liên quan đến hành lang pháp lý cần được đẩy nhanh và áp dụng vào thực tiễn nền kinh tế dựa trên những cơ sở về lý luận khoa học và thực trạng nền kinh tế.

• Từ khóa: *chuyển đổi số, kinh tế số, pháp luật điều chỉnh quá trình chuyển đổi số.*

1. Introduction

Digital transformation is a given in the fourth industrial revolution, affecting every nation and socioeconomic sector. The process of converting a real model into a digital one is known as “digital transformation”. It involves using data and digital technology, such as Artificial Intelligence (AI), Big Data, Internet of Things (IoT) technologies, cloud computing (cloud computing), and technology software, to collect, process, and analyze data comprehensively. This drastically alters the

model, operation, management, management, and organization of the subjects.

Digital transformation, as opposed to digitization, is the conversion of actual values into digital form. It occurs when people employ technologies, digitized data, Big Data, variable data, and create a unique value. Information technology, computers, communication, and connectivity are used in this “process that aims to improve an entity by making significant changes to its properties” (Vial, Gregory, 2019).

Regardless of size or sector, digital transformation is critical for all companies. To remain competitive and relevant in the new consumer-centric economy, they must leverage technology to improve customer experience and optimize current processes.

2. Literature review

Digital transformation requires combining business with technical expertise and understanding in an appropriate way to ensure success. (Le Duy Binh, Tran Thi Phuong (2020).

The term “digital economy transformation” refers to the process of applying artificial intelligence (AI), big data (Big Data), cloud computing, Internet of things (IoT), and technology software to various industries with the goal of altering how economic activities are conducted.

The term “digital economy” refers to an economy that “consists of markets based on digital technologies to create for trading, exchange of goods and services through e-commerce” (OECD, the Digital

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Economy, page 5). The economy changed because of the effects of the fourth industrial revolution, moving away from the simple exchange of goods and services between people to one that is centered on digital technology, which facilitates trade and the exchange of commodities and services. Digital technology is transforming economies at a rapid pace, impacting nations like Vietnam. Vietnam must thus maximize the advantages of this technology for the country's socioeconomic advancement.

Professor PhD Tran Tho Dat states: "There is broad consensus on the most fundamental concepts that define the structure of the digital economy, even though there is no universal definition and a wide range of methods to measure it. As per the wider interpretation, this encompasses sectors and occupations that have business models linked to digital technology and digital platforms (online platforms, platform support services, such the sharing economy, public financing...). The largest definition of the term "digital economy" refers to the entire network of social and economic activities that are reliant on digital platforms, including economies, sectors, government, and society. Traditional economic analysis models and principles are facing problems in the digital economy. Digital assets play a significant role in the digital economy by increasing the market value of enterprises and the economy as well as production efficiency. Big data analysis improves investment efficiency, increases the precision of financial market projections, and considerably reduces transaction costs and information "friction" in the market. In addition, it lowers transaction costs, "lubricating" the supply and demand balance in the market. Data generates positive externalities for the public sector economy, which help to advance societal welfare. Due to these features of the digital economy, conventional models of economic analysis must undergo significant revisions and develop new justifications, such as attempts to address the "Solow productivity paradox". (Tran Tho Dat, 2023).

The economy's digital transformation necessitates the following: resources, the legal framework (in particular, institutions in general), and the machinery of implementation. Specifically, an ideal legal framework that governs the economy's digital transition and the dynamics of interactions inside it is a necessary and highly significant prerequisite. Partnerships that emerge during the economy's digital transformation and

its contents must be governed by law, establishing a thorough, suitable, cohesive, lawful, and highly implemented legal corridor that not only lays the groundwork for the economy's sector-by-sector digitalization process but also safeguards the fullest extent of individuals' and businesses' legal rights and interests in their participation in economic and social interactions.

A comprehensive legal framework that is in line with the innovative development process of the fourth industrial revolution and the feature of the digital economy is essential for the effective digital transformation of the economy. The following, in my opinion, should be the primary provisions of the law on the digital transformation of the economy:

First, regulations that specify the legal status of each type of subject and the location, roles, functions, rights, and obligations of each type of entity when engaging in transactions and digital economic activities; these regulations also specify the conditions under which subjects may engage in transactions and carry out economic digital transformation activities. Apart from customary topics like firms, clients, and so on, third parties need to be included, including FinTech companies on BigTech platforms (like Vietinbank's collaboration with ON and BE Group).

Specifically, how the digital economy functions and the legal standing of robots. Regarding the legal standing of this kind while using AI, there are presently two opinions: (i) Artificial intelligence (AI) is the law's capital; while these robots may evoke images of humans, they are not very similar to them; (ii) Artificial Intelligence is treated as a separate dollar in law and control, as stipulated by the regulation of; the AI carriers are not the same as the child; the copy is the property; the tool is the tool; or the product; the regulation simply states that AI is the only dollar-weighted control and that relevant regulations govern who gets to make decisions). Currently, Vietnam's legal system does not regulate the status of artificial intelligence (AI) or the entity that carries it; rather, it only establishes the subject's legal position as a human or legal entity. "Vietnam can address (ii) by defining AI and bringing up relevant concerns, rather than attempting to ascertain the legal standing of AI. Regarding entities that carry AI, certain legislation defining their nature must be in place (Pham Xuan Hoe, 2022).

The law must explicitly specify what constitutes a client in addition to the regulations pertaining to traditional consumers. This is especially important for newly established businesses that engage in transactions and other economic activity in the digital sphere.

Clearly state what it takes to be involved or active in the digital economy. What is the legal significance of subject authentication? For instance, client identity and user authentication? The digital economy necessitates regulation of digital signatures, electronic signatures, and biometrics to identify users (eKYC) in digital space. This is distinct from traditional economics, which verifies identity/ID/passport, photo, and signature.

Second, the content and methodology of using technology 4.0 in the context of the digital economy, particularly for new applications that are exclusive to the digital economy and do not exist in the traditional economy. The use of cloud computing technology, APIs, blockchain in economic transactions (e.g., adjusting the issue of crypto-assets, encryption, ecological application of blockchain technology, security, transparency...), and consumer protection in a digital environment are a few examples of legal regulations on the legal value of digital contracts, cryptocurrency transactions, and digital assets. When implementing AI, the legal question of intellectual property rights arises (How does AI technology apply the digital economy? Or how does the law modify products and inventions made by AI itself?)

Third, laws protect the digital economy's safety and security. Technology criminals have targeted and will continue to target the digital economy. Security risks are growing as digital technology advances, along with the connectivity and interaction of computer systems with corporate applications and user mobile devices in digital economic transactions. While using technological solutions like open API, eKYC, cloud computing, collaborating with fintech companies... can readily lead to hazards related to the security of consumer data and unauthorized access, particularly when there are third party risks involved. Legislation should therefore establish a legal foundation for control and apply full and comprehensive risk management processes, "including due diligence, operational risk management, etc., continuous monitoring of contract performance by third-party service providers and the right to audit," in addition to applying risk management practices and controls

to outsourced services (Pham Xuan Hoe, 2022).

Fourth, rules regarding legal obligations and infractions amid the economy's digital development. With the advent of the digital economy, in addition to the rules that apply to transactions and actual economic activity, questions of legal responsibility and infractions also emerge that require investigation to ascertain suitability. Will there be legal ramifications, for instance, if AI is used by an entity to harm others or if it is the object of harm caused by its actions (e.g., providing customers with incorrect advice that harms customers, or if a business entity uses AI to gather and analyze privacy and personal data to serve its business purposes and profit from this data...)? Who transgresses? Who bears the legal responsibility?...

Fifth, rules for settling disagreements resulting from business dealings and the digital economy's change. New disputes that do not exist in the traditional economy (such as disputes over digital contracts, e-commerce disputes, disputes between customers and digital banks when applying AI, or disputes with FinTech) may also arise in addition to the disputes that may arise in the transactions and activities of the economic digital transformation process. The problem must be to determine the subject of dispute? What is the nature of the dispute? How to resolve disputes?... requires regulation by law. The legal framework must not only provide a framework for the emergence and growth of the digital economy, but also foster an atmosphere that encourages novel ideas and their adaptation to the swift pace of the industrial revolution. 4.0. Digital technology must even be considered while creating laws.

3. Methodology

In the article, the author has used many theoretical research methods - this is a group of methods of collecting scientific information based on studying existing documents and manipulating logical thinking. To draw necessary scientific conclusions, which can be mentioned as: Method of analysis and synthesis, method of classification and systematization to clarify theoretical and practical issues of the topic.

Analytical and synthetic method: Through this method, the author conducts research on various documents related to digital transformation of the economy by analyzing the content of each aspect of legal framework for the digital economy in Vietnam.

Classification and systematization method: In the article, the author has used the method of classification and systematization to classify aspects of legal framework for the digital economy in Vietnam according to the achieving goals.

4. Status of digital transformation in oil and gas enterprises in Vietnam

4.1. Current legal status on digital transformation of the economy in Vietnam

Decision No. 749/QĐ-TTĐ (2020) on the National Digital Transformation Program to 2025, with a vision to 2030, has determined that the basic goal of the program is: "National digital transformation aims at dual goals is to develop the digital government, digital economy, digital society, and form Vietnamese digital technology enterprises with the capacity to go global."

Developing Vietnam's digital economy is one of the program's objectives. Vietnam aims to enhance its economy's competitiveness and grow the digital economy by 2025, as it falls into the category of economies where the digital economy is incompatible. The needs for legal adjustments to the digital economy are not met by many of the laws found in the law on electronic transactions and other associated legal instruments. To address shortcomings, legislation pertaining to, among other things, banking, e-commerce, intellectual property intelligence, investing, and information and communication technology need to be reviewed. Inconsistency in the legal framework for the economic transformation brought about by digitalization. As an illustration:

- The incompleteness of laws pertaining to electronic contracts (legal value, effective date, authentication, etc.) makes e-commerce operations challenging.

- Laws pertaining to electronic documents, digital signatures, and electronic proof still have flaws and are prone to conflict.

- There are still many issues with tax regulations, tax management, accounting, auditing, and commercial activity in the digital economy. Since then, laws that impose arbitrary bans have been introduced because tax money has been lost to the state budget or is unmanageable.

- The digital economy's criteria are not met by the legislative framework for digital banking.

In addition, many the current legislative

modifications pertaining to the digital transformation of the economy are either nonexistent or improperly and insufficiently designed. Within that:

- *The conditions and rules pertaining to individuals' ability to engage in transactions and perform digital transformation activities inside the economy are still lacking or inadequate.*

As the economy undergoes a digital transition, new kinds of subjects have emerged and will continue to do so. These subjects' rights, obligations, responsibilities, positions, and roles as owners must all be determined by legislation. This organization engages in both the digital transformation process and the digital economy. However, legal rules are still either nonexistent in Vietnam today or exist but are still insufficient and require further research to make them better. Assisting individuals in various roles and positions to participate in accomplishing their objectives is necessary when operating in a digital world. Because of the digital transformation of the economy, new entities or properties are created that necessitate setting the conditions for participation. These conditions are not met by the current rules, so they must be modified.

- *In the context of the digital economy, there are insufficient or no rules regarding the use of 4.0 technologies and their content.*

Many of the new connections and materials that have emerged because of the economy's digital revolution are either not yet subject to legal regulation or have been modified but remain insufficient and require further development. The use of cloud computing technology, APIs, blockchain in economic transactions (e.g., adjusting crypto-assets, encryption; ecological application of blockchain technology; security, transparency...), new business models, automated trading processes on network environments, and consumer protection in digital environments are a few examples of how to adjust for electronic contracts, electronic transactions, e-commerce, digital finance, digital banking, cryptocurrency trading, digital assets... It can be challenging to implement legal principles pertaining to intellectual property rights while using artificial intelligence (AI), database security, personal data, individual rights rules, identification, and electronic authentication.

- *Regulations guaranteeing people's security and safety as well as the safety of the digital economy are either nonexistent or inadequate.*

The legal framework needed to protect the rights and interests of people engaged in digital economic transactions is crucial given the complexity of technology crimes and the need to operate in a digital environment. Vietnam's digital transformation process has exposed and continues to expose legal gaps that guarantee security, safety for individuals, and the safety of the entire economy have not been fully implemented, necessitating perfection.

- *Throughout the process of the economy's digital transformation, there are insufficient or no regulations in place to identify legal infractions and duties.*

New kinds of relationships—like those between customers and artificial intelligence, for instance—that need to be governed by law will emerge because of the digital economy and digital transformation. As a result, new kinds of legal infractions have emerged that are not yet sanctioned by the law and therefore need to be improved.

- *Regulations to settle conflicts resulting from transactions and activities related to the digital transformation of the economy are either nonexistent or inadequate.*

The economy's digital revolution may give rise to new conflicts that require resolution and the necessity for regulatory legislation. Vietnamese law is currently lacking in relation to disputes that arise in the digital sphere because they differ from problems that arise in the traditional economy in terms of their characteristics and the methods needed to identify and settle them.

4.2. Improving the law on on digital transformation of the economy in Vietnam

Currently, the goal and pressing need to establish a legal framework supporting the economic transformation process in Vietnam is to develop and enhance the legal system pertaining to economic digital transformation. Digital technology has been and will continue to be employed in every industry and field in the present industrial revolution 4.0, and the creation of laws is no exception. Thus, we believe that to establish a legal foundation for the process of economic transformation, the legal system must be developed and improved. This is also in keeping with international norms and is an unavoidable tendency. Vietnam's legal system for digital transformation needs to be developed and refined based on the following specific solutions:

First, ensuring the legal system's efficacy, appropriateness, uniformity, legality, and comprehensiveness considering the digital economy.

Reviewing all current legal norms governing the distribution relations born in the process of digital transformation is necessary to create a comprehensive legal environment for the economy's transformation (for new relationships that have not been regulated by law and need to be regulated by law but are lacking). Although there are new relationships, there are also new problems that need to be addressed by law. To address these issues, it is necessary to establish new legal regulations in the form of laws for pilot projects. If necessary, these laws will take effect following the review and the assessment will issue new legal documents to make the necessary adjustments.

The second step is to finish modifying the parts of the current law that pertain to the digital transformation of the economy that are missing, improper, or insufficient. Within that:

- Entire rules pertaining to subjects and prerequisites for subjects to engage in transactions and perform digital transformation tasks within the economy.

Establish legal rules governing recently created subjects. Clearly state the subject's legal status, rights, obligations, responsibilities, position, and role in relation to the digital economy and the process of digital transformation.

Examine the current legal document system to see if there are any subjects that are involved in the digital transformation of the economy but are not covered by the law. These subjects are primarily those that have the status of third parties, like financial technology companies (FinTech) on BigTech platforms. Find out what the legal status of robots is in relation to the operation of the digital economy.

- New laws governing the use and implementation of 4.0 technology in the digital economy should be enacted and completed.

Create and implement new legal guidelines to govern the new interactions and information coming from the economy's digital revolution. Update and amend any incoherent or contradicting current laws and regulations. Establish new legal guidelines, for instance, to amend or enhance rules pertaining to digital contracts, e-commerce, digital finance, digital banking, digital assets, and new

business models; automatic transaction processes in network environments; utilizing blockchain, APIs, and cloud computing technologies in business interactions. Define rules controlling the use of cryptocurrencies and cryptoassets for capital mobilization; modify the ecosystem for applications of blockchain technology; address concerns about safety and transparency; safeguard consumers in the digital sphere; Addressing concerns with intellectual property rights when using AI, safeguarding databases and private information, enforcing laws on individual rights, addressing moral dilemmas while engaging in the digital economy, and using electronic identification and authentication...

Enhance legislation pertaining to businesses, investments, and digital environments; encourage innovation; and design and develop innovative digitally based goods, services, and business models. Establish and enhance corporate governance and management systems in the economy.

Clearly define the processes involved in creating, maintaining, connecting, and using databases. Completing the legal regulations pertaining to intellectual property, capital creation and mobilization, taxes, electronic payments, and other matters in the digital realm will establish the proper legal framework for businesses to operate, exercise their rights and responsibilities in the digital economy, and safeguard the actors' legitimate rights and interests.

Thirdly, establish and enhance legislative guidelines to guarantee subjects' security and safety as well as the safety of the broader digital economy.

To prevent legal infractions, particularly the prevention of crimes, extensive research on economic connections and technology must be done before new laws on the digital transformation of the economy are promulgated, amended, and supplemented. The goal of technology violations is to protect the subjects' lawful rights and interests when they engage in economic interactions in the digital world.

Fourthly, adopt and enhance legal laws to precisely identify legal transgressions and legal obligations in the context of the economy's digital revolution.

The introduction of new legislation is necessary to regulate digital offenses that are not permissible

in the physical realm and assign enforcement responsibilities. Finalize the existing legislative regulations. In particular, stiffen the penalties for breaking the law when it comes to digital transformation in order to restrict and strictly address fraudulent acts that take advantage of the unauthorized use of personal and private data.

Fifthly, implement and finish new rules to best settle disagreements resulting from transactions and the economy's digital transition.

Conflicts that arise in business dealings need to be carefully resolved. The economy's shift to a digital economy will give rise to new conflicts that are unlike those in the actual world in terms of their origin and features, necessitating the right legal adjustments to settle them. Even the commercial arbitration or court resolution process must have a well-defined sequence and set of processes that are suitable for the digital age.

5. Conclusion

The fourth industrial revolution will inevitably bring about a digital transformation of the economy, which will have numerous positive social and economic effects now and in the future. Vietnam is currently actively implementing digital transformation, with observable outcomes. Furthermore, there are numerous challenges facing competent state agencies, businesses engaged in commerce, consumers, and other relevant entities. One of the causes is that the legislative framework governing the digital transformation of the economy is insufficient and deficient, necessitating the development of quick fixes.

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