



**IMPACTS OF THE ASEAN CHARTER
ON LEGAL PROFESSIONALISM TRAINING IN VIETNAM**

**PhD Le Mai Anh - Dean of Judge Department
- Institute of Justice - Ministry of Justice
The Socialist Republic of Vietnam**

Compared to many countries in the region and the world, Law Training (training for judicial titles) in Vietnam formed later. Before 1998, judicial titles were only equipped with knowledge of law at junior college and law university level, and were not trained with Law Practice. Other law training institutes, such as Hanoi Law University, Ho Chi Minh Law University only provide students with basic knowledge of Law. These institutes also provided human resources for judicial agencies. Some institutes of the Ministry, such as the Institute for Court Officers from the People's Supreme Court or the Junior College of Procuracy from the People's Supreme Procuracy mostly provide professional training for judges or procurators. In fact, before 1998, Vietnam didn't have any model for Law training like many other countries.

The year 1988 marked the opening period of the renovation and international integration progress of Vietnam. Facing the objective requirements of the situation and the new tasks, Law training (i.e. training for Judicial titles) is such an urgent issue, as emphasized in the objectives of the Resolution No. 49-NQ / TW: "Building judicial officers, Justice supplementary, especially officers who hold judicial titles towards promoting power, legal liability, enhancing and concretizing political standards, ethics, professional experience and social knowledge for every officer; thus implementing the adaptation of examination regulations for some titles. To realize this goal, in 1998, at the request of the Minister of Justice, on 11 February 1998, the Prime Minister issued a Decision No. 34/1998/QD-TTg regarding the establishment of the Institute for judicial title training. The establishment of this school (predecessor of the current Institute of Justice) is the first step of the Vietnam's integration progress with other countries in Asia in general and with other ASEAN members in particular in terms of Law Training. So far, the Institute of Justice is the only institution in Vietnam entrusted by the government to train professional skills for those who hold judicial titles (Judges, procurators, lawyers, notaries, court clerks and other judicial titles).



1. OVERVIEW OF THE TRAINING FOR JUDICIAL TITLES AT THE INSTITUTE OF JUSTICE - THE MINISTRY OF JUSTICE OF THE SOCIALIST REPUBLIC OF VIETNAM

Established by the decision No. 23/2004/QD-TTg of the Prime Minister of the Socialist Republic of Vietnam, the Institute of Justice is the institute for law training and legal science research, directly under the Ministry of Justice of the Socialist Republic of Vietnam. It is also a member of the International Organization for Judicial Training (IOJT). The Institute of Justice is operated under the university's regulations, with these following functions:

- Training judges, lawyers, procurators, notaries, executors and other judicial titles
- Improving professional and working skills for judicial titles under the management of the Ministry of Justice
- Carrying out scientific research for training and fostering judicial titles
- Cooperating with organizations and individuals inside and outside the country in terms of scientific research and training

The structure of the Institute of Justice includes the Institute Council, Board of Directors, four major Departments (Judge Training Department, Procurator Training Department, Lawyer Training Department, Executor Training Department and other judicial titles), function rooms and Center for Law Practice. This institute has two chancery premises in Hanoi and Ho Chi Minh City. Some basic features of the judicial title training at the Institute of Justice can be described as follows:

1.1. Training

According to regulations, in order to participate in Law training classes at the Institute of Justice, students must meet certain requirements, such as a Bachelor Degree of Law, having at least 4 years' seniority in courts, procuracy, law... and being subject to become judges, procurators (for training judges and procurators). Before 2007, those who want to be trained in the academy must pass the entrance test for the title that they studied, but from 2007 until now, the Institute has applied the examination mode. The duration of each training course for judges and procurators is 12 months, and for lawyers, notaries, court clerks, the duration is 6 months.

1.1.1 Principles, views and training methods

The Institute of Justice is a large training center for judicial officers and is a legal scientific research foundation serving the judicial reform strategy and the building of the



state of Law of the Socialist Republic of Vietnam. The principles and viewpoints of the Institute aim to promote the profound human values for the learners, employers and for the society... towards the goal of building friendly, transparent and open training environment, continuously improving the quality of training through cooperation with related agencies and organizations at home and abroad, thus strengthening the training capacity of teachers as well as enhancing the knowledge of Law students and researching.

The training methods of the Institute of Justice do not purely include legal theories and provisions but smoothly combine legal theories and provisions with equipping, cultivating, fostering professional skills and updating practical knowledge for students. As a very young training institution, the Institute of Justice is highly valued for applying innovative and modern teaching methods. Most of the teaching and practicing hours in class is done through the Situation model (with two popular situations: proceedings and researching), group working, acting, discussions and workshops. Only after a short time studying at the Institute, students of professional training courses namely Trial, Procurators, court clerks, notaries, lawyers courses... were able to get to know and use flexibly modern studying methods which are used in many modern universities with the model of international school. Besides, the Institute also pays due attention to provide students with practical understanding and knowledge through participating in the mobile trial, practicing at different Law agencies and offices such as Lawyer Office or Notary Public's Office in Hanoi and surrounding localities. Particularly, the Institute of Justice has expanded its associations with other organizations and agencies to promote and enhance the socialization of education of law, specifically and practically through the Court Sentence Program broadcast on Central television channels VTV6 and VTV3. This is a project aimed at promoting legal education and knowledge for the Vietnamese youth. This Program is scheduled to broadcast in three consecutive years through the coordination between teachers, students of the Institute of Justice with The Vietnam Television and Youth Center. This program has been aired in two years. This program in fact has received great support and appreciations from the public regarding the quality and value of Law education and information.

It can be seen that the Law training activities in the Institute of Justice have applied rich, diverse teaching methods, combining multiple channels inside and outside the school, based on the principle of "learner is the center", and combining learning with practical skills.



One of the right directions in the Institute of Justice's educational principles is: to provide and attach great importance to the education and professional ethics of judicial titles for students participating in each training course. Every year, at the beginning of each course, major Departments always organize a discussion or workshop on professional ethics with the participation of experts at home and abroad, combined with the exchanges of the professional experience obtained through various proceedings by those with seniority, professional qualifications and ethics...

The practicing of Law thinking is one of the most important issues throughout the course of training, fostering and carrying out scientific research activities in the Institute of Justice. This process is aimed at training, fostering and developing the dynamic, creative officers of the Ministry of Justice who are self-determined, able to work independently and handle the situation reasonably in conformity with the Law.

1.1.2 Curriculum

Since 2004, shortly after the establishment of the Institute of Justice, replacing the Training Center for the judicial (founded in 1998), the Law training program in the Institute has been significantly adjusted, amended and supplemented in the spirit of the Resolution No. 2008 and Resolution No. 49 regarding the goal of making the Institute of Justice one of the major centers for training judicial officials in Vietnam. The program framework was applied at the Institute of Justice, in parallel with combining the training programs for some titles, such as notaries, executors, lawyers with the general training program for the procurator and judge titles. The structure of these two programs includes these following contents:

First, the "Major Subjects" session aimed at raising awareness of the position, role, function and responsibility, professional ethics, life skills, working relationships, proceedings relations between judicial titles in their professional activities.

Second, the "Law topics" session aimed at reaching the goals of updating the new developments of legal science and applying it to the legal system of Vietnam, provides legal understanding and knowledge of international integration for students at postgraduate level. Some specialized legal subjects will be provided for law students are: Criminal Law, Civil Law, Law of Commerce and Business, Law of Labor and Administration (for students attending the lawyer training course, trial) and the enforcement of civil judgments (for students attending the course for enforcement officers).



Third, the lessons on skills and professions of lawyer, judge, procurator, notaries, executors... The main purpose of this session is to provide students with basic professional skills after they graduate and can independently perform their assigned tasks. For professional trial, students will be equipped with the necessary skills which involve contents of proceedings and legislation... to deal with the three types: criminal, civil (in the broad sense) and administrative case.

Regarding the judge training course for students who are going to be judges and procurators in the future and for the course related to the lawyer's participation in judicial activities, the "Skills" session is the major content of the training program, accounting for nearly 50% duration of the subjects. The Module of a trial lesson will include skills' theories, followed by the specific situations of the case file which had been resolved in reality. At the end of each module, students will discuss in class with the teachers and with other students. This module ends with a test to examine the awareness of students with the skills learned. These lessons conducted in the Institute of Justice are directed to important goals such as:

- Specify and concretize issues related to skills to resolve the case in accordance with the law in force and procedural laws
- Practice skills for resolving specific cases based on the proceedings file to get familiar with the situation arising in practice
- Through researching, handling situations in the proceedings, teacher must improve the ability to analyze and evaluate details, facts of a case for students so that they will know how to translate that into reality after graduation
- Provide students with the ability to coordinate with other proceedings agencies while resolving the case
- Create opportunities and professional environment for students to get familiar with dealing with proceedings document for an actual case.

Moreover, the above mentioned purposes of a Lesson Module are also supplemented and improved with some of the school's activities in skill training programs through practical activities and trial (for the training course of Trial, Lawyer, Procurator). For those students studying about Judges, lawyers, procurators, the duration of the activities play an important role in the number of teaching hours in class. Trial practice is a final lesson in the case solving skills and is carried out in the training course for Judges, Lawyer, and Prosecutor of the Institute of Justice.



The nature of trial practice is to apply the "learning by working" method through chairing and controlling the trial. This is an important stage in the judging activities of the agency conducting the proceedings and the participants of the proceedings, such as lawyer. Even with good preparations through researching documents and collecting sufficient evidences..., during the trial, if the chairperson is not active, flexible and confident to handle situations arising at the trial, the goal of the judicial activities will not be obtained. Particularly, the trial must ensure the principle of publicity, litigation of those participating in the proceedings.

Currently, the trial practice activities are implemented in conformity with the model of coordination between the Judge Training Department, Procurators and Lawyer Training Department, thus enabling students to make good preparation for their trained profession as well as to teach them how to carry out effective coordination with other judicial titles in the similar environment of their future careers. Trial practice is a specific Law training activity which brings about positive results for both students and teachers. Combining with the field-trip activities at Law offices and agencies, trial practice provides students necessary skills for their future careers as well as the ability to adapt theories into reality, thus helping students avoid the purely theoretical way of thinking and the embarrassing situations while handling situation in reality.

In law training, practice accounts for approximately $\frac{1}{4}$ duration of the program, equivalent to 8 weeks (apply to trial professional training, procurators). The objective of the work practice is to help the students become more familiar with their future careers, to concretize professional skills which were researched, to teach and verify theoretical knowledge with criteria, the measurement of practical profession.

Fourth, the enhanced and specialized skill training: Based on the basic skills that students have studied and practiced in two thirds of the training programs, the training and specialized skills aimed at providing additional skills for students to solve a difficult cases but are common in practice or the new cases which often have problems in handling the proceedings or quoting, applying the law.

In general, from early January 2008, the Institute of Justice has trained and granted the judicial training title certification for about 15,474 students*.

1.2 Conditions to ensure the maintenance and development of the Law training system

1.2.1 Multi-sectoral coordination mechanism in Law training:



On the whole, the training for judicial titles which is undertaken by the Institute of Justice is a model of vocational training to meet social needs. Among the subjects trained at the Institute of Justice, the training for future judges and procurators is requested by the Judiciary and the Prosecution. Therefore, all matters relating to the training activities of these two objects require the close coordination among the judiciary, the prosecution and the Ministry of Justice from the early to the final stage of the training process.

In addition, the role of the state administration and government investment for the operation of vocational training at the Institute of Justice are also very important, because products of the training process need the verification of the society and it will multi-dimensionally affect the quality, effectiveness of the Vietnamese judicial system. Therefore, the insurance of the sustainable development of the Law training system in Vietnam always require the presence of multi-sectoral coordination mechanism with the appropriate investment of the government, which are the leading conditions to guide the law training to a right direction.

1.2.2 Human resources for Law training

Being the basis of law training, the Lecturer network of the Institute of Justice consists of two parts: the regular lecturers of the Institute and lecturers who are judges, procurators, lawyers, notaries, executors who have been or are in office. The personnel of the Institute of Justice are employed in conformity with the standard of University Lecturers, with Master and PhD degree in Law. Those lecturers have held the judicial title or have been trained in professional services in accordance with the judicial title that they use to participate in the teaching process. Teachers who are invited to teach at the Institute of Justice are those who have seniority, experience, enthusiasm in their career. Currently, the number of people participating in the Law training at the Institute of Justice (in both Hanoi and Ho Chi Minh City) was about 500 lecturers.

1.2.3 Material resources for Law training

Only after 10 years of existence and development, from the first days of establishment, the Institute of Justice was well aware of the importance of document system, textbooks, reference books for teaching activities of teachers and learning activities of students. Most of the subjects of the training curriculum for judicial title have textbooks. In addition, students have compiled and published many documents, such as Judge and Lawyer handbook, People's Assessors Handbook and reference books, systemize legal documents, memorandum of scientific conferences, Guidelines on how to carry out the training program for each title, Situation Profile are taken from practical trials



of many local courts, and were edited in accordance with methodology intentions. The Institute also has its own magazine for the purpose of scientific exchanges and research namely The Law Journal, issued each 2 months.

Besides the document system, curriculum, reference books for teaching activities, the entire system of classrooms, lecture halls of the Institute of Justice are arranged and equipped with modern equipments for teachers so that it will be easier for them to use technology in various classroom activities. The Institute also has specific rooms for Law practice, such as the courtroom for the court practice. Not having a large campus as other universities..., the Academy still has enough conference rooms, multi-purposed room for teaching activities, exchanges and workshops for lecturers and students.

In general, it can be affirmed that the Law Training in Vietnam has set the basic foundation for Viet Nam to receive opportunities and favorable conditions for development while integrating in the region and the world. Nowadays and in the future, what can Law Training in Vietnam be directed to under the framework of the ASEAN Linkage when Viet Nam wants to obtain new achievements in training in the next stage of development?

2. ASSESSMENT OF IMPACT OF ASEAN'S CHARTER ON LAW TRAINING IN VIETNAM

On November 20th, 2007, at the 13th ASEAN Summit in Singapore, the Heads of state and Government of 10 ASEAN member countries signed the Charter of the Association of South East Asia (referred to as the ASEAN Charter). A year later, on November 20th, 2008, the ASEAN Charter officially took effect for all members of the Association. The birth of the Charter has lifted the regional integration to a new stage of building and developing the ASEAN Community, with the three pillars including the ASEAN Economic Community (AEC), ASEAN Security Community (ASC) and ASEAN Social – Cultural Community (ASCC). In international integration, ASEAN is one of regional grouping which is considered successful on both cooperation effects and institutional building. Starting with association model, the development of the ASEAN towards community building, in which, the social values such as raising living standards, narrowing the development gap between members and conditions to ensure the sustainable development of each country and community have become the prime concern.

Building an ASEAN Community, in the common mind-set of all member countries is to build a regionally international organization with regional social specific and community-based characteristics towards having common social value, for the benefit of the people of member countries. The benefits of poverty alleviation, cultural, education and training,



social security, labor and employment, sustainable development became the focus of regional integration and cohesive community ASEAN.

In other words, building ASEAN Economic Community and Security Community is and will always base on a very practical purpose that is to create real achievement in the building and development of the Social-Cultural Community, and that this community will have direct impact on the educational and training activities in Vietnam in general and in particular the Legal Professionalism Training.

The impact of the process of building the ASEAN Community and ASEAN Social-Cultural Community on legal professionalism training on member countries like Vietnam is an objective reality. In this era, when national, ethnic, regional, and international categories have become inter-complementary, there is a reciprocal effect with each of the smart combination of factors will be indispensable to create national synergy for development. Promote and strengthen cultural, educational and training needs to become interest of self. Development of Legal Professionalism Training in Vietnam is put in the context of regional integration in ASEAN thus; it can not outside of the common rule for development.

According to the commitments roadmap among members of ASEAN, the formation the ASCC will be in 2015. Institutionally, ASCC is a realization of the ASEAN Vision that by 2020 the goal of a region of peace, stability, mutual understanding, even economic and social development, where development gap is narrowed between Member States Association. One of ASCC focus is to promote joint efforts to expand integration to make ASEAN a competitive region in terms of high technology, well-trained human resources and professionals, with appropriate measures to address regional security issues and disputes comprehensively or disagreements that may arise between members or natural persons, legal persons within the association. To reach these goals of building ASCC, each country should have to adapt to changes and grasp opportunities from regional integration, to cater for the development of effective education and training in their country. Particularly for Legal Professionalism Training, the integration process of ASEAN Community and the ASCC will set out the following two basic focuses:

2.1 International cooperation capacity and cooperation in legal professionalism training

It is clear that, the needs for international cooperation and connectivity among the ASEAN countries to train human resources for the judiciary system is real and increasing in both quantity and professions.



For example, currently, the Institute of Justice has begun to meet training needs of the People's Democratic Republic of Laos. Under an agreement between two governments, in September 2009, the Institute of Justice opened a three month training course on notary professionals for 20 Lao students. This is the opening for the new phase of training judiciary professionals in Vietnam, a new period of providing professionalism training for foreigners who are working or wishing to work as professionals in Vietnam. In this connection, the need for international cooperation in the coming period set out a series of issues closely linked to the capacity of professionalism training Vietnam, specifically:

- Develop training programs for judicial professionals from ASEAN member countries wishing to pursue professionalism training in Vietnam. This program helps foreigners to learn about the legal system and judicial system of Vietnam and on the other hand to achieve common standards of professionalism to overcome the differences in regulations and legal proceedings as well as legal content of each country's laws. The making of this training program is one of the basic conditions for Vietnam to be active implementing training cooperation programs with regional countries. This should be started right from the time being.
- Make plans of cooperation and exchange between Vietnam and ASEAN countries to quickly put in place a network of capable instructors in charged of joint-training programs in legal professionalism in ASEAN. This must be conducted in parallel with the roadmap on course design and legal professionalism training among ASEAN countries. In the long run, the network of trainers will not only include ASEAN countries based trained Vietnamese trainers but also other ASEAN countries' trainers who will join training programs in Vietnamese training facilities. This training model can bring about practical effects for the expansion of joint-program for integrated professionalism training mentioned above.
- Clearly define goals of cooperation and joint-training programs between Vietnam and other ASEAN member countries in the process of consolidating, building and perfecting the infrastructures for legal professionalism training. In the process of building a new headquarters, the Institute of Justice needs set direction and priorities for facilities to be used for joint-training programs after the construction is completed. Moreover, new facilities should be capable of housing a Center for Southeast Asia legal professionalism training.



Clearly define, in a near future, matters related to the making of training programs, trainers and facilities as all these will be closely linked to the need for international cooperation and joint-training within the framework of ASEAN cooperation. This should be reflected in awareness improvement and actions of the government of each ASEAN member country in general and those who are responsible for building the training system for legal professionalism in Vietnam in particular.

2.2 New approach to Legal Professionalism Training Mechanism in Vietnam

Studies on legal professionalism training in Vietnam and many countries in the world show many commonalities. For example, in court proceeding skills training, the current mechanism in Vietnam has many inadequacies: a well-trained human resource is absent making it difficult to create a good environment for recruitment, training of judges. Currently, the mechanism of selecting and training judges is conducted through the appointment by the Supreme Court and those who are selected will be sent to Judicial Institute for training, other requirements include holding a Bachelor of Laws and annual training quota set by Supreme Court recommended to the Ministry of Justice and the Institute of Justice is later in charge of conducting training courses. In this process, choices are limited due to close candidacies, knowledge gaps exist among students because the condition of holding a Bachelor of Law is simply not enough for court proceeding skills training.

In the next two or three decades, there must be a need for innovative mechanisms to make the selection and enrollment process open for all human resources in the society so that talents can be discovered to meet the demand for judges training. This mechanism will also be in line with the needs for exchange, expansion of joint-training between Vietnam and ASEAN countries.

In the near future, issues of development and improvement of multi-sectoral coordination mechanism on professionalism training should be considered important conditions for enhancing the capacity and quality of professionalism training of Vietnam within the framework the ASEAN Charter. Multi-sectoral coordination mechanism currently maintains state-owned training institutions which lack activeness and training activities are contracted by relevant agencies, which prevents a mobilization of all useful investment and resources from all stakeholders for legal professionalism training. That is not to mention the risk of dispersion of professional training activities in each sector that may occur due to the awareness that training of legal professionals is judicial work of each sector. Such mindset and the above phenomenon are against the current trend in legal professionalism



training in many countries. Issues raised for Vietnam in the professionalism training in the immediate as well as in the long-term are that it can not be derived in order to benefit a particular sector or one that is not directed to the key target, and Vietnam must quickly build up a team of legal professionals, fully capable of implementing effectively the power of a rule-of-law State, democracy and having full capability to defend national interests, the people's interests as well as interest of each citizen in the context of deeper integration into the region and the world. Such important goal sets out the responsibility for not only the line ministry, training institutions but also for the government and the entire political system. /.